

# ***NORTH CAROLINA REGISTER***

**VOLUME 33 • ISSUE 15 • Pages 1541 – 1658**

**February 1, 2019**

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### **PUBLISHED BY**

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## **Contact List for Rulemaking Questions or Concerns**

For questions or concerns regarding the Administrative Procedure Act or any of its components, consult with the agencies below. The bolded headings are typical issues which the given agency can address, but are not inclusive.

### **Rule Notices, Filings, Register, Deadlines, Copies of Proposed Rules, etc.**

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Raleigh, North Carolina 27609

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(919) 431-3073

### **Fiscal Notes & Economic Analysis**

Office of State Budget and Management

116 West Jones Street

(919) 807-4700

Raleigh, North Carolina 27603-8005

(919) 733-0640 FAX

Contact: Carrie Hollis, Economic Analyst

[osbmruleanalysis@osbm.nc.gov](mailto:osbmruleanalysis@osbm.nc.gov)

(919) 807-4757

NC Association of County Commissioners

215 North Dawson Street

(919) 715-2893

Raleigh, North Carolina 27603

contact: Amy Bason

[amy.bason@ncacc.org](mailto:amy.bason@ncacc.org)

NC League of Municipalities

(919) 715-4000

150 Fayetteville Street, Suite 300

Raleigh, North Carolina 27601

contact: Sarah Collins

[scollins@nclm.org](mailto:scollins@nclm.org)

### **Legislative Process Concerning Rule-making**

545 Legislative Office Building

300 North Salisbury Street

(919) 733-2578

Raleigh, North Carolina 27611

(919) 715-5460 FAX

Jason Moran-Bates, Staff Attorney

Jeremy Ray, Staff Attorney

**NORTH CAROLINA REGISTER**  
Publication Schedule for January 2019 – December 2019

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 <sup>th</sup> day from publication in the Register
33:13	01/02/19	12/06/18	01/17/19	03/04/19	03/20/19	04/18/19	05/01/19	09/29/19
33:14	01/15/19	12/19/18	01/30/19	03/18/19	03/20/19	04/18/19	05/01/19	10/12/19
33:15	02/01/19	01/10/19	02/16/19	04/02/19	04/22/19	05/16/19	06/01/19	10/29/19
33:16	02/15/19	01/25/19	03/02/19	04/16/19	04/22/19	05/16/19	06/01/19	11/12/19
33:17	03/01/19	02/08/19	03/16/19	04/30/19	05/20/19	06/20/19	07/01/19	11/26/19
33:18	03/15/19	02/22/19	03/30/19	05/14/19	05/20/19	06/20/19	07/01/19	12/10/19
33:19	04/01/19	03/11/19	04/16/19	05/31/19	06/20/19	07/18/19	08/01/19	12/27/19
33:20	04/15/19	03/25/19	04/30/19	06/14/19	06/20/19	07/18/19	08/01/19	01/10/20
33:21	05/01/19	04/09/19	05/16/19	07/01/19	07/22/19	08/15/19	09/01/19	01/26/20
33:22	05/15/19	04/24/19	05/30/19	07/15/19	07/22/19	08/15/19	09/01/19	02/09/20
33:23	06/03/19	05/10/19	06/18/19	08/02/19	08/20/19	09/19/19	10/01/19	02/28/20
33:24	06/17/19	05/24/19	07/02/19	08/16/19	08/20/19	09/19/19	10/01/19	03/13/20
34:01	07/01/19	06/10/19	07/16/19	08/30/19	09/20/19	10/17/19	11/01/19	03/27/20
34:02	07/15/19	06/21/19	07/30/19	09/13/19	09/20/19	10/17/19	11/01/19	04/10/20
34:03	08/01/19	07/11/19	08/16/19	09/30/19	10/21/19	11/21/19	12/01/19	04/27/20
34:04	08/15/19	07/25/19	08/30/19	10/14/19	10/21/19	11/21/19	12/01/19	05/11/20
34:05	09/03/19	08/12/19	09/18/19	11/04/19	11/20/19	12/19/19	01/01/20	05/30/20
34:06	09/16/19	08/23/19	10/01/19	11/15/19	11/20/19	12/19/19	01/01/20	06/12/20
34:07	10/01/19	09/10/19	10/16/19	12/02/19	12/20/19	01/16/20	02/01/20	06/27/20
34:08	10/15/19	09/24/19	10/30/19	12/16/19	12/20/19	01/16/20	02/01/20	07/11/20
34:09	11/01/19	10/11/19	11/16/19	12/31/19	01/21/20	02/20/20	03/01/20	07/28/20
34:10	11/15/19	10/24/19	11/30/19	01/14/20	01/21/20	02/20/20	03/01/20	08/11/20
34:11	12/02/19	11/06/19	12/17/19	01/31/20	02/20/20	03/19/20	04/01/20	08/28/20
34:12	12/16/19	11/21/19	12/31/19	02/14/20	02/20/20	03/19/20	04/01/20	09/11/20

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.



# NORTH CAROLINA

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## STATE BOARD OF ELECTIONS

### LIMITATIONS ON CONTRIBUTIONS

Pursuant to N.C.G.S. § 163A-1425(b), this serves as notice that the contribution limits for North Carolina political campaigns found in N.C.G.S. § 163A-1425(a), (c) and (d) have increased from five thousand two hundred dollars (\$5,200) to five thousand four hundred dollars (\$5,400), effective January 1, 2019. This change is based on the 4.7 percent increase in the Consumer Price Index (all items – U.S. city average) from July 1, 2016 to July 1, 2018.

P.O. Box 27255, Raleigh, NC 27611-7255  
Third Floor, 430 N. Salisbury Street, Raleigh, NC 27603-5918  
Telephone: (919) 814-0700 or (866) 522-4723  
Fax: (919) 715-0135 E-Mail: [elections.sboe@ncsbe.gov](mailto:elections.sboe@ncsbe.gov)

**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-21.2 and G.S. 150B-21.3A(c)(2)g. that the Department of Health and Human Services intends to readopt with substantive changes the rules cited as 10A NCAC 14A .0101-.0103.*

*Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for readoption without substantive changes are not required to be published. The text of the rules are available on the OAH website: <http://reports.oah.state.nc.us/ncac.asp>.*

*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):** <http://www2.ncdhhs.gov/dhsr/ruleactions.html>

**Proposed Effective Date:** July 1, 2019

**Public Hearing:**

**Date:** March 27, 2019

**Time:** 10:00 a.m.

**Location:** Dorothea Dix Park, Edgerton Building, Room 026, 809 Ruggles Drive, Raleigh, NC 27603

**Reason for Proposed Action:** Pursuant to G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules, all rules are reviewed at least every 10 years or they shall expire. As a result of the periodic review of subchapter 10A NCAC 14A, Director, Division of Health Service Regulation, Rulemaking, three rules were determined as "Necessary With Substantive Public Interest," in Section .0100 of these Rules, thus requiring readoption. Substantive changes have been made to these proposed readoption rules through repeal, technical changes, and removal of outdated language. A reorganization of Rule 10A NCAC 14A .0101 clarifies the process for submission and criteria for determination of rule petitions to the Director, DHSR. Rule 10A NCAC 14A .0102 is not necessary because the statutes govern the procedures for rulemaking; therefore, the rule is proposed for repeal. For Rule 10A NCAC 14A .0103, the criteria for declaratory ruling submission requests was clarified, the petitioner's opinion of the potential impact on the declaratory ruling on the public has been added to the criteria for declaratory ruling requests, the criteria for good cause denial for declaratory rulings was clarified, and the Agency's address was updated.

**Comments may be submitted to:** Nadine Pfeiffer, 809 Ruggles Drive, 2701 Mail Service Center, Raleigh, NC 27699-2701; email [DHSR.RulesCoordinator@dhhs.nc.gov](mailto:DHSR.RulesCoordinator@dhhs.nc.gov)

**Comment period ends:** April 2, 2019

**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 10A NCAC 14A .0101, .0103
- ☐ 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) 10A NCAC 14A .0102

**CHAPTER 14 - DIRECTOR, DIVISION OF HEALTH SERVICE REGULATION**

**SUBCHAPTER 14A – RULEMAKING**

**SECTION .0100 - RULEMAKING**

**10A NCAC 14A .0101 PETITIONS**

(a) Any person wishing to submit a written petition requesting the adoption, ~~amendment~~ amendment, or repeal of a rule by the Director of the Division of Health Service Regulation shall ~~address the petition~~ submit the petition addressed to the Director, Division of Health Service Regulation, 809 Ruggles Drive, 2701 Mail Service Center, Raleigh, North Carolina, 27699-2701.

(b) The petition shall contain the following information:

- (1) ~~either a draft of the proposed rule or a summary of its contents~~ the text of the proposed rule(s) for adoption or amendment and the statutory

authority for the agency to promulgate the ~~rule~~; rule(s);

- (2) a statement of the ~~reason~~ reasons for ~~proposal~~; adoption of the proposed rule(s), amendment or the repeal of an existing rule(s);
- (3) a statement of the effect on existing rules or orders;
- (4) any data supporting the proposal; a statement of the effect of the proposed rule(s) on existing practices in the area involved, if known;
- (5) effect of the proposed rule on existing practices in the area involved, including cost factors, if known; a statement explaining the costs and computation of the cost factors, if known; and
- (6) names of those most likely to be affected by the proposed rule, with addresses, if known;
- (7)(6) the name(s) and address(es) of the petitioner(s).

(c) The petitioner may include the following information within the request:

- (1) documents and any data supporting the petition;
- (2) a description, including the names and addresses, if known, of those most likely to be affected by the proposed rule(s).

~~(e)(d)~~ The Director, based on a study review of the facts stated in the petition, will determine whether the public interest will be served by granting the petition. He will shall consider all the contents of the submitted petition, plus any additional information he deems relevant. the following in his or her determination to grant the petition:

- (1) whether he or she has authority to adopt the rule(s);
- (2) the effect of the proposed rule(s) on existing rules, programs and practices;
- (3) probable costs and cost factors of the proposed rule(s);
- (4) the impact of the rule on the public and the regulated entities; and
- (5) whether the public interest will be served by granting the petition.

~~(d)(e)~~ Within 30 days of submission of the petition, the Director will render a final decision. If the decision is to deny the petition, the Director will notify the petitioner in writing, stating the reasons for the denial. If the decision is to approve the petition, the Director will initiate a rulemaking proceeding by issuing a rulemaking notice, as provided in these rules. Petitions that do not contain the information required by Paragraph (b) of this Rule shall be returned to the petitioner by the Director of Division of Health Service Regulation.

Authority G.S. 143B-10; 150B-20.

## 10A NCAC 14A .0102 RULEMAKING PROCEDURES

Authority G.S. 143B-10.

## 10A NCAC 14A .0103 DECLARATORY RULINGS

(a) The Director of the Division of Health Service Regulation may ~~make~~ issue declaratory rulings. All requests for declaratory rulings shall be written and submitted to: the Director, Division of

Health Service Regulation, 809 Ruggles Drive, 2701 Mail Service Center, Raleigh, North Carolina, 27699-2701.

(b) All requests for a declaratory ruling ~~must~~ shall include the following information:

- (1) the name and address of the petitioner;
- (2) a statement of all relevant facts if the person aggrieved requests a declaratory ruling as to the applicability to a statute, rule, or order of the Division;
- ~~(2)(3)~~ the statute or rule to which the petition relates;
- (4) a statement regarding the petitioner's opinion as to any conflict or inconsistencies, if any, within the Division regarding an interpretation of the law or a rule adopted by the Division to which the petition relates;
- ~~(3)(5)~~ a concise statement of the manner in which the petitioner is aggrieved by the rule or statute statute, or its potential application to him; him or her; and
- ~~(4)(6)~~ the consequences of a failure to issue a declaratory ruling; ruling; and
- (7) the petitioner's opinion as to the potential impact of the declaratory ruling on the public.

(c) Whenever the Director ~~believes~~ finds for good cause that the issuance of a declaratory ruling will not serve the public interest, he or she may ~~refuse~~ deny the request to issue ~~one~~ a declaratory ruling. When good cause is deemed to exist, In such a case, the Director shall notify the petitioner in writing of his the decision in writing stating reasons to deny the request for declaratory ruling and shall state the reason for the denial of a declaratory ruling-denial.

~~(d) The Director may refuse to consider the validity of a rule and therefore refuse to issue a declaratory ruling. Good cause for the denial of a declaratory ruling request includes, but is not limited to:~~

- (1) the person submitting the request is not a person aggrieved; or
- (2) there is no conflict or inconsistency within the Division regarding an interpretation of the law or a rule adopted by the Division; or
- ~~(4)(3)~~ if a situation where there has been similar controlling factual determination in a contested case; case; or
- (4) if the request for declaratory ruling involves a factual context being raised for a declaratory ruling was that was specifically considered upon adoption of the rule being questioned as evidence evidenced by the rulemaking record; or
- (5) the factual representations are not specific to the statute or rule being questioned; or
- (6) issuing the declaratory ruling will not serve the public interest; or
- ~~(2)(7)~~ if circumstances stated in the request or otherwise known to the agency show that a contested case hearing would presently be appropriate.

~~(e) Where a declaratory ruling is deemed to be in the public interest, the Director shall issue the ruling within 60 days of receipt of the petition.~~

~~(f)(e) A declaratory ruling procedure may consist of written submissions, oral hearings, or such other procedure as may be appropriate the Director may determine in a particular case.~~

~~(g)(f) The Director may issue notice to persons who might be affected by the ruling that written comments may be submitted or oral presentations received at a scheduled hearing.~~

~~(h) A record of all declaratory ruling procedures shall be maintained for as long as the ruling has validity. This record will contain:~~

- ~~(1) the original request,~~
- ~~(2) reasons for refusing to issue a ruling,~~
- ~~(3) all written memoranda and information submitted,~~
- ~~(4) any written minutes or audio tape or other record of the oral hearing, and~~
- ~~(5) a statement of the ruling.~~

~~This record will be maintained in a file at the Division Office, Division of Health Service Regulation, 2701 Mail Service Center, Raleigh, North Carolina, 27699-2701 and will be available for public inspection during regular office hours.~~

Authority G.S. 143B-10; 150B-4.

## **TITLE 14B – DEPARTMENT OF PUBLIC SAFETY**

*Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Private Protective Services Board intends to readopt with substantive changes the rules cited as 14B NCAC 16 .0110, .0804-.0809, .0901, .0904, .0906, .0909; and readopt without substantive changes the rules cited as 14B NCAC 16 .0101-.0109, .0111-.0114, .0201-.0205, .0301, .0302, .0401-.0405, .0501-.0504, .0601-.0603, .0701-.0707, .0801-.0803, .0902, .0903, .0905, .0907, .0908, .0910-.0912, .1001-.1003, .1101-.1108, .1201-.1207, .1301-.1308, and .1401-.1408.*

*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.ncdps.gov/About-DPS/Boards-Commissions/Private-Protective-Services-Board>

**Proposed Effective Date:** June 1, 2019

### **Public Hearing:**

**Date:** February 20, 2019

**Time:** 2:00 p.m.

**Location:** Private Protective Services Board, 3101 Industrial Drive, Suite 104, Raleigh, NC 27609

**Reason for Proposed Action:** *This set of rules has completed the statutorily required review process and need to be readopted.*

**Comments may be submitted to:** Phil Stephenson, Field Services Supervisor, 3101 Industrial Drive, Suite 104, Raleigh, NC 27609, phone (919) 788-5320, fax (919) 715-0370, email [Phillip.Stephenson@ncdps.gov](mailto:Phillip.Stephenson@ncdps.gov)

**Comment period ends:** April 2, 2019

**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 16 - PRIVATE PROTECTIVE SERVICES BOARD**

### **SECTION .0100 - ORGANIZATION AND GENERAL PROVISIONS**

**14B NCAC 16 .0101 PURPOSE (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0102 LOCATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0103 DEFINITIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0104 UNIFORMS AND EQUIPMENT (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0105 PROHIBITED ACTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0106 DISCIPLINARY ACTIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**



**14B NCAC 16 .0107 LAW ENFORCEMENT  
OFFICERS SPECIAL PROVISIONS (READOPTIO  
WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0108 RECORDS (READOPTIO  
WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0109 RULEMAKING AND  
ADMINISTRATIVE HEARING PROCEDURES  
(READOPTIO WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0110 REPORTING REQUIREMENTS  
~~FOR THE DISCHARGE OF FIREARMS~~**

(a) If any licensee or certificate holder is charged with any criminal offense that would constitute grounds to deny, suspend or revoke a license or certificate under this Chapter the licensee or certificate holder shall self-report the criminal charge to the Board either in person or by telephone no later than the first business day following the charge. The licensee or certificate holder shall provide a copy of the charging document and a written explanation to the Board within five working days.

(b) If any registrant is charged with any criminal offense that would constitute grounds to deny, suspend or revoke a license or certificate under this Chapter the licensee or certificate holder shall self-report the criminal charge to the Board either in person or by telephone no later than the first business day following knowledge of the charge. The licensee or certificate holder shall provide a copy of the charging document and a written explanation to the Board within five working days.

(c) If a ~~licensee or registrant~~ licensee, registrant or certificate holder discharges a firearm while engaged in the private protective services business, the licensee shall notify the Board either in person or by telephone no later than the first business day following the incident. The licensee shall also file a written report to the Board within five working days of the incident. In the report, the licensee shall state the name of the individual who discharged the firearm, the type of weapon discharged, the location of the incident, the law enforcement agency investigating the incident, the events leading to the discharge of the firearm, and any bodily injuries occurring from the incident. This Rule shall not be construed to apply to a weapon that is discharged during a training course that has been approved by the Board.

*Authority G.S. 74C-5.*

**14B NCAC 16 .0111 CHANGE OF ADDRESS OR  
TELEPHONE NUMBER (READOPTIO WITHOUT  
SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0112 SUSPENSION OF AUTHORITY  
TO EXPEND FUNDS (READOPTIO WITHOUT  
SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0113 INVOLVEMENT IN  
ADMINISTRATIVE HEARING (READOPTIO  
WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0114 APPLICATION COMPLETION  
DEADLINE (READOPTIO WITHOUT SUBSTANTIVE  
CHANGES)**

**SECTION .0200 - LICENSES: TRAINEE PERMITS**

**14B NCAC 16 .0201 APPLICATION FOR LICENSES  
AND TRAINEE PERMITS (READOPTIO WITHOUT  
SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0202 FEES FOR LICENSES AND  
TRAINEE PERMITS (READOPTIO WITHOUT  
SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0203 RENEWAL OR RE-ISSUE OF  
LICENSES AND TRAINEE PERMITS (READOPTIO  
WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0204 DETERMINATION OF  
EXPERIENCE (READOPTIO WITHOUT  
SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0205 COMPANY BUSINESS LICENSE  
(READOPTIO WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .0300 - SECURITY GUARD AND PATROL:  
GUARD DOG SERVICE**

**14B NCAC 16 .0301 EXPERIENCE  
REQUIREMENTS/SECURITY GUARD AND PATROL  
LICENSE (READOPTIO WITHOUT SUBSTANTIVE  
CHANGES)**

**14B NCAC 16 .0302 EXPERIENCE REQUIREMENTS  
FOR GUARD DOG SERVICE LICENSE (READOPTIO  
WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .0400 - PRIVATE INVESTIGATOR:  
ELECTRONIC COUNTERMEASURES**

**14B NCAC 16 .0401 EXPERIENCE REQUIREMENTS  
FOR A PRIVATE INVESTIGATOR LICENSE  
(READOPTIO WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0402 EXPERIENCE REQUIREMENTS  
FOR A COUNTERINTELLIGENCE LICENSE  
(READOPTIO WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0403 TRAINEE PERMIT  
REQUIREMENTS (READOPTIO WITHOUT  
SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0404 REPORTS (READOPTIO  
WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0405 PRIVATE INVESTIGATOR'S  
USE OF A BADGE (READOPTIO WITHOUT  
SUBSTANTIVE CHANGES)**

**SECTION .0500 - POLYGRAPH**

**14B NCAC 16 .0501 EXPERIENCE REQUIREMENTS FOR A POLYGRAPH LICENSE (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0502 POLYGRAPH TRAINEE PERMIT REQUIREMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0503 POLYGRAPH EXAMINATION REQUIREMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0504 POLYGRAPH INSTRUMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .0600 - PSYCHOLOGICAL STRESS EVALUATOR (P.S.E.)**

**14B NCAC 16 .0601 EXPERIENCE REQUIREMENTS FOR A PSYCHOLOGICAL STRESS EVALUATOR LICENSE (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0602 P.S.E. EXAMINATION REQUIREMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0603 P.S.E. INSTRUMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .0700 - SECURITY GUARD REGISTRATION (UNARMED)**

**14B NCAC 16 .0701 APPLICATION FOR UNARMED SECURITY GUARD REGISTRATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0702 FEES FOR UNARMED SECURITY GUARD REGISTRATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0703 MINIMUM STANDARDS FOR UNARMED SECURITY GUARD REGISTRATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0704 INVESTIGATION FOR UNARMED SECURITY GUARD REGISTRATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0705 UNARMED SECURITY GUARD REGISTRATION IDENTIFICATION CARDS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0706 RENEWAL OR REISSUE OF UNARMED SECURITY GUARD REGISTRATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0707 TRAINING REQUIREMENTS FOR UNARMED SECURITY GUARDS (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .0800 - ARMED SECURITY GUARD FIREARM REGISTRATION PERMIT**

**14B NCAC 16 .0801 APPLICATION/ARMED SECURITY GUARD FIREARM REGISTRATION PERMIT (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0802 FEES FOR ARMED SECURITY GUARD FIREARM REGISTRATION PERMIT (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0803 MINIMUM STDS/ARMED SECURITY GUARD FIREARM REGISTRATION PERMIT (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0804 INVESTIGATION/ARMED SECURITY GUARD FIREARM REGISTRATION PERMIT**

(a) After the administrator receives a complete application for registration, the ~~administrator~~ Director may cause to be made such further investigation of the applicant as deemed necessary.

(b) Any denial of an applicant for registration by the ~~administrator~~ Director shall be subject to review by the Board.

*Authority G.S. 74C-5.*

**14B NCAC 16 .0805 ARMED SECURITY GUARD FIREARM REGISTRATION PERMIT IDENT CARDS**

(a) The provisions of ~~12 NCAC 7D .0705~~ 14B NCAC 16 .0705 are hereby made to apply to armed security ~~officers~~ guards.

(b) Upon termination of employment of an armed security ~~officer~~ guard, the employer shall return the employee's registration card to the Board within 15 days of the employee's termination.

*Authority G.S. 74C-5; 74C-11; 74C-13.*

**14B NCAC 16 .0806 RENEWAL OF ARMED SECURITY GUARD FIREARM REGISTRATION PERMIT**

(a) Each applicant for renewal of an armed security guard firearm registration permit identification card or his or her employer shall complete a form provided by the Board. This form shall be submitted not more than 90 days nor fewer than 30 days prior to expiration of the applicant's current armed registration and shall be accompanied by:

- (1) two head and shoulders color digital photographs of the applicant in JPG format of acceptable quality for identification, taken within six months prior to submission and submitted by e-mail to PPASL-Photos@ncdps.gov or by compact disc;
- (2) statements of any criminal record obtained from the reporting service designated by the Board

pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the preceding 12 months;

- (3) the applicant's renewal fee; and
- (4) the actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected by the Private Protective Services Board.

(b) The employer of each applicant for a registration renewal shall give the applicant a copy of the application that shall serve as a record of application for renewal and shall retain a copy of the application in the individual's personnel file in the employer's office.

(c) Applications for renewal shall be accompanied by a statement signed by a certified trainer that the applicant has successfully completed the training requirements of Rule .0807 of this Section.

(d) Members of the armed forces whose registration is in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return shall receive that same extension of time to pay the registration renewal fee and to complete any continuing education requirements prescribed by the Board. A copy of the military order or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue shall be furnished to the Board.

(e) A registered armed security guard may utilize a dedicated light system or gun-mounted light for requalification.

*Authority G.S. 74C-5; 74C-11; 74C-13.*

#### **14B NCAC 16 .0807 TRAINING REQUIREMENTS FOR ARMED SECURITY GUARDS**

(a) Applicants for an armed security guard firearm registration permit shall first complete the basic unarmed security guard training course set forth in Rule .0707 of this Chapter.

(b) Private investigator licensees applying for an armed security guard firearm registration permit shall first complete a four hour training course consisting of the courses set forth in Rule .0707(a)(1) and (2) of this Chapter and all additional training requirements set forth in that Rule.

(c) Applicants for an armed security guard firearm registration permit shall complete a basic training course for armed security guards which consists of at least 20 hours of classroom instruction including:

- (1) legal limitations on the use of handguns and on the powers and authority of an armed security guard, including familiarity with rules and regulations relating to armed security guards (minimum of four hours);
- (2) handgun safety, including range firing procedures (minimum of one hour);
- (3) handgun operation and maintenance (minimum of three hours);
- (4) handgun fundamentals (minimum of eight hours); and
- (5) night firing (minimum of four hours).

Subparagraph (c)(2), "operation" under Subparagraph (c)(3), and Subparagraph (c)(4) of this Rule shall be completed prior to the applicant's participation in range firing.

(d) Applicants for an armed security guard firearm registration permit shall attain a score of at least 80 percent accuracy on a firearms range qualification course adopted by the Board and the Secretary of Public Safety, a copy of which is on file in the Director's office. For rifle qualification all shots shall be located on the target. Should a student fail to attain a score of 80 percent accuracy, the student may be given three additional attempts to qualify on the course of fire the student did not pass. Failure to meet the qualification after three attempts shall require the student to repeat the entire Basic Training Course for Armed Security Guards. All additional attempts must take place within 20 days of the completion of the initial 20 hour course.

(e) All armed security guard training required by this Chapter shall be administered by a certified trainer and shall be completed no more than 90 days prior to the date of issuance of the armed security guard firearm registration permit.

(f) All applicants for an armed security guard firearm registration permit shall obtain training under the provisions of this Section using their duty weapon and their duty ammunition or ballistic equivalent ammunition, to include lead-free ammunition that meets the same point of aim, point of impact, and felt recoil of the duty ammunition, for all weapons.

(g) No more than six new or renewal armed security guard applicants per one instructor shall be placed on the firing line at any one time during firearms range training for armed security guards.

(h) Applicants for re-certification of an armed security guard firearm registration permit shall complete a basic recertification training course for armed security guards that consists of at least four hours of classroom instruction and is a review of the requirements set forth in Subparagraphs (c)(1) through (c)(5) of this Rule. The recertification course is valid for 180 days after completion of the course. Applicants for recertification of an armed security guard firearm registration permit shall also complete the requirements of Paragraph (d) of this Rule.

(i) An armed guard registered with one company may be registered with a second company. The registration shall be considered "dual." The registration with the second company shall expire at the same time that the registration expires with the first company. An updated application shall be required to be submitted by the applicant, along with the digital photograph, updated criminal records checks, and a forty dollar (\$40.00) registration fee. If the guard will be carrying a firearm of the same make, model, and caliber, then no additional firearms training shall be required. The licensee shall submit a letter stating the guard will be carrying the same make and model firearm. If the guard will be carrying a firearm of a different make and model, the licensee shall submit a letter to the Board advising of the make, model, and caliber of the firearm the guard will be carrying and the guard shall be required to qualify at the firing range on both the day and night qualification course. The qualification score is valid for 180 days after completion of the course.

(j) To be authorized to carry a standard 12 gauge shotgun in the performance of his or her duties as an armed security guard, an applicant shall complete, in addition to the requirements of

Paragraphs (a), (c), and (d) of this Rule, six hours of classroom training that shall include the following:

- (1) legal limitations on the use of shotgun (minimum of one hour);
- (2) shotgun safety, including range firing procedures (minimum of one hour);
- (3) shotgun operation and maintenance (minimum of one hour);
- (4) shotgun fundamentals (minimum of two hours); and
- (5) night firing (minimum of one hour).

Subparagraph (j)(2), "operation" under Subparagraph (j)(3), and Subparagraph (j)(4) of this Rule shall be completed prior to the applicant's participation in range firing.

(k) An applicant may take the additional shotgun training at a time after the initial training in this Rule. If the shotgun training is completed at a later time, the shotgun certification shall run concurrent with the armed registration permit. In addition to the requirements set forth in Paragraph (j) of this Rule, applicants shall attain a score of at least 80 percent accuracy on a shotgun range qualification course adopted by the Board and the Secretary of Public Safety, a copy of which is on file in the Director's office.

(l) Applicants for shotgun recertification shall complete one hour of classroom training covering the topics set forth in Paragraph (j) of this Rule and shall also complete the requirements of Paragraph (d) of this Rule.

(m) To be authorized to carry a rifle in the performance of his or her duties as an armed security guard, an applicant shall complete, in addition to the requirements of Paragraphs (a), (c), and (d) of this Rule, 16 hours of classroom training which shall include the following:

- (1) legal limitations on the use of rifles (minimum of one hour);
- (2) rifle safety, including range firing procedures (minimum of one hour);
- (3) rifle operation and maintenance (minimum of two hours);
- (4) rifle fundamentals (minimum of ten hours); and
- (5) night firing (minimum two hours).

Subparagraph (m)(2), "operation" under Subparagraph (m)(3), and Subparagraph (m)(4) of this Rule shall be completed prior to the applicant's participation in range firing.

(n) The applicant shall pass a skills course that tests each basic rifle skill and the test of each skill shall be completed within three attempts.

(o) An applicant may take the additional rifle training at a time after the initial training in this Rule. If the rifle training is completed at a later time, the rifle certification shall run concurrent with the armed registration permit. In addition to the requirements set forth in Paragraphs (m) and (n) of this Rule, applicants shall attain a score of at least 80 percent accuracy on a rifle range qualification course adopted by the Board and the Secretary of Public Safety, a copy of which is on file in the Director's office.

(p) Applicants for rifle recertification shall complete an additional one hour of classroom training covering the topics set forth in Paragraph (m) of this Rule and shall also complete the requirements of Paragraph (d) of this Rule.

(q) Upon written request, an applicant for an armed security guard firearm registration permit who possess a current firearms trainer certificate shall be given a firearms registration permit that will run concurrent with the trainer certificate upon completion of an annual qualification with the applicant's duty firearms as set forth in Paragraph (d) of this Rule.

(r) ~~The~~ An armed security guard is required to qualify annually both for day and night firing with his or her duty handgun, shotgun, and rifle, if applicable. If the security guard fails to qualify on any course of fire, the security guard shall not carry the firearm until such time as he or she meets the qualification requirements. Upon failure to qualify, the firearm instructor shall notify the security guard that he or she is no longer authorized to carry the firearm and the firearm instructor shall notify the employer and the Private Protective Services Board staff on the next business day.

(s) A firearm training certificate of an armed security guard remains valid even if the guard leaves the employment of one company for the employment of another. The range qualifications shall remain valid if the guard will be carrying a firearm of the same make, model, and caliber, then no additional firearms training shall be required. The licensee shall submit a letter stating the guard will be carrying the same make and model firearm. If the guard will be carrying a firearm of a different make and model, the licensee shall submit a letter to the Board advising of the make, model, and caliber of the firearm the guard will be carrying and the guard shall be required to qualify at the firing range on both the day and night qualification course. The qualification score is valid for 180 days after completion of the course. However, nothing herein shall extend the period of time the qualification is valid.

*Authority G.S. 74C-5; 74C-9; 74C-13.*

#### **14B NCAC 16 .0808 CONCEALED WEAPONS**

(a) Nothing in G.S. 74C or this Chapter shall be construed as permitting the carrying of concealed weapons by licensees, trainees, registrants or firearms trainers while in performance of duties regulated by the Private Protective Services ~~Act, unless the Act. However,~~ a licensee, trainer, or registrant who has complied with all provisions of G.S. 14, Article 54B and applicable rules ~~promulgated~~ adopted by the N.C. Criminal Justice Education and Training Standards Commission pursuant thereto and has been issued a current concealed handgun permit by a ~~Sheriff. Additionally, applicants shall comply~~ Sheriff may carry a concealed handgun after complying with the concealed firearm handgun provisions for training and qualifications set forth in Paragraph (b) of this Rule.

(b) A licensee, ~~trainer, or registrant~~ trainee, registrant or firearms trainer shall comply with each of the following requirements to carry a ~~Concealed Firearm~~ concealed handgun while engaged in a private protective services business.

- (1) ~~An individual shall hold~~ Hold a current Armed Security Guard Registration Permit by complying with all requirements for armed registration as prescribed in this Section.
- (2) ~~An individual shall complete~~ Complete standards set forth by the N.C. Criminal Justice Education and Training Standards Commission

to include knowledge of North Carolina firearms laws including, but not limited to, the limitation on concealed ~~weapon~~ handgun possession on specified ~~grounds~~ property and within certain buildings.

- (3) ~~An individual meeting the requirements of this Section shall be issued a concealed firearm endorsement to the current Armed Security Guard Registration Permit for the term of the Armed Security Guard Registration Permit without additional permit fees, but any additional training costs necessary to comply with this Section shall be borne directly by the applicant.~~

(c) Upon application to the Board, a licensee, trainee, registrant, or firearms trainer meeting the requirements of this Section may be issued a concealed handgun endorsement to the current Armed Security Guard Registration Permit for the term of the Armed Security Guard Registration Permit without additional permit fees, but any additional training costs necessary to comply with this Section shall be borne directly by the applicant. The endorsement shall be renewed at the time of the Armed Security Guard Registration Permit renewal pursuant to the applicable provisions of this Section on payment of the armed security guard registration renewal fee and proof of possession of a current Concealed Handgun Permit. There shall be no additional fee for the concealed ~~firearms~~ handgun endorsement renewal.

*Authority G.S. 74C-5; 74C-13.*

#### **14B NCAC 16 .0809 AUTHORIZED FIREARMS**

Armed licensees or registrants are authorized, while in the performance of official duties or traveling directly to and from work, to carry a standard revolver from .32 caliber to .357 caliber, a standard semi-automatic pistol from .354 caliber to .45 caliber, any standard 12 gauge shotgun, or any standard semi-automatic or bolt action ~~.223 or .223, .308, 5.56 X 45 mm NATO caliber~~ caliber, or any above handgun caliber rifle as long as the licensee or registrant has been trained pursuant to Rule .0807 of this Section. For purposes of this Section, a "standard" firearm means a firearm that has not been modified or altered from its original manufactured design.

*Authority G.S. 74C-5; 74C-13.*

### **SECTION .0900 – TRAINER CERTIFICATE**

#### **14B NCAC 16 .0901 REQUIREMENTS FOR A FIREARMS TRAINER CERTIFICATE**

- (a) Firearms trainer applicants shall:
- (1) meet the minimum standards established by Rule .0703 of this Chapter;
  - (2) have a minimum of one year of ~~supervisory~~ experience in security with a contract security company or proprietary security organization, or one year of experience with any federal, state, county or municipal law enforcement agency;

- (3) attain a 90 percent score on a firearm's prequalification course approved by the Board and the Secretary of Public Safety, with a copy of the firearm's course certificate to be kept on file in the administrator's office;
- (4) to teach handgun qualification, complete a training course approved by the Board and the Secretary of Public Safety that shall consist of a minimum of 32 hours of classroom and practical range training in safety and maintenance, range operations, night firearm training, control and safety procedures, and methods of handgun firing;
- (5) to teach shotgun ~~or rifle~~ qualification, complete a training course approved by the Board and the Secretary of Public Safety that shall consist of a minimum of ~~24~~ 12 hours of classroom and practical range training in shotgun ~~and rifle~~ safety and maintenance, range operations, night firearm training, control and safety procedures, and methods of shotgun ~~and rifle~~ firing;
- (6) to teach rifle qualification, complete a training course approved by the Board and the Secretary of Public Safety that shall consist of a minimum of 16 hours of classroom and practical range training in rifle safety and maintenance, range operations, night firearm training, control and safety procedures, and methods of rifle firing;
- ~~(6)(7)~~ pay the certified trainer application fee established in Rule .0903(a)(1) of this Section; and
- ~~(7)(8)~~ successfully complete the requirements of the Unarmed Trainer Certificate set forth in Rule .0909 of this Section.

(b) The applicant's score on the prequalification course set forth in Subparagraph (a)(3) of this Rule is valid for 180 days after completion of the course.

(c) In lieu of completing the training course set forth in Subparagraph (a)(4) of this Rule, an applicant may submit to the Board a current Criminal Justice Specialized Law Enforcement Firearms Instructor Certificate from the North Carolina Criminal Justice Education and Training Standards Commission.

(d) In lieu of Subparagraphs (a)(2) and (4) of this Rule, an applicant may establish that the applicant satisfies the conditions set forth in G.S. 93B-15.1(a) for firearm instruction and two years of verifiable experience within the past five years in the U.S. Armed Forces as a firearms instructor.

(e) All applicants subject to Paragraphs (c) and (d) of this Rule shall comply with the provisions of Subparagraph (a)(3), pay the application fee amount as set forth in Rule .0903 of this Section, and complete the eight-hour course given by the Board on rules and regulations.

(f) In addition to the requirement of Section .0200 of this Chapter, an applicant for a firearms trainer certificate who is the spouse of an active duty member of the U.S. Armed Forces shall establish that the application satisfies the conditions set forth in G.S. 93B-15.1(b).

(g) A Firearms Trainer Certificate expires two years after the date of issuance.

*Authority G.S. 74C-5; 74C-9; 74C-13; 93B-15.1.*

**14B NCAC 16 .0902 APPLICATION FOR FIREARMS TRAINER CERTIFICATE (READOPTIO WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0903 FEES FOR TRAINER CERTIFICATE (READOPTIO WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0904 RENEWAL OF A FIREARMS TRAINER CERTIFICATE**

(a) Each applicant for renewal of a firearms trainer certificate shall complete a renewal form provided by the Board and available on its website at [www.ncdps.gov/PPS](http://www.ncdps.gov/PPS). This form shall be submitted not less than 30 days prior to the expiration of the applicant's current certificate and shall be accompanied by:

- (1) certification of the successful completion of a firearms trainer refresher course approved by the Board and the Secretary of Public Safety consisting of a minimum of eight hours of classroom and practical range training in safety and maintenance of the applicable firearm (i.e. handgun, shotgun or rifle), range operations, control and safety procedures, ~~and~~ methods of firing, firing, and night firing. This training shall be completed within 180 days of the submission of the renewal application;
- (2) a certified statement of the result of a criminal records search from the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the applicant has resided within the preceding 48 months;
- (3) the applicant's renewal fee; and
- (4) the actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected by the Private Protective Services Board.

(b) Members of the armed forces whose certification is in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return shall receive that same extension of time to pay the certification renewal fee and to complete any continuing education requirements prescribed by the Board. A copy of the military order or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue shall be furnished to the Board.

(c) Any firearms trainer who fails to qualify with the minimum score during the refresher course shall not continue to instruct during the period between the failure to qualify and the expiration of his or her permit.

(d) The holder of a firearms trainer certificate may utilize a dedicated light system or gun mounted light for personal requalification.

*Authority G.S. 74C-5; 74C-8.1(a); 74C-13.*

**14B NCAC 16 .0905 DETERMINATION OF EXPERIENCE (READOPTIO WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0906 RECORDS RETENTION**

(a) A Certified Firearms Trainer shall retain the following in the individual's armed certification file:

- (1) a copy of the post delivery report listing the name(s) of individual(s) who qualified or attempted to qualify for armed security guard registration, and hour(s) of training, ~~weapon~~ firearms qualification scores and any other information thereon;
- (2) a copy of the individual's Firearm Training Certificate; and
- (3) the individual's B-27 target and the Certified Firearms Trainer's Documentation Record.

(b) The individual's B-27 qualification attempt target shall be retained for a minimum of 18 calendar months from the date of each qualification attempt. Each B-27 target must contain the full name of the individual that fired the qualification course of fire, the date that qualification attempt took place, the printed name and signature of the private protective service certified firearms trainer who scored the target and the score. The qualification target shall also show letter "N" or "D" to indicate if the qualification attempt was a day time ("D") or night time ("N") qualification attempt. The information required by this Paragraph shall be placed on the B-27 target in ink or permanent marker.

*Authority G.S. 74C-5; 74C-13.*

**14B NCAC 16 .0907 PRE-DELIVERY REPORT FOR FIREARMS TRAINING COURSES (READOPTIO WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0908 POST-DELIVERY REPORT FOR FIREARMS TRAINING COURSES (READOPTIO WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0909 UNARMED TRAINER CERTIFICATE**

(a) To receive an unarmed trainer certificate, an applicant shall meet the following requirements:

- (1) comply with the requirements of Rule .0703 of this Chapter;
- (2) have a minimum of one year of experience in security with a contract security company or proprietary security organization, or one year of experience with any federal, state, county or municipal law enforcement agency;
- (3) successfully complete a training course approved by the Board and the Secretary of Public Safety which shall consist of a minimum of 24 hours classroom instruction to include the following topic areas:
  - (A) civil liability for the security trainer -- (two hours);
  - (B) interpersonal communications in instruction -- (three hours);

- (C) teaching adults -- (four hours);
- (D) principles of instruction -- (one hour);
- (E) methods and strategies of instruction -  
- (one hour);
- (F) principles of instruction: audio-visual  
aids -- (three hours); and
- (G) student performance -- (45 minute  
presentation);

- (4) receive a favorable recommendation from the  
employing or contracting ~~licensee~~; licensee or  
other individual knowledgeable of the  
applicant's experience and teaching skills; and
- (5) submit the application required by Rule .0910  
of this Section, which is available on the  
Board's website at [www.ncdps.gov/PPS](http://www.ncdps.gov/PPS).

(b) In lieu of completing the training course set forth in  
Subparagraph (a)(3) of this Rule, an applicant may submit to the  
Board:

- (1) a Criminal Justice General Instructor  
Certificate from the North Carolina Criminal  
Justice Education and Training Standards  
Commission; or
- (2) any training certification that meets or exceeds  
the requirements of Subparagraph (a)(3) of this  
Rule and is approved by the Director of PPS.

(c) In lieu of the experience requirement of Subparagraph (a)(2)  
of this Rule and completing the training course set forth in  
Subparagraph (a)(3) of this Rule, an applicant may establish that  
the applicant satisfies the conditions set forth in G.S. 93B-15.1(a)  
for an unarmed trainer and two years of verifiable experience  
within the past five years in the U.S. Armed forces as an unarmed  
guard trainer.

(d) In addition to the requirements of Section .0200 of this  
Chapter, an applicant for an unarmed guard trainer certificate that  
is the spouse of an active duty member of the U.S. Armed Forces  
shall establish that the applicant satisfies the conditions set forth  
in G.S. 93B-15.1(b).

~~(e) An Unarmed Trainer Certificate shall expire two years after  
the date of issuance.~~

(e) The holder of an unarmed trainer certificate may teach as:

- (1) an employee of a licensed security guard and  
patrol business;
- (2) as a contractor of a licensed security guard and  
patrol business; and
- (3) in a program sponsored by a public high school  
defined by G.S. 115C-75(a)(2) or a community  
college established pursuant to G.S. 115D-2(2).

(f) An Unarmed Trainer Certificate shall expire two years after  
the date of issuance.

*Authority G.S. 74C-8; 74C-9; 74C-11; 93B-15.1.*

**14B NCAC 16 .0910 APPLICATION FOR AN  
UNARMED TRAINER CERTIFICATE (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0911 RENEWAL OF AN UNARMED  
TRAINER CERTIFICATE (READOPTION WITHOUT  
SUBSTANTIVE CHANGES)**

**14B NCAC 16 .0912 ROSTERS OF UNARMED  
TRAINER CLASSES (READOPTION WITHOUT  
SUBSTANTIVE CHANGES)**

#### **SECTION .1000 - RECOVERY FUND**

**14B NCAC 16 .1001 DEFINITIONS (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1002 PETITION FOR  
HEARING/APPLICATION FOR RELIEF (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1003 PROCESSING APPLICATIONS  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

#### **SECTION .1100 - TRAINING AND SUPERVISION FOR PRIVATE INVESTIGATOR ASSOCIATES**

**14B NCAC 16 .1101 DEFINITIONS (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1102 TRAINING AND SUPERVISION  
REQUIRED IN LEVEL ONE (READOPTION WITHOUT  
SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1103 TRAINING AND SUPERVISION  
REQUIRED IN LEVEL TWO (READOPTION WITHOUT  
SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1104 TRAINING AND SUPERVISION  
REQUIRED IN LEVEL THREE (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1105 EDUCATIONAL DEGREES AND  
NON-DEGREED TRAINING (READOPTION WITHOUT  
SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1106 CONSIDERATION OF  
EXPERIENCE (READOPTION WITHOUT  
SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1107 ENFORCEMENT (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1108 TRANSFERABILITY OF  
TRAINING HOURS (READOPTION WITHOUT  
SUBSTANTIVE CHANGES)**

#### **SECTION .1200 – CONTINUING EDUCATION**

**14B NCAC 16 .1201 DEFINITIONS (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1202      REQUIRED CONTINUING  
EDUCATION HOURS (READOPTION WITHOUT  
SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1203      ACCREDITATION STANDARDS  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1204      NON-RESIDENT LICENSEE  
CONTINUING EDUCATION CREDITS (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1205      RECORDING AND REPORTING  
CONTINUING EDUCATION CREDITS (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1206      NON-COMPLIANCE  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1207      CREDIT FOR CE COURSES  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .1300 – ARMORED CAR SERVICE GUARD  
REGISTRATION (UNARMED)**

**14B NCAC 16 .1301      APPLICATION FOR UNARMED  
ARMORED CAR SERVICE GUARD REGISTRATION  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1302      FEES FOR UNARMED  
ARMORED CAR SERVICE GUARD REGISTRATION  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1303      MINIMUM STANDARDS FOR  
UNARMED ARMORED CAR SERVICE GUARD  
REGISTRATION (READOPTION WITHOUT  
SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1304      INVESTIGATION FOR  
UNARMED ARMORED CAR SERVICE GUARD  
REGISTRATION (READOPTION WITHOUT  
SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1305      UNARMED ARMORED CAR  
SERVICE GUARD REGISTRATION IDENTIFICATION  
CARDS (READOPTION WITHOUT SUBSTANTIVE  
CHANGES)**

**14B NCAC 16 .1306      RENEWAL OR REISSUE OF  
UNARMED ARMORED CAR SERVICE GUARD  
REGISTRATION (READOPTION WITHOUT  
SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1307      TRAINING REQUIREMENTS  
FOR UNARMED ARMORED CAR SERVICE GUARDS  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1308      UNIFORMS AND EQUIPMENT  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .1400 - ARMED ARMORED CAR SERVICE  
GUARDS FIREARM REGISTRATION PERMIT**

**14B NCAC 16 .1401      APPLICATION/ARMED  
ARMORED CAR SERVICE GUARD FIREARM  
REGISTRATION PERMIT (READOPTION WITHOUT  
SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1402      FEES FOR ARMED ARMORED  
CAR SERVICE GUARD FIREARM REGISTRATION  
PERMIT (READOPTION WITHOUT SUBSTANTIVE  
CHANGES)**

**14B NCAC 16 .1403      MINIMUM STDS/ARMED  
ARMORED CAR SERVICE GUARD FIREARM  
REGISTRATION PERMIT (READOPTION WITHOUT  
SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1404      INVESTIGATION/ARMED  
ARMORED CAR SERVICE GUARD FIREARM  
REGISTRATION PERMIT (READOPTION WITHOUT  
SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1405      ARMED ARMORED CAR  
SERVICE GUARD FIREARM REGISTRATION PERMIT  
IDENTIFICATION CARDS (READOPTION WITHOUT  
SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1406      RENEWAL OF ARMED  
ARMORED CAR SERVICE GUARD FIREARM  
REGISTRATION PERMIT (READOPTION WITHOUT  
SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1407      TRAINING REQUIREMENTS  
FOR ARMED ARMORED CAR SERVICE GUARDS  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**14B NCAC 16 .1408      UNIFORMS AND EQUIPMENT  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

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**TITLE 15A – DEPARTMENT OF ENVIRONMENTAL  
QUALITY**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the  
Wildlife Resources Commission intends to amend the rules cited  
as 15A NCAC 10F .0307 and .0320.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
[www.ncwildlife.org](http://www.ncwildlife.org)

**Proposed Effective Date:** July 1, 2019

**Public Hearing:**

**Date:** March 6, 2019

**Time:** 10:00 a.m.

**Location:** WRC Headquarters, 1751 Varsity Drive, Raleigh, NC  
27606



**Reason for Proposed Action:**

**15A NCAC 10F .0307** – A technical change is being made to correctly identify the coordinates that mark a no-wake zone on Lake Norman in Iredell County, in a small cove north of the entrance to Hager Creek. The correct location is substantially smaller than what is misidentified as the cove in the creek. Therefore, rulemaking is required. A fiscal note is not required.

**15A NCAC 10F .0320** – Onslow County submitted an application for rulemaking in a portion of the Intracoastal Waterway at Hammocks Beach State Park in Swansboro, to mitigate hazards to boater safety caused by a busy boat ramp, passenger ferry, and kayaks at the State Park. US Army Corps of Engineers has concurred with placement of no-wake markers in that portion of the ICW, federal channel. No fiscal note is required as there is no expense to a local unit of government.

**Comments may be submitted to:** Rules Coordinator, 1701 Mail Service Center, Raleigh, NC 27699-1701; email [regulations@ncwildlife.org](mailto:regulations@ncwildlife.org)

**Comment period ends:** April 2, 2019

**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 10 - WILDLIFE RESOURCES AND WATER SAFETY**

**SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY**

**SECTION .0300 - LOCAL WATER SAFETY REGULATIONS**

**15A NCAC 10F .0307 CATAWBA, IREDELL, LINCOLN, AND MECKLENBURG COUNTIES**

(a) Regulated Area. This Rule shall apply to Lake Norman in Catawba, Iredell, Lincoln, and Mecklenburg counties:

- (1) within 50 yards of the shoreline at Jetton Park in Mecklenburg County, from a point on the west side of the park at 35.47082 N, 80.90427 W, south and around the point at 35.46703 N, 80.90360 W, then northeast to a point at 35.47262 N, 80.89727 W;
- (2) Bluff Point Cove in Cornelius shore to shore, east of a line from a point 50 yards west of the south shore of the cove mouth at 35.45327 N, 80.89520 W to a point 50 yards west of the north shore of the cove mouth at 35.45487 N, 80.89440 W; and
- (3) the cove immediately north of the inlet of Hager Creek cove in Iredell County, east of a line at the cove mouth from a point on the south shore at 35.55117 N, 80.95250 W to a point on the north shore of the cove mouth at 35.56162 N, 80.95230 W, north of a line from a point on the north shore at 35.55760 N, 80.94730 W southwest to a point on the island at the inlet of Hager Creek at 35.55695 N, 80.94971 W, and east of a line from the same point on the island northwest to a point on the north shore at 35.55754 N, 80.95029 W.

(b) Speed Limit. No person shall operate a vessel at greater than no wake speed within the regulated areas described in Paragraph

(a) of this Rule and as set forth in ~~G.S. 75A-14.1~~ G.S. 75A-14.1, which is specific to the waters of Lake Norman.

(c) Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked swimming area on the waters of Lake Norman.

(d) Placement and Maintenance of Markers. The Lake Norman Marine Commission shall be the designated agency for placement and maintenance of navigational aids and regulatory markers on the waters of Lake Norman.

*Authority G.S. 75A-3; 75A-15.*

**15A NCAC 10F .0320 ONSLOW COUNTY**

(a) Regulated Areas. This Rule shall apply to the following waters in Onslow County:

- (1) the canals in Old Settlers Beach subdivision in the Town of Surf City, east of the Onslow-Pender County line, and the waters of the approach canal from the Intracoastal Waterway between markers 53 and 57, extending south-southwest to the Onslow-Pender County line;
- (2) New River in the City of Jacksonville shore to shore, north from a line at a point on the east shore at 34.74356 N, 77.43775 W to a point on the west shore at 34.74358 N, 77.43924 W; and south from a line at a point on the east shore at 34.74695 N, 77.43719 W, to a point on the west shore at 34.74562 N, 77.44114 W; and the waters shore to shore north of the SR 1402

- bridge otherwise known as the Old Bridge Street bridge and south of the U.S. Highway 17 Business bridge otherwise known as Marine Boulevard bridge; and within 50 yards of the shoreline at the Marina Café and Marina, from the U.S. Highway 17 Business bridge otherwise known as Marine Boulevard bridge to a point on the west shore at 34.75461 N, 77.43819 W; ~~and~~
- (3) Queens Creek near the boating access area at the north end of SR 1688, otherwise known as Sussex Lane in Hubert, shore to shore west of a line from a point on the south shore at 34.69881 N, 77.18884 W to a point on the north shore at 34.69949 N, 77.18880 W and south-southeast of a line from a point on the west shore at 34.70103 N, 77.19287 W to a point on the east shore at 34.70101 N, ~~77.19216 W~~, 77.19216 W; and
- (4) Intracoastal Waterway at Hammocks Beach State Park in Swansboro, from a line at a point on the north shore west of the passenger ferry dock at 34.66967 N, 77.14454 W, south to a point on an unnamed island at 34.66823 N, 77.14459 W, eastward 520 yards to a line from a point on the north shore east of the public boat ramp and maintenance area at 34.67023 N, 77.13934 W, south to a point on an unnamed island at 34.66916 N, 77.13962 W.
- (b) Speed Limit. No person shall operate a motorboat at greater than no-wake speed within the regulated areas described in Paragraph (a) of this Rule.
- (c) Placement of Markers. The Board of Commissioners of Onslow County shall be the designated agency for placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

*Authority G.S. 75A-3; 75A-15.*

*This Section includes a listing of rules approved by the Rules Review Commission followed by the full text of those rules. The rules that have been approved by the RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register are identified by an \* in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

*Rules approved by the Rules Review Commission at its meeting on December 13, 2018 Meeting.*

**REGISTER CITATION TO THE  
NOTICE OF TEXT**

**HOUSING FINANCE AGENCY**

<u>Overview and Purpose</u>	04 NCAC 19S .0101	32:23 NCR
<u>Definitions</u>	04 NCAC 19S .0102	32:23 NCR
<u>Waiver</u>	04 NCAC 19S .0103	32:23 NCR
<u>Eligible Applicants</u>	04 NCAC 19S .0104	32:23 NCR
<u>Amendments Adopted by Reference</u>	04 NCAC 19S .0105	32:23 NCR
<u>Acts and Regulations Adopted by Reference</u>	04 NCAC 19S .0106	32:23 NCR
<u>Eligible Activities and Costs</u>	04 NCAC 19S .0201	32:23 NCR
<u>Prohibited Costs</u>	04 NCAC 19S .0202	32:23 NCR
<u>Participation Threshold Amount</u>	04 NCAC 19S .0301	32:23 NCR
<u>Home Program Funding Distribution</u>	04 NCAC 19S .0401	32:23 NCR
<u>Size and Use of Home Awards Made to Recipients</u>	04 NCAC 19S .0402	32:23 NCR
<u>Program Category Allocation</u>	04 NCAC 19S .0403	32:23 NCR
<u>General Application Requirements</u>	04 NCAC 19S .0404	32:23 NCR
<u>Definitions</u>	04 NCAC 19S .0501	32:23 NCR
<u>Eligibility Requirements</u>	04 NCAC 19S .0502	32:23 NCR
<u>Selection Criteria</u>	04 NCAC 19S .0503	32:23 NCR
<u>Definition</u>	04 NCAC 19S .0601	32:23 NCR
<u>Eligibility Requirement</u>	04 NCAC 19S .0602	32:23 NCR
<u>Selection Criteria</u>	04 NCAC 19S .0603	32:23 NCR
<u>Definition</u>	04 NCAC 19S .0701	32:23 NCR
<u>Eligibility Requirements</u>	04 NCAC 19S .0702	32:23 NCR
<u>Selection Criteria</u>	04 NCAC 19S .0703	32:23 NCR
<u>Preliminary Awards</u>	04 NCAC 19S .0704	32:23 NCR
<u>Equal Opportunity and Fair Housing</u>	04 NCAC 19S .1001	32:23 NCR
<u>Affirmative Marketing</u>	04 NCAC 19S .1002	32:23 NCR
<u>Environmental Review</u>	04 NCAC 19S .1003	32:23 NCR
<u>Displacement, Relocation, and Acquisition</u>	04 NCAC 19S .1004	32:23 NCR
<u>Labor Standards</u>	04 NCAC 19S .1005	32:23 NCR
<u>Lead-Based Paint</u>	04 NCAC 19S .1006	32:23 NCR
<u>Conflict of Interest</u>	04 NCAC 19S .1007	32:23 NCR
<u>National Flood Insurance Program</u>	04 NCAC 19S .1008	32:23 NCR
<u>Clearinghouse Review</u>	04 NCAC 19S .1009	32:23 NCR
<u>Grant Agreement</u>	04 NCAC 19S .1101	32:23 NCR
<u>Method of Administration</u>	04 NCAC 19S .1102	32:23 NCR
<u>Audit</u>	04 NCAC 19S .1103	32:23 NCR
<u>Closeout</u>	04 NCAC 19S .1104	32:23 NCR
<u>Recordkeeping</u>	04 NCAC 19S .1105	32:23 NCR
<u>Performance Reports</u>	04 NCAC 19S .1106	32:23 NCR

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**APPROVED RULES**

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<u>Performance Reviews</u>	04 NCAC	19S .1107	32:23 NCR
<u>Corrective and Remedial Actions</u>	04 NCAC	19S .1108	32:23 NCR
<u>Administrative Hearings and Sanctions</u>	04 NCAC	19S .1109	32:23 NCR
<u>Program Amendments</u>	04 NCAC	19S .1110	32:23 NCR

**CHILD CARE COMMISSION**

<u>Administrative Policies</u>	10A NCAC	09 .0513*	32:14 NCR
<u>Operational and Personnel Policies</u>	10A NCAC	09 .0514*	32:14 NCR
<u>Parent Participation</u>	10A NCAC	09 .0515*	32:14 NCR
<u>Night Care</u>	10A NCAC	09 .0516*	32:14 NCR
<u>New Staff Orientation</u>	10A NCAC	09 .1101*	32:14 NCR
<u>Operational Policies</u>	10A NCAC	09 .1715*	32:14 NCR
<u>Additional Caregiver and Substitute Provider Qualifications</u>	10A NCAC	09 .1729*	32:14 NCR
<u>Scope</u>	10A NCAC	09 .2701*	32:14 NCR
<u>Definitions</u>	10A NCAC	09 .2702*	32:14 NCR
<u>Criminal History Record Check Requirements for Child Care...</u>	10A NCAC	09 .2703*	32:14 NCR
<u>Criminal History Record Check Requirements for Nonlicense...</u>	10A NCAC	09 .2704*	32:14 NCR
<u>Scope</u>	10A NCAC	09 .2801*	32:14 NCR
<u>Application for a Two through Five Star Rated License</u>	10A NCAC	09 .2802*	32:14 NCR
<u>Caregiving Activities for Preschool-Aged Children</u>	10A NCAC	09 .2806*	32:14 NCR
<u>Enhanced Space Requirements</u>	10A NCAC	09 .2809*	32:14 NCR
<u>Enhanced Program Standards for Child Care Centers</u>	10A NCAC	09 .2817*	32:14 NCR
<u>Enhanced Staff/Child Ratios for a Rated License for Child...</u>	10A NCAC	09 .2818*	32:14 NCR
<u>Enhanced Education Standards for On-site Administrators f...</u>	10A NCAC	09 .2819*	32:14 NCR
<u>Enhanced Education Standards for Lead Teachers for a Rate...</u>	10A NCAC	09 .2820*	32:14 NCR
<u>Enhanced Education Standards for Teachers for Rated Licen...</u>	10A NCAC	09 .2821*	32:14 NCR
<u>Enhanced Education Standards for Program Coordinators for...</u>	10A NCAC	09 .2822*	32:14 NCR
<u>Enhanced Education Standards for Group Leaders and Assist...</u>	10A NCAC	09 .2823*	32:14 NCR
<u>Enhanced Education Standards for a Rated License for Admi...</u>	10A NCAC	09 .2824*	32:14 NCR
<u>Enhanced Education Standards for Program Coordinators for...</u>	10A NCAC	09 .2825*	32:14 NCR
<u>Education Standards for Group Leaders and Assistant Group...</u>	10A NCAC	09 .2826	32:14 NCR
<u>Enhanced Education Standards for Operators for a Rated Li...</u>	10A NCAC	09 .2827*	32:14 NCR
<u>Enhanced Program Standards for a Rated License for Family...</u>	10A NCAC	09 .2828*	32:14 NCR
<u>Quality Points Options</u>	10A NCAC	09 .2829*	32:14 NCR
<u>Maintaining the Star Rating</u>	10A NCAC	09 .2830*	32:14 NCR
<u>How an Operator May Request or Appeal A Change in Rating</u>	10A NCAC	09 .2831*	32:14 NCR

**MEDICAL CARE COMMISSION**

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<u>Initiating a Hearing</u>	10A NCAC	14A .0303	32:24 NCR

**MENTAL HEALTH, DD/SAS, COMMISSION FOR**

<u>Schedule V</u>	10A NCAC	26F .0106*	G.S. 90-88(d)
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**INSURANCE, DEPARTMENT OF**

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<u>Proof of Insurance Coverage</u>	11 NCAC	07 .0402	33:04 NCR

**INDUSTRIAL COMMISSION**

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<u>Appointment of Guardian Ad Litem</u>	11 NCAC 23A .0604*	33:06 NCR
<u>Motions Practice</u>	11 NCAC 23A .0609*	33:06 NCR
<u>Attorneys Retained for Proceedings</u>	11 NCAC 23A .0617*	33:06 NCR
<u>Foreign Language and Sign Language Interpreters</u>	11 NCAC 23A .0619*	33:06 NCR
<u>Written Communications with the Commission</u>	11 NCAC 23A .0620*	33:06 NCR
<u>Review by the Full Commission</u>	11 NCAC 23A .0701*	33:06 NCR
<u>Review of Administrative Decisions</u>	11 NCAC 23A .0702*	33:06 NCR
<u>Waiver of Rules</u>	11 NCAC 23A .0801	33:06 NCR
<u>Determination of Claims by the Commission</u>	11 NCAC 23H .0201*	G.S. 150B-21.5(a)(2) and (3)
<u>Hearings Before the Commission</u>	11 NCAC 23H .0202*	G.S. 150B-21.5(a)(2) and (3)

**CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION**

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**PUBLIC SAFETY, DEPARTMENT OF**

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<u>Statement of Costs</u>	14B NCAC 01C .0402*	33:01 NCR
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<u>Grant Preapplication Form</u>	14B NCAC 05 .0204	33:04 NCR
<u>Preapplication Submission Procedures</u>	14B NCAC 05 .0205	33:04 NCR
<u>Incomplete Preapplications</u>	14B NCAC 05 .0206	33:04 NCR
<u>Review of Preapplications</u>	14B NCAC 05 .0207	33:04 NCR
<u>Notification to Preapplications</u>	14B NCAC 05 .0208	33:04 NCR
<u>Application Form and Requirements</u>	14B NCAC 05 .0301	33:04 NCR
<u>Application Submission Procedures</u>	14B NCAC 05 .0302	33:04 NCR
<u>Application Due Date</u>	14B NCAC 05 .0303	33:04 NCR
<u>Grant Application Process</u>	14B NCAC 05 .0304	33:04 NCR
<u>Grant Period</u>	14B NCAC 05 .0305	33:04 NCR
<u>Time Limitation on Federal Funding</u>	14B NCAC 05 .0306	33:04 NCR
<u>Grant Award Contracts</u>	14B NCAC 05 .0307	33:04 NCR
<u>Continuation Funds</u>	14B NCAC 05 .0310	33:04 NCR
<u>Adjustments to Grants</u>	14B NCAC 05 .0311	33:04 NCR
<u>Grant Termination or Suspension</u>	14B NCAC 05 .0401	33:04 NCR
<u>Loss of Grantee Eligibility</u>	14B NCAC 05 .0402	33:04 NCR
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<u>Securing Vehicles When Operator Is Arrested</u>	14B NCAC 07A .0105*	33:01 NCR
<u>Vehicle Transported and Stored over Objection of Owner</u>	14B NCAC 07A .0106*	33:01 NCR
<u>Parking Vehicles off the Roadway</u>	14B NCAC 07A .0107*	33:01 NCR
<u>Transporting and Storing Vehicles</u>	14B NCAC 07A .0108*	33:01 NCR
<u>Notification</u>	14B NCAC 07A .0109*	33:01 NCR
<u>Release of Vehicles</u>	14B NCAC 07A .0110*	33:01 NCR

<u>Vehicle Inventory</u>	14B NCAC	07A .0111*	33:01 NCR
<u>Reimbursement of Wrecker Operators</u>	14B NCAC	07A .0112*	33:01 NCR
<u>Financial Interest</u>	14B NCAC	07A .0113*	33:01 NCR
<u>Impartial Use of Services</u>	14B NCAC	07A .0114*	33:01 NCR
<u>Rotation, Zone, Contract, and Deviation from System</u>	14B NCAC	07A .0115*	33:01 NCR
<u>Rotation Wrecker Service Regulations</u>	14B NCAC	07A .0116*	33:01 NCR
<u>Sanctions for Violations</u>	14B NCAC	07A .0118*	33:01 NCR
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#### **ALCOHOLIC BEVERAGE CONTROL COMMISSION**

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<u>Exhibitions</u>	14B NCAC	15A .2303	33:05 NCR
<u>Organized Affairs</u>	14B NCAC	15A .2304*	33:05 NCR
<u>Home Product Production Education Meeting</u>	14B NCAC	15A .2305*	33:05 NCR
<u>Possession, Consumption, Transportation, and Disposition ...</u>	14B NCAC	15A .2306*	33:05 NCR
<u>Allowable Fees</u>	14B NCAC	15A .2307*	33:05 NCR

#### **ENVIRONMENTAL MANAGEMENT COMMISSION**

<u>French Broad River Basin</u>	15A NCAC	02B .0304	32:24 NCR
<u>Additional Requirements for Dams that Impound Coal Combustion ...</u>	15A NCAC	02K .0224*	33:04 NCR

#### **PUBLIC HEALTH, COMMISSION FOR**

<u>Source Water Protection Planning</u>	15A NCAC	18C .1305*	32:22 NCR
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#### **DENTAL EXAMINERS, BOARD OF**

<u>Record Content</u>	21 NCAC	16T .0101	33:05 NCR
<u>Informed Consent</u>	21 NCAC	16T .0103	33:05 NCR

#### **NURSING, BOARD OF**

<u>Selection and Qualifications of Nurse Members</u>	21 NCAC	36 .0109*	33:01 NCR
<u>Determination of Vacancy</u>	21 NCAC	36 .0112*	33:01 NCR
<u>Determination of Qualifications</u>	21 NCAC	36 .0113*	33:01 NCR
<u>Definitions</u>	21 NCAC	36 .0120*	33:01 NCR
<u>Regular Renewal</u>	21 NCAC	36 .0201*	33:01 NCR
<u>Inactive and Retired Status</u>	21 NCAC	36 .0202*	33:01 NCR
<u>Reinstatement of Lapsed License</u>	21 NCAC	36 .0203*	33:01 NCR
<u>Verification to Another State</u>	21 NCAC	36 .0207*	33:01 NCR
<u>Change of Name</u>	21 NCAC	36 .0208*	33:01 NCR
<u>Licensure by Examination</u>	21 NCAC	36 .0211*	33:01 NCR
<u>Reexamination</u>	21 NCAC	36 .0213*	33:01 NCR
<u>Investigations; Disciplinary Hearings</u>	21 NCAC	36 .0217*	33:01 NCR
<u>Licensure Without Examination (By Endorsement)</u>	21 NCAC	36 .0218*	33:01 NCR
<u>Temporary License</u>	21 NCAC	36 .0219*	33:01 NCR
<u>Refresher Course</u>	21 NCAC	36 .0220*	33:01 NCR
<u>License Required</u>	21 NCAC	36 .0221*	33:01 NCR
<u>Continuing Education Programs</u>	21 NCAC	36 .0223*	33:01 NCR
<u>Components of Nursing Practice for the Registered Nurse</u>	21 NCAC	36 .0224*	33:01 NCR

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**APPROVED RULES**

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<u>Components of Nursing Practice for the Licensed Practical...</u>	21 NCAC 36 .0225*	33:01 NCR
<u>Nurse Anesthesia Practice</u>	21 NCAC 36 .0226*	33:01 NCR
<u>Clinical Nurse Specialist Practice</u>	21 NCAC 36 .0228*	33:01 NCR
<u>Continuing Competence</u>	21 NCAC 36 .0232*	33:01 NCR
<u>Out of State Students</u>	21 NCAC 36 .0233*	33:01 NCR
<u>Establishment of a Nursing Program - Initial Approval</u>	21 NCAC 36 .0302*	33:01 NCR
<u>Existing Nursing Program</u>	21 NCAC 36 .0303*	33:01 NCR
<u>Process for Program Closure</u>	21 NCAC 36 .0309*	33:01 NCR
<u>Administration</u>	21 NCAC 36 .0317*	33:01 NCR
<u>Faculty</u>	21 NCAC 36 .0318*	33:01 NCR
<u>Students</u>	21 NCAC 36 .0320*	33:01 NCR
<u>Curriculum</u>	21 NCAC 36 .0321*	33:01 NCR
<u>Facilities</u>	21 NCAC 36 .0322*	33:01 NCR
<u>Records and Reports</u>	21 NCAC 36 .0323*	33:01 NCR
<u>Roles of Unlicensed Personnel</u>	21 NCAC 36 .0401*	33:01 NCR
<u>Coordination with Division of Health Service Regulation (...)</u>	21 NCAC 36 .0402*	33:01 NCR
<u>Qualifications</u>	21 NCAC 36 .0403*	33:01 NCR
<u>Listing and Renewal</u>	21 NCAC 36 .0404*	33:01 NCR
<u>Approval of Nurse Aide Education Programs</u>	21 NCAC 36 .0405*	33:01 NCR
<u>Medication Aide Training Requirements</u>	21 NCAC 36 .0406*	33:01 NCR
<u>Name of Professional Corporation</u>	21 NCAC 36 .0502*	33:01 NCR
<u>Prerequisites for Incorporation</u>	21 NCAC 36 .0503*	33:01 NCR
<u>Certificate of Registration</u>	21 NCAC 36 .0504*	33:01 NCR
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<u>Name of Limited Liability Company</u>	21 NCAC 36 .0601*	33:01 NCR
<u>Prerequisites for Organization</u>	21 NCAC 36 .0602*	33:01 NCR
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<u>Definitions</u>	21 NCAC 36 .0801	33:01 NCR
<u>Scope of Practice</u>	21 NCAC 36 .0802	33:01 NCR
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<u>Inactive Status</u>	21 NCAC 36 .0808	33:01 NCR
<u>Prescribing Authority</u>	21 NCAC 36 .0809	33:01 NCR
<u>Quality Assurance Standards for a Collaborative Practice ...</u>	21 NCAC 36 .0810	33:01 NCR
<u>Method of Identification</u>	21 NCAC 36 .0811	33:01 NCR
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<u>Reporting Criteria</u>	21 NCAC 36 .0815	33:01 NCR

**HOUSING FINANCE AGENCY**

Fees

24 NCAC 01N .0204 32:23 NCR

The following rules are subject to Legislative Review.

**INDUSTRIAL COMMISSION**

Hearings

11 NCAC 23B .0206\* 33:06 NCR

Hearings of Claims by Prison Inmates

11 NCAC 23B .0207 33:06 NCR

Sanctions

11 NCAC 23B .0503\* 33:06 NCR

**TITLE 04 - DEPARTMENT OF COMMERCE**

*Eff. November 2, 1992;  
Repealed Eff. January 1, 2019.*

**04 NCAC 19S .0101 OVERVIEW AND PURPOSE**

**04 NCAC 19S .0102 DEFINITIONS**

**04 NCAC 19S .0103 WAIVER**

*History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. Part 92;  
Temporary Adoption Eff. July 17, 1992 for a period of 180 days or until the permanent rule becomes effective, which ever is sooner; (Rule .0102);  
Eff. November 30, 1992;  
Repealed Eff. January 1, 2019.*

**04 NCAC 19S .0104 ELIGIBLE APPLICANTS**  
**04 NCAC 19S .0105 AMENDMENTS ADOPTED BY REFERENCE**

**04 NCAC 19S .0106 ACTS AND REGULATIONS ADOPTED BY REFERENCE**

*History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. Part 92;  
Temporary Adoption Eff. July 17, 1992 for a period of 180 days or until the permanent rule becomes effective, which ever is sooner (Rule .0105);  
Eff. November 2, 1992;  
Repealed Eff. January 1, 2019.*

**04 NCAC 19S .0201 ELIGIBLE ACTIVITIES AND COSTS**

*History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. Part 92;  
Eff. November 2, 1992;  
Repealed Eff. January 1, 2019.*

**04 NCAC 19S .0202 PROHIBITED COSTS**

*History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. Part 92;  
Eff. November 30, 1992;  
Repealed Eff. January 1, 2019.*

**04 NCAC 19S .0301 PARTICIPATION THRESHOLD AMOUNT**

*History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. Part 92;*

**04 NCAC 19S .0401 DISTRIBUTION OF FUNDS**

*History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. Part 92;  
Eff. November 30, 1992;  
Repealed Eff. January 1, 2019.*

**04 NCAC 19S .0402 SIZE AND USE OF HOME AWARDS MADE TO RECIPIENTS**

**04 NCAC 19S .0403 PROGRAM CATEGORY ALLOCATION**

**04 NCAC 19S .0404 GENERAL APPLICATION REQUIREMENTS**

*History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. Part 92;  
Eff. November 2, 1992;  
Repealed Eff. January 1, 2019.*

**04 NCAC 19S .0501 DEFINITION**  
**04 NCAC 19S .0502 ELIGIBILITY REQUIREMENTS**  
**04 NCAC 19S .0503 SELECTION CRITERIA**

*History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. Part 92;  
Eff. November 2, 1992;  
Repealed Eff. January 1, 2019.*

**04 NCAC 19S .0601 DEFINITION**  
**04 NCAC 19S .0602 ELIGIBILITY REQUIREMENT**  
**04 NCAC 19S .0603 SELECTION CRITERIA**

*History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. Part 92;  
Temporary Adoption Eff. July 17, 1992 for a period of 180 days or until the permanent rule becomes effective, which ever is sooner;  
Eff. November 2, 1992;  
Repealed Eff. January 1, 2019.*

**04 NCAC 19S .0701 DEFINITION**  
**04 NCAC 19S .0702 ELIGIBILITY REQUIREMENTS**  
**04 NCAC 19S .0703 SELECTION CRITERIA**  
**04 NCAC 19S .0704 PRELIMINARY AWARDS**



*History Note:* Authority G.S. 143B-10; 143B-431; 24 C.F.R. Part 92;  
*Eff. November 2, 1992;*  
*Repealed Eff. January 1, 2019.*

**04 NCAC 19S .1001 EQUAL OPPORTUNITY AND FAIR HOUSING**  
**04 NCAC 19S .1002 AFFIRMATIVE MARKETING**  
**04 NCAC 19S .1003 ENVIRONMENTAL REVIEW**  
**04 NCAC 19S .1004 DISPLACEMENT, RELOCATION, AND ACQUISITION**  
**04 NCAC 19S .1005 LABOR STANDARDS**  
**04 NCAC 19S .1006 LEAD-BASED PAINT**  
**04 NCAC 19S .1007 CONFLICT OF INTEREST**  
**04 NCAC 19S .1008 NATIONAL FLOOD INSURANCE PROGRAM**  
**04 NCAC 19S .1009 CLEARINGHOUSE REVIEW**

*History Note:* Authority G.S. 143B-10; 143B-431; 24 C.F.R. Part 92;  
*Eff. November 2, 1992;*  
*Repealed Eff. January 1, 2019.*

**04 NCAC 19S .1101 GRANT AGREEMENT**  
**04 NCAC 19S .1102 METHOD OF ADMINISTRATION**  
**04 NCAC 19S .1103 AUDIT**  
**04 NCAC 19S .1104 CLOSEOUT**  
**04 NCAC 19S .1105 RECORDKEEPING**  
**04 NCAC 19S .1106 PERFORMANCE REPORTS**  
**04 NCAC 19S .1107 PERFORMANCE REVIEWS**  
**04 NCAC 19S .1108 CORRECTIVE AND REMEDIAL ACTIONS**  
**04 NCAC 19S .1109 ADMINISTRATIVE HEARINGS AND SANCTIONS**  
**04 NCAC 19S .1110 PROGRAM AMENDMENTS**

*History Note:* Authority G.S. 143B-10; 143B-431; 24 C.F.R. Part 92;  
*Eff. November 2, 1992;*  
*Repealed Eff. January 1, 2019.*

**TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**10A NCAC 09 .0513 ADMINISTRATIVE POLICIES**

Centers shall have administrative policies and practices that provide for:

- (1) selection and training of staff;
- (2) communication with and opportunities for participation by parents;
- (3) operational and fiscal management; and
- (4) objective evaluation of the program, management, and staff in accordance with the rules of this Section.

*History Note:* Authority G.S. 110-88(7); 110-90(4); 143B-168.3;

*Eff. April 1, 1999;*  
*Amended Eff. July 1, 2000;*  
*Prior to amendment of May 1, 2006 this language was located in Rule .1601;*  
*Amended Eff. May 1, 2016;*  
*Readopted March 1, 2019 (Transferred from 10A NCAC 09 .2804).*

**10A NCAC 09 .0514 OPERATIONAL AND PERSONNEL POLICIES**

(a) Each center shall have written policies that describe the operation of the center and the services that are available to parents and their children. The operational policies shall include at least the following information:

- (1) the days and hours the center operates;
- (2) the age range of the children served;
- (3) admission requirements and enrollment procedures;
- (4) parent fees and payment plan;
- (5) information about services provided by the center, such as number of meals served, before and after school care, and transportation;
- (6) items, if any, to be provided by parents;
- (7) a schedule of daily, weekly, and monthly cleaning duties;
- (8) written procedures for reporting suspected child abuse and neglect;
- (9) the center's discipline policy for behavior management;
- (10) a description of opportunities for parent participation; and
- (11) nutrition policies.

(b) Operational policies shall be discussed with parents on or before the child's first day of attendance in the center. A copy of the policies shall be given to the parents on or before the child's first day of attendance and the parents shall be notified in writing of all changes in policy.

(c) Copies of operational policies and any subsequent changes to those policies shall be distributed to the staff.

(d) Each center in which more than two staff are required to meet staff/child ratios shall have a written personnel policy that includes at least the following information:

- (1) job descriptions for each position;
- (2) minimum qualifications for each position, including reference checks;
- (3) health and medical requirements;
- (4) requirements and provisions for in-service training;
- (5) provisions for leave time and other absences;
- (6) procedures for on-going supervision and regular evaluation of work performance; and
- (7) resignation and termination procedures.

(e) Personnel policies shall be discussed with each employee at the time of employment and a copy of the policies shall be available to all staff. Staff shall be notified in writing of all changes in personnel policies.

(f) In addition to all records required in Rule .0302(d) of this Chapter, each employee's personnel file shall contain an annual staff evaluation and staff development plan.

(g) All personnel files of employees hired after April 1, 1999, shall also include a signed and dated statement verifying that the employee received a copy of his or her job description and has reviewed the personnel and operational policies.

*History Note: Authority G.S. 110-88(7); 110-90(4); 143B-168.3;*

*Eff. April 1, 1999;*

*Prior to amendment of May 1, 2006 this language was located in Rule .1602;*

*Amended Eff. May 1, 2006;*

*Readopted Eff. March 1, 2019 (Transferred from 10A NCAC 09 .2805).*

**10A NCAC 09 .0515 PARENT PARTICIPATION**

(a) Each center shall have a plan that will encourage parent participation and inform parents about the program and its services. The plan shall be discussed with parents on or before the child's first day of attendance and shall be posted in the center or a copy shall be given to parents on or before the child's first day of attendance.

(b) The plan shall include the following:

- (1) a procedure for registering a child for child care that involves both parents when possible and that encourages a visit to the center by the child and the child's parents before the child begins attending the center;
- (2) opportunities for caregiving staff to meet with parents on a regular basis to discuss their child's needs and progress and to exchange information about the program;
- (3) activities that provide parents opportunities to participate in the center's program on an individual basis and as a group;
- (4) a procedure for parents who need information or have complaints about the child care program.

*History Note: Authority G.S. 110-88(7); 110-90(4); 143B-168.3;*

*Eff. April 1, 1999;*

*Prior to amendment of May 1, 2006 this language was located in Rule .1613;*

*Amended Eff. May 1, 2006;*

*Readopted Eff. March 1, 2019 (Transferred from 10A NCAC 09 .2807).*

**10A NCAC 09 .0516 NIGHT CARE**

(a) Developmentally appropriate activities shall be available for children during the evening hours. Quiet activities shall be planned just before bedtime. Children shall have opportunities to develop good personal care and health habits through routines.

(b) Schedules for the children receiving nighttime care shall be individually planned.

(c) When possible, children shall be left for care before, and picked up after, their normal sleeping period.

*History Note: Authority G.S. 110-88(7); 110-90(4); 143B-168.3;*

*Eff. April 1, 1999;*

*Prior to amendment of May 1, 2006 this language was located in Rule .1615;*

*Amended Eff. May 1, 2006;*

*Readopted Eff. March 1, 2019 (Transferred from 10A NCAC 09 .2808).*

**10A NCAC 09 .1101 NEW STAFF ORIENTATION REQUIREMENTS**

(a) Each center shall ensure that each new employee who is expected to have contact with children receives 16 hours of on-site orientation within the first six weeks of employment. As part of this orientation, each new employee shall complete six hours of orientation within the first two weeks of employment.

(b) New staff orientation shall include an overview of the following topics, focusing on the operation of the center:

New staff orientation within first two (2) weeks of employment	New staff orientation within first six (6) weeks of employment
Information regarding recognizing, responding to, and reporting child abuse, neglect, or maltreatment pursuant to G.S. 110-105.4 and G.S. 7B-301	Firsthand observation of the center's daily operations
Review of the center's operational policies, including the center's safe sleep policy for infants, the center's policy for transportation, the center's identification of building and premises safety issues, the Emergency Preparedness and Response Plan, and the emergency medical care plan	Instruction in the employee's assigned duties
Adequate supervision of children in accordance with 10A NCAC 09 .1801	Instruction in the maintenance of a safe and healthy environment
Information regarding prevention of shaken baby syndrome and abusive head trauma and child maltreatment	Instruction in the administration of medication to children in accordance with 10A NCAC 09 .0803
Prevention and control of infectious diseases, including immunization	Review of the center's purposes and goals
	Review of the child care licensing law and rules
	Review of Section .2800 of this Chapter if the center has a two- through five- star license at the time of employment

New staff orientation within first two (2) weeks of employment	New staff orientation within first six (6) weeks of employment
	An explanation of the role of State and local government agencies in the regulation of child care, their impact on the operation of the center, and their availability as a resource
	An explanation of the employee's obligation to cooperate with representatives of State and local government agencies during visits and investigations
	Prevention of and response to emergencies due to food and allergic reactions
	Review of the center's handling and storage of hazardous materials and the appropriate disposal of biocontaminants

*History Note:* Authority G.S. 110-85; 110-91(11); 143B-168.3;  
*Eff. October 1, 2017;*  
*Amended Eff. March 1, 2019.*

**10A NCAC 09 .1715 OPERATIONAL POLICIES**

(a) Each operator shall have written operational policies that include at least the following information:

- (1) the days and hours of operation;
- (2) the age range of the children served;
- (3) admission requirements and enrollment procedures;
- (4) parent fees and payment plan;
- (5) information about services provided by the operator, such as number of meals served, before and after school care, and transportation;
- (6) items, if any, to be provided by parents;
- (7) a schedule of daily, weekly, and monthly cleaning duties;
- (8) written procedures for reporting suspected child abuse and neglect;
- (9) the operator's discipline policy for behavior management;
- (10) a description of opportunities for parent participation; and
- (11) nutrition policies.

(b) Operational policies shall be discussed with parents on or before the child's first day of attendance in the home. A copy of the policies shall be given to the parents on or before the child's first day of attendance and the parents shall be notified in writing of any changes in policy.

*History Note:* Authority G.S. 110-85; 110-88; 110-91; 143B-168.3;  
*Eff. March 1, 2019.*

**10A NCAC 09 .1729 ADDITIONAL CAREGIVER AND SUBSTITUTE PROVIDER QUALIFICATIONS**

(a) An individual who provides care for five hours or more in a week during planned absences of the family child care home operator shall:

- (1) be 21 years old;
- (2) have a high school diploma or GED;
- (3) have completed a First Aid and cardiopulmonary resuscitation (CPR) course within 12 months prior to caring for children;
- (4) have completed a health questionnaire;

- (5) have proof of negative results of a tuberculosis test completed within 12 months prior to the first day of providing care;
- (6) have submitted criminal background check forms as required in Rule .2703 of this Chapter;
- (7) have documentation of annual on-going training as described in Rule .1703(d) of this Section after the first year of employment;
- (8) have completed ITS-SIDS training, if licensed to care for infants;
- (9) have completed Recognizing and Responding to Suspicions of Child Maltreatment training; and
- (10) have documentation that the operator has reviewed the requirements found in this Chapter, including the Emergency Preparedness and Response Plan, and in G.S. Chapter 110, Article 7.

While the individual provides care at a family child care home, copies of information required by Subparagraphs (1) through (10) of this Paragraph shall be on file in the home and available for review by the Division.

(b) An individual who provides care for less than five hours in a week during planned absences of the operator shall be literate and meet all requirements listed in Paragraph (a) of this Rule except the requirements for annual training and a high school diploma or GED.

(c) The operator shall conduct 16 hours of orientation with all caregivers, prior to the individual caring for children, including substitute providers, volunteers, and uncompensated providers, who are providing care. The orientation shall include an overview of the following topics, specifically focusing on the operation of the facility:

- (1) recognizing, responding to, and reporting child abuse, neglect, or maltreatment pursuant to G.S. 110-105.4 and G.S. 7B-301;
- (2) review of the home's operational policies, including the written plan of care, safe sleep policy, the transportation policy, identification of building and premises safety issues, the emergency medical care plan, and the Emergency Preparedness and Response Plan;

- (3) adequate supervision of children in accordance with Rule .1711(a) of this Section;
- (4) information regarding prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;
- (5) prevention and control of infectious diseases, including immunization;
- (6) firsthand observation of the home's daily operations;
- (7) instruction regarding assigned duties;
- (8) instruction in the maintenance of a safe and healthy environment;
- (9) instruction in the administration of medication to children in accordance with Rule .1720(b) of this Section;
- (10) review of the home's purposes and goals;
- (11) review of G.S. 110, Article 7 and 10A NCAC 09;
- (12) review of Section .2800 of this Chapter if the operator has a two- through five- star license at the time of employment;
- (13) an explanation of the role of State and local government agencies in the regulation of child care, their impact on the operation of the center, and their availability as a resource;
- (14) an explanation of the individual's obligation to cooperate with representatives of State and local government agencies during visits and investigations;
- (15) prevention of and response to emergencies due to food and allergic reactions; and
- (16) review of the home's handling and storage of hazardous materials and the appropriate disposal of biocontaminants.

The operator and individual providing care shall sign and date a statement that attests that this review was completed. This statement shall be kept on file in the home and available for review by the Division.

(d) An individual who provides care during unplanned absences of the operator, such as medical emergencies, shall be 18 years old and submit criminal records check forms as required in Rule .2703(j) of this Chapter. The children of an emergency caregiver shall not be counted in the licensed capacity for the first day of the emergency caregiver's service.

*History Note:* Authority G.S. 110-85; 110-88; 110-91; 143B-168.3;  
*Eff. October 1, 2017;*  
*Amended Eff. March 1, 2019.*

#### **10A NCAC 09 .2701 SCOPE**

The rules in this Section shall apply to all child care providers as defined in G.S.110-90.2. The Division, in accordance with G.S.110-90.2, shall determine if an individual is a qualified child care provider. An individual may work or be present in any child care facility during the time the individual holds a valid qualification letter from the Division.

*History Note:* Authority G.S. 110-85; 110-90.2;

*Eff. March 1, 2014;*  
*Readopted January 1, 2019.*

#### **10A NCAC 09 .2702 DEFINITIONS**

For purposes of this Section:

- (1) a "qualified child care provider" means an individual who is fit to have responsibility for the safety and well-being of children based on their criminal history and all other requirements in accordance with G.S. 110-90.2.
- (2) a "disqualified child care provider" means an individual who is not fit to have responsibility for the safety and well-being of children based on their criminal history and all other requirements in accordance with G.S. 110.90.2.
- (3) a "provisional child care provider" means an individual who:
  - (a) resides outside the State of North Carolina or has resided outside the State of North Carolina at any time during the five years prior to submitting documents for a criminal history record check in accordance with 10A NCAC 09 .2703;
  - (b) has provided a copy of the county criminal history from the county where they reside outside the State of North Carolina or from the county or counties where they have resided outside the state of North Carolina in the past five years; and
  - (c) is fit to have responsibility for the safety and well-being of children based on their criminal history and all other requirements in accordance with G.S. 110-90.2(b), but the Division has not yet received the results of the state sex offender registry check, the state abuse and neglect registry, or the state criminal history check from the state or states in which the individual resides or has resided at any time during the five years prior to submitting documents for a criminal history check in accordance with 10A NCAC 09 .2703.
- (4) a "qualification letter" or "qualifying letter" means the letter issued by the Division notifying an individual that he or she is a qualified child care provider;
- (5) a "conviction" includes when a plea of guilty or no contest is accepted by the trial court or a court enters an order granting a prayer for judgment continued; and
- (6) a "pending criminal charge" includes, but is not limited to, a charge that has been deferred pursuant to G.S. 15A-1341(a1).

*History Note: Authority G.S. 110-85; 110-90.2; 110-90.2(a)(3); 114-19.5; 143B-168.3; S.L. 1995, c. 507, s.23.25; Temporary Adoption Eff. January 1, 1996; Eff. April 1, 1997; Amended Eff. March 1, 2014; November 1, 2007; April 1, 2003; Readopted Eff. January 1, 2019.*

**10A NCAC 09 .2703 CRIMINAL HISTORY RECORD CHECK REQUIREMENTS FOR CHILD CARE PROVIDERS**

(a) In addition to the requirements in Rules .0302 and .1702 of this Chapter, a child care provider shall submit the following to the Division prior to the issuance of a license or prior to beginning employment:

- (1) a signed and completed Authority for Release of Information form;
- (2) fingerprint impressions submitted on the forms required by the Division and State Bureau of Investigation; and
- (3) if a child care provider is an out-of-state resident, he or she shall also submit a certified local history from the Clerk of Superior Court in his or her county of residence.

All required forms can be found on the Division's website at [http://ncchildcare.dhhs.state.nc.us/general/dhhsrsrc\\_childcare.asp](http://ncchildcare.dhhs.state.nc.us/general/dhhsrsrc_childcare.asp).

(b) If the child care provider has a criminal history of convictions, pending indictment of a crime, or pending criminal charges, he or she may submit to the Division additional information concerning the conviction or charges that the Division shall use in making the determination of the child care provider's qualification. The Division shall also consider the following in making its decision:

- (1) the length of time since conviction;
- (2) whether the child care provider is currently on probation;
- (3) the nature of the offense;
- (4) the circumstances surrounding the commission of the offense or offenses;
- (5) the evidence of rehabilitation;
- (6) the number and type of prior offenses; and
- (7) the age of the child care provider at the time of occurrence.

(c) If the child care provider is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity or a person designated by the chief executive officer as responsible for the operation of the facility, shall complete the criminal history record check as specified in Paragraph (a) of this Rule.

(d) If a Letter of Intent to Operate pursuant to G.S. 110-106 is submitted to the Division, the person signing the Letter of Intent shall submit all forms as required in Paragraph (a) of this Rule.

(e) Child care providers shall have a valid qualification letter prior to employment or living in the family child care home, and the qualification letter shall be kept on file at the facility for review by representatives of the Division.

(f) Provisional child care providers may be employed at a child care facility or reside in a family child care home, nonlicensed home, or child care center in a residence and shall be counted in staff/child ratio. Provisional child care providers shall be

supervised at all times by an individual who received a qualifying result on a criminal background check within the past three years and may not be left alone with children. Owners found to be in violation of this Paragraph may be issued an administrative action up to and including revocation of their child care license or notice of compliance in accordance with Section .2200 of this Chapter.

(g) After six months, the Division shall issue a qualification letter to a provisional child care provider if the Division does not receive a response to its request for the state sex offender registry check, the state abuse and neglect registry, or the state criminal history check from the state or states in which the provisional provider currently resides or has resided at any time during the five years prior to submitting documents for a criminal history check. However, nothing in this Rule shall prevent the Division from disqualifying a provisional child care provider at a later date based upon information received from any other state after six months have elapsed.

(h) Child care providers found to be disqualified shall not be eligible for employment in child care until a qualification letter has been issued by the Division.

(i) Child care providers determined by the Division to be disqualified shall be terminated by the center or family child care home immediately upon receipt of the disqualification notice.

(j) Disqualification of a child care provider living in a family child care home or a center located in a residence shall be grounds for issuance of a summary suspension of the license in accordance with 10A NCAC 09 .2213.

(k) Refusal on the part of the employer to dismiss a child care provider who has been found to be disqualified shall be grounds for suspension, denial, or revocation of the license or any other administrative action or civil penalty permitted by law or rule. If an applicant appeals the disqualification, the child care provider shall not be employed during the appeal process.

(l) Operators, as defined by G.S. 110-86(7), shall include the criminal history mandatory reporting requirement in all new employee orientation information. All child care providers and household members who have incurred any pending charges, indictments, or convictions (other than minor traffic offenses) since the last qualification letter was issued by the Division shall notify the operator of such charges within five business days or before returning to work, whichever comes first. The operator shall notify the Division of any such pending charges, indictments, or convictions within one business day of being notified.

(m) The qualification letter shall be valid for a maximum of three years from the date of issuance.

(n) Prior to the expiration date of the qualification letter, the child care provider shall complete and submit the forms listed in Paragraph (a) of this Rule.

(o) After a child care provider has been qualified, the Division shall complete a new criminal history record check if the Division of Child Development and Early Education conducts an investigation involving alleged criminal activity by the child care provider.

(p) Individuals who live in the household who have had their 16<sup>th</sup> birthday after the initial licensing of a family child care home shall complete and submit the forms listed in Paragraph (a) of this Rule to the Division within five business days of their 16<sup>th</sup> birthday.

(q) Child care operators shall notify the Division of all new child care providers who are hired or have moved into the home or center located with a residence within five business days by submitting the form provided by the Division.

*History Note: Authority G.S. 110-85; 110-86(7); 110-90.2; 110-90.2(a); 110-106; 114-19.5; 143B-168.3; S.L. 2012-160, s.1; Temporary Adoption Eff. January 1, 1996; Eff. April 1, 1997; Amended Eff. March 1, 2014; November 1, 2007; Readopted Eff. January 1, 2019.*

**10A NCAC 09 .2704 CRIMINAL HISTORY RECORD CHECK REQUIREMENTS FOR NONLICENSED CHILD CARE PROVIDERS**

(a) A nonlicensed child care provider shall submit the following to the local purchasing agency prior to caring for children and receiving subsidy payments:

- (1) a signed Authority for Release of Information using the form provided by the Division;
- (2) fingerprint impressions submitted on the forms required by the Division and State Bureau of Investigation; and
- (3) if a prospective child care provider is an out-of-state resident, he or she shall also submit a certified local history from the Clerk of Superior Court in his or her county of residence.

This Rule applies to any individual over 15 years old who moves into the household, or any individual who lives in the household who has had his or her 16<sup>th</sup> birthday whichever is earlier after the initial approval, including family members and non-family members who use the home either on a permanent or temporary basis as their primary residence. The individual shall submit the items in this Paragraph to the local purchasing agency within five business days of moving into the home or their 16<sup>th</sup> birthday.

(b) New nonlicensed child care providers shall submit a complete and accurate packet no later than five business days after applying for enrollment as a nonlicensed child care provider of subsidized child care. If more than three years have elapsed since a criminal history record check has been completed and subsidy funds were not received, a new criminal history record check shall be submitted by the nonlicensed child care provider and all household member over 15 years old.

(c) Any individual over 15 years old, including family members and non-family members who use the home either on a permanent or temporary basis as their primary residence, shall submit all criminal history record check forms as required in Subparagraphs (a)(1) and (a)(2) of this Rule within five business days of joining the household.

(d) If a nonlicensed child care provider has a criminal history of convictions, pending indictment of a crime, or pending criminal charges, he or she may submit to the Division additional information concerning the conviction or charges that the Division shall use in making the determination of the child care provider's qualification. The Division shall consider the following in making a decision:

- (1) the length of time since conviction;
- (2) whether the nonlicensed child care provider is currently on probation;

- (3) the nature of the offense;
- (4) the circumstances surrounding the commission of the offense or offenses;
- (5) the evidence of rehabilitation;
- (6) the number and type of prior offenses; and
- (7) the age of the nonlicensed child care provider at the time of occurrence.

(e) The local purchasing agency shall mail the Authority for Release of Information, using the form provided by the Division, and fingerprint impressions to the Division no later than five business days after receipt. A copy of the submitted information shall be maintained in the nonlicensed child care provider's file until the notice of qualification is received by the nonlicensed child care provider. The notice of qualification shall be maintained in the nonlicensed child care provider's file. The local purchasing agency shall keep the child care provider's file.

(f) A nonlicensed child care provider shall not receive payment during the period in which the State and federal criminal history record check is being completed.

(g) Disqualification of a nonlicensed child care provider by the Division shall be reasonable cause for the local purchasing agency to deny payment.

(h) If a nonlicensed child care provider disagrees with the decision of disqualification and files a civil action in district court, the provider may continue to operate as a nonlicensed child care provider, but shall not receive payment during the proceedings. If the determination in the civil action is that the nonlicensed child care provider is qualified, the nonlicensed provider shall receive retroactive payment for the uncompensated care provided during the proceedings.

(i) After a nonlicensed child care provider is qualified, the Division shall complete a new criminal history record check if the Division of Child Development and Early Education conducts an investigation involving alleged criminal activity by the child care provider. If the Division requests a new criminal history record check, the child care provider shall complete and submit the forms listed in Paragraph (a) of this Rule to the Division within five business days of the Division's request.

(j) The qualification letter shall be valid for a maximum of three years from the date of issuance.

(k) Prior to the expiration date of the qualification letter, the nonlicensed child care provider shall complete and submit the forms described in Paragraph (a) of this Rule.

(l) Nonlicensed child care providers and household members shall have a valid qualification letter prior to receiving subsidy payments.

*History Note: Authority G.S. 110-90.2; 114-19.5; 143B-168.3; S.L. 2012-160, s. 1; Temporary Adoption Eff. January 1, 1996; Eff. April 1, 1997; Amended Eff. March 1, 2014; December 1, 2007; April 1, 2003; Readopted Eff. January 1, 2019.*

**10A NCAC 09 .2801 SCOPE**

(a) This Section shall apply to all child care facilities that have achieved or wish to achieve a rated license of two stars or higher.

(b) A child care facility shall be eligible for a rated license of two through five stars upon application and assessment of compliance with the requirements of this Section.

(c) A one-star rated license shall be issued to a child care facility if it complies with G.S. 110-91 and this Chapter.

(d) No requirement in any component of a two-star or higher rating shall be less than the requirements for a one-star rating described in G.S. 110-91 and this Chapter. Prior to issuance of an initial two through five-star rating, all requirements in G.S. 110-91 and this Chapter shall be met at the time the program is assessed for a higher rating. The requirements for a rated license of two stars or higher shall be in addition to the standards found in G.S. 110-91 and this Chapter.

(e) Nothing in this Section shall preclude or interfere with issuance of an administrative action as allowed by G.S. 110, Article 7 and this Chapter.

*History Note:* Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3;

*Eff. April 1, 1999;*

*Amended Eff. July 1, 2010; May 1, 2006;*

*Readopted Eff. March 1, 2019.*

#### **10A NCAC 09 .2802 APPLICATION FOR A TWO THROUGH FIVE STAR RATED LICENSE**

(a) After a licensed child care center or home has been in operation for a minimum of six consecutive months, the operator may apply for an initial two- through five-star rated license.

(b) The operator shall submit a completed application to the Division for a two- through five-star rated license on the form provided by the Division.

(c) An operator may apply for a star rating based on the total number of points achieved for each component of the two-through five-star rated license. In order to achieve a two- through five-star rating, the minimum score achieved shall be a least four points as follows:

Total Number of Points	Star Rating
4 through 6	Two Stars
7 through 9	Three Stars
10 through 12	Four Stars
13 through 15	Five Stars

(d) Facilities with a four or five-star rated license that are licensed to serve four-year-old children shall implement a curriculum as defined in 10A NCAC 09 .0102(10) with their four year olds.

(e) A Division representative shall assess the facility requesting a two- through five-star rated license to determine if all applicable requirements have been met to achieve the score for the requested star rating. The assessment shall include a review of Division records and site visits.

(f) Operators requesting an initial three or more points for program standards shall request an Environment Rating Scale assessment from the Division. The Division shall arrange for the Infant/Toddler Environment Rating Scale Revised Edition, Early Childhood Environment Rating Scale - Revised Edition, School-Age Care Environment Rating Scale, or Family Child Care Environment Rating Scale - Revised Edition assessments to be completed, as appropriate for the program, free of charge. Centers

located in a residence with a licensed capacity of 3 to 12 children shall complete a Family Child Care Rating Scale- Revised Edition assessment.

(g) Upon completion of the Division's assessment:

(1) If the assessment indicates all the applicable requirements to achieve the score for the requested rating have been met, the Division shall issue the rating.

(2) If the assessment indicates all the applicable requirements to achieve the score for the requested rating have not been met, the Division shall notify the operator of the requirements that were not met and the requested two- through five-star rating shall not be issued. The operator may:

(A) accept the rating for which the Division has found the operator to be eligible;

(B) withdraw the request and reapply when the identified requirements to achieve the score for the requested rating have been met; or

(C) appeal the denial of the requested rating as provided in G.S. 110-94.

*History Note:* Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3; S.L. 2011-145, s.10.7(b);

*Eff. April 1, 1999;*

*Amended Eff. September 1, 2012; July 1, 2010; May 1, 2006;*

*Readopted Eff. March 1, 2019.*

#### **10A NCAC 09 .2806 CAREGIVING ACTIVITIES FOR PRESCHOOL-AGED CHILDREN**

(a) Each center shall comply with the requirements in Rule .0508 of this Chapter for written activity schedules and plans and in Rule .0509 of this Chapter for general activity requirements.

(b) Each center providing care to preschool-age children shall comply with the requirements for activity areas for preschool-age children in Rule .0510 of this Chapter, except that all five of the activity areas listed in G.S. 110-91(12) shall be available each day and the activities listed in Rule .0510(c) of this Chapter shall be offered for each group of children at least once per week.

(c) The requirements for activities for infants and toddlers set forth in Rule .0511 of this Chapter shall apply for children under three years of age.

*History Note:* Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3;

*Eff. April 1, 1999;*

*Prior to amendment of May 1, 2006 this language was located in Rule .1612;*

*Amended Eff. May 1, 2013; May 1, 2006;*

*Readopted Eff. March 1, 2019.*

#### **10A NCAC 09 .2809 ENHANCED SPACE REQUIREMENTS**

(a) There shall be at least 30 square feet inside space per child per the total licensed capacity and 75 square feet outside space for each child using the outdoor learning environment at any one

time. In the alternative there shall be at least 35 square feet inside space per child per the total licensed capacity and 75 square feet outside space per child for at least 50 percent of the total licensed capacity.

(b) There shall be an area that can be arranged for administrative and private conference activities.

*History Note: Authority G.S. 110-88(7); 110-90(4); 143B-168.3;*  
*Eff. April 1, 1999;*  
*Prior to amendment of May 1, 2006 this language was located in Rule .1604;*  
*Amended Eff. May 1, 2006;*  
*Readopted Eff. March 1, 2019.*

**10A NCAC 09 .2817 ENHANCED PROGRAM STANDARDS FOR CHILD CARE CENTERS**

(a) To achieve one point for program standards, the center shall be in compliance with all applicable requirements in Rules .0513-.0516 of this Chapter.

(b) To achieve two through seven points for program standards, the center shall meet all the applicable requirements in Rule .2806 of this Section and the criteria listed in the following chart:

Program Standards (.2817) Point Level	Staff/Child Ratio Requirement	Space Requirement	Environment Rating Scale (ERS) Requirements (as referenced in Rule .2802(f) of this Section)
2 Points	Meets Enhanced Staff/Child Ratio in Rule .2818(b), OR	Meets Enhanced Space in Rule .2809	N/A
3 Points	Meets Enhanced Staff/Child Ratio in Rule .2818(b), OR	Meets Enhanced Space in Rule .2809; AND	Each classroom has at least a score of 4.0 or higher
4 Points	Meets Enhanced Staff/Child Ratio in Rule .2818(b), AND	Meets Enhanced Space in Rule .2809; AND	Have an average combined score of 4.5, with no one classroom score lower than 4.0 in each classroom evaluated
5 Points	Meets Enhanced Staff/Child Ratio in Rule .2818(b), AND	Meets Enhanced Space in Rule .2809; AND	Have an average combined score of 4.75, with no one classroom score lower than 4.0 in each classroom evaluated
6 Points	Meets Enhanced Staff/Child Ratio in Rule .2818(b), AND	Meets Enhanced Space in Rule .2809; AND	Have an average combined score of 5.0, with no one classroom score lower than 4.0 in each classroom evaluated
7 Points	Meets Enhanced Staff/Child Ratio in Rule .2818(b), and (c) AND	Meets Enhanced Space in Rule .2809; AND	Have a score of 5.0 in each classroom evaluated

*History Note: Authority G.S. 110-88(7); 110-90(4); 143B-168.3;*  
*Eff. May 1, 2006;*  
*Readopted Eff. March 1, 2019.*

**10A NCAC 09 .2818 ENHANCED STAFF/CHILD RATIOS FOR A RATED LICENSE FOR CHILD CARE CENTERS**

(a) This Rule shall apply to evaluating the staff/child ratios and maximum group sizes for a rated license for child care centers.

(b) The center shall comply with the following staff/child ratios and maximum group sizes.

Age	Ratio Staff/Children	Maximum Group Size
0 to 12 Months	1/5	10
1 to 2 Years	1/6	12
2 to 3 Years	1/9	18
3 to 4 Years	1/10	20
4 to 5 Years	1/13	25
5 to 6 Years	1/15	25
6 Years and Older	1/20	25

(c) To earn seven points for program standards, the center shall comply with the following staff/child ratios and maximum group sizes.



Age	Ratio Staff/Children	Maximum Group Size
0 to 12 Months	1/4	8
1 to 2 Years	1/5	10
2 to 3 Years	1/8	16
3 to 4 Years	1/9	18
4 to 5 Years	1/12	24
5 to 6 Years	1/14	25
6 Years and Older	1/19	25

(d) The provisions of rules 10A NCAC 09 .0713(a) through (e) shall apply in evaluating the staff/child ratios and maximum group sizes within this Rule.

(e) The staff/child ratio applicable to a classroom shall be posted in that classroom in an area that parents are able to view at all times.

*History Note: Authority G.S. 110-88(7); 143B-168.3;*

*Eff. May 1, 2006;*

*Readopted Eff. March 1, 2019.*

**10A NCAC 09 .2819 ENHANCED EDUCATION STANDARDS FOR ON-SITE ADMINISTRATORS FOR A RATED LICENSE FOR CHILD CARE CENTERS**

(a) This Rule shall apply to evaluating the education standards for an on-site administrator for child care centers. The points for education standards shall be determined by applying this Rule and Rules .2820, .2821, .2822 and .2823 of this Section. To determine the points attained for meeting the education standards, the lowest number of points attained pursuant to each Rule shall be the point used to meet Rule .2802 of this Section.

(b) To achieve two through seven points for education standards, the on-site administrator shall meet the applicable requirements in the following chart:

On-Site Administrator (.2819) Point Level	NC Early Childhood Administration Credential or its equivalent	Semester Hours and Type of Work Experience	If providing school-age care
2 Points	Level I; and	2 years of full-time, verifiable early childhood experience; or  1 year of child care administration experience; and	150 hours of verifiable time in a licensed child care program; or  300 hours of verifiable time in an unlicensed school-age care or camp setting; or  BSAC training.
3 Points	Level I; and	6 hours in early childhood education or child development; and either  2 years of full-time, verifiable early childhood experience; or 1 year of child care administration experience; and	300 hours of verifiable time in a licensed child care program; or  450 hours of verifiable time in an unlicensed school-age care or camp setting; or  BSAC training.
4 Points	Level I; and	18 hours in early childhood education or child development; and 1 year of child care administration experience; or  6 hours in early childhood education or child development and 10 years of child care administration experience; and	450 hours of verifiable time in a licensed child care program; or  600 hours of verifiable time in an unlicensed school-age care or camp setting; or  BSAC training.

On-Site Administrator (.2819) Point Level	NC Early Childhood Administration Credential or its equivalent	Semester Hours and Type of Work Experience	If providing school-age care
5 Points	Level II; and	2 years of full-time, verifiable early childhood experience; and	600 hours of verifiable time in a licensed child care program; or  900 hours of verifiable time in an unlicensed school-age care or camp setting; or  BSAC training or its equivalent.
6 Points	Level II; and	18 hours in early childhood education or child development; and either  3 years of full-time verifiable early childhood experience in an early childhood center teaching young children; or  3 years of child care administration experience; or  3 years of a combination of both types of experience; and	750 hours of verifiable time in a licensed child care program; or  1150 hours of verifiable time in an unlicensed school-age care or camp setting; or  BSAC training.
7 Points	Level III; and either	4 years of full-time verifiable early childhood experience in an early childhood center teaching young children; or  4 years of child care administration experience; or  4 years of a combination of both types of experience; and	900 hours of verifiable time in a licensed child care program; or  1350 hours of verifiable time in an unlicensed school-age care or camp setting; or  BSAC training.

(c) Semester hours in early childhood education or child development shall not include the coursework necessary for the North Carolina Early Childhood Administration Credential (NCECAC).

(d) Completion of school-age experience requirements shall count toward meeting work experience requirements.

(e) For centers with a licensed capacity of 3 to 12 children located in a residence, if an individual has responsibility both for administering the child care program and for planning and implementing the daily activities of a group of children, the educational requirements for lead teacher in Rule .2820 of this Section shall apply. All other teachers shall follow the educational requirements for teachers in this Section.

(f) For centers with a licensed capacity of 200 or more, there shall be a second administrator on-site for a minimum of 20 hours per week who shall have the Level I North Carolina Early Childhood Administration Credential or its equivalent.

*History Note: Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3;*

*Eff. May 1, 2006;*

*Amended Eff. August 1, 2012;*

*Readopted Eff. March 1, 2019.*

#### **10A NCAC 09 .2820 ENHANCED EDUCATION STANDARDS FOR LEAD TEACHERS FOR A RATED LICENSE FOR CHILD CARE CENTERS**

(a) This Rule shall apply to evaluating all lead teachers in child care centers. The points for education standards shall be determined by applying this Rule and Rules .2819, .2821, .2822 and .2823 of this Section. To determine the points attained for meeting the education standards, the lowest number of points attained pursuant to each Rule shall be the point used to meet Rule .2802 of this Section.

(b) To achieve two through seven points for education standards, the lead teachers shall meet the applicable requirements in the following chart:

Lead Teacher (.2820) Point Level	NC Early Childhood Credential or its equivalent	Certification on the NC Early Care and Education Professional Scale	Other Education and Experience Requirements
2 Points	75 percent of lead teachers; or	75 percent of lead teachers at Level I or higher; and	75 percent of lead teachers have completed or are enrolled in 3 semester hours in early childhood education or child development.
3 Points	All lead teachers; or	All lead teachers at a Level I or higher; and either	75 percent of the lead teachers shall have: (1) completed 3 semester hours in early childhood education and have completed or are enrolled in 3 additional semester hours in early childhood education or child development; or (2) completed 1 year full-time verifiable early childhood work experience; or (3) have a Level II or higher certification on the ECE scale; or (4) Any combination of (1), (2), and (3) of this requirement.
		OR 50 percent of the lead teachers at a Level II or higher.	
4 Points	All lead teachers; or	All lead teachers at a Level I or higher; and either	75 percent of the lead teachers shall have: (1) completed 6 semester hours in early childhood education or childhood development and have completed or are enrolled in 3 additional semester hours in early childhood education; or (2) completed 3 semester hours of early childhood education and have 3 years of full-time verifiable early childhood work experience; or (3) completed 5 years of full-time verifiable early childhood work experience; or (4) Any combination of (1), (2), and (3) of this requirement.
		OR 50 percent of the lead teachers shall have a Level III or higher certification on the ECE scale.	
5 Points	All lead teachers; or	All lead teachers at a Level I or higher; and	75 percent of the lead teachers shall have: (1) completed 9 semester hours in early childhood education or childhood development and have completed or are enrolled in 3 additional semester hours in early childhood education; and have 1 year of full-time verifiable early childhood work experience; or (2) have a Level IV or higher certification on the ECE scale and have 1 year of full-time verifiable early childhood work experience; or (3) Any combination of (1) and (2) of this requirement.

Lead Teacher (.2820) Point Level	NC Early Childhood Credential or its equivalent	Certification on the NC Early Care and Education Professional Scale	Other Education and Experience Requirements
6 Points	All lead teachers; or	All lead teachers at a Level I or higher; and	50 percent of the lead teachers shall have either: (1) An A.A.S. degree in early childhood education or child development or an A.A.S. degree in any major with 12 semester hours in early childhood education or child development and 1 year of full-time verifiable early childhood work experience; or (2) Completed 60 semester hours towards a BA/BS degree program with 12 semester hours in early childhood education and 1 year of full-time verifiable early childhood work experience; or (3) A Level VI certification on the ECE scale and 1 year of full-time verifiable early childhood work experience; or (4) Any combination of (1), (2) and (3) of this requirement.
7 Points	All lead teachers; or	All lead teachers at a Level I or higher; and	75 percent of the lead teachers shall have either: (1) An A.A.S. degree in early childhood education or child development or an A.A.S. degree in any major with 12 semester hours in early childhood education or child development and 2 years of full-time verifiable early childhood work experience; or (2) A Level VI certification on the ECE scale and 2 years of full-time verifiable early childhood work experience; or (3) Any combination of (1) and (2) of this requirement.

(c) Semester hours in early childhood education or child development shall not include the coursework necessary for the North Carolina Early Childhood Credential.

*History Note:* Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3;  
Eff. August 1, 2012;  
Readopted Eff. March 1, 2019.

**10A NCAC 09 .2821 ENHANCED EDUCATION STANDARDS FOR TEACHERS FOR A RATED LICENSE FOR CHILD CARE CENTERS**

(a) This Rule shall apply to evaluating all teachers in child care centers. The points for education standards shall be determined by applying this Rule and Rules .2819, .2820, .2822, and .2823 of this Section. To determine the points attained for meeting the education standards, the lowest number of points attained pursuant to each Rule shall be the point used to meet Rule .2802 of this Section.

(b) To achieve two through seven points for education standards, teachers counted in staff/child ratios shall meet the applicable requirements in the following chart.

**APPROVED RULES**

Teacher (.2821) Point Level	NC Early Childhood Credential or its equivalent	Certification on the NC Early Care and Education Professional Scale	Other Education and Experience Requirements
2 Points			50 percent of the teachers shall: (1) Have 1 year of full-time verifiable early childhood work experience; or (2) Be enrolled in 3 semester hours in early childhood education or child development; or (3) Have any combination of (1) and (2) of this requirement.
3 Points			50 percent of the teachers shall have: (1) 3 semester hours in early childhood education or child development; or (2) 2 years of full-time verifiable early childhood work experience; or (3) Any combination of (1) and (2) of this requirement.
4 Points	50 percent of teachers; or	50 percent of teachers at a Level I or higher.	
5 Points	50 percent of teachers; or	50 percent of teachers at a Level I or higher; and	3 semester hours in early childhood education or child development; or
		50 percent of teachers at a Level II or higher; or	
		Any combination of the two options.	
6 Points	50 percent of teachers; or	50 percent of teachers at a Level I or higher; and either	(1) 3 semester hours in early childhood education or child development and 1 year of full-time verifiable early childhood work experience; or (2) A Level II or higher certification on the ECE scale and 1 year of full-time verifiable early childhood work experience; or (3) Any combination of (1) and (2) of this requirement.
7 Points	50 percent of teachers; or	50 percent of teachers at a Level I or higher; and either	(1) 6 semester hours in early childhood education or child development and 2 years of full-time verifiable early childhood work experience; or (2) A Level III or higher certification on the ECE scale and 2 years of full-time verifiable early childhood work experience; or (3) Any combination of (1) and (2) of this requirement.

(c) Semester hours in early childhood education or child development shall not include the coursework necessary for the North Carolina Early Childhood Credential.

*History Note:* Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3;

*Eff. August 1, 2012;*

*Readoption Eff. March 1, 2019.*

**10A NCAC 09 .2822      ENHANCED EDUCATION STANDARDS FOR PROGRAM COORDINATORS FOR A RATED LICENSE FOR CHILD CARE CENTERS**

(a) This Rule shall apply to evaluating program coordinators in child care centers. The points for education standards shall be determined by applying this Rule and Rules .2819, .2820, .2821, and .2823 of this Section. To determine the points attained for meeting the education standards, the lowest number of points attained pursuant to each Rule shall be the point used to meet Rule .2802 of this Section.

(b) To achieve two through seven points for education standards, the program coordinator shall meet the applicable requirements in Rule .2510(b) of this Chapter and the following chart:

Program Coordinator (.2822) Point Level	Type of Degree	Certification on the NC School Age Professional Scale	Semester Hours of school-age care related coursework	Hours of verifiable experience working with school-aged children in a licensed child care program	Hours of verifiable experience working with school-aged children in an unlicensed school-age care or camp setting
2 Points			Enrolled in 3 additional hours; or	200; or	300.
3 Points		Level I or higher; or	Completed 3 additional hours; or	300; or	450.
4 Points			Completed 3 additional hours; and	200; or	300; or
		Level I or higher; and		200; or	300; or
				450; or	600.
5 Points		Level II or higher; or	Completed 3 additional semester hours and be enrolled in 3 additional semester hours; or	600; or	750.
6 points	BA/BS; and		Completed 3 additional hours; or		
		Level IV or higher; or			
			Completed 6 additional hours and	750; or	900.
7 Points	BA/BS; and		Completed 6 additional hours; and	300; or	450; or
		Level IV or higher; and		300; or	450; or
			Completed 9 additional hours; and	600; or	900; or
			Completed 6 additional hours; and	900; or	1350.

(c) For centers providing school-age care with 200 or more school-aged children enrolled, there shall be two program coordinators on site, one of whom shall not have concurrent group leader responsibilities. The additional program coordinator shall have completed all the applicable staff requirements in Rule .2510(b) of this Chapter.

*History Note: Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3; Eff. August 1, 2012; Readopted Eff. March 1, 2019.*

**10A NCAC 09 .2823      ENHANCED EDUCATION STANDARDS FOR GROUP LEADERS AND ASSISTANT GROUP LEADERS FOR A RATED LICENSE FOR CHILD CARE CENTERS AND FOR CENTERS THAT PROVIDE CARE ONLY TO SCHOOL-AGE CHILDREN**

(a) This Rule shall apply to evaluating group leaders and assistant group leaders in child care centers and for centers that provide care only to school-age children. The points for education standards shall be determined by applying this Rule and Rules .2819, .2820, 2821, .2822, .2824, and .2825 of this Section. To determine the points attained for meeting the education standards, the lowest number of points attained pursuant to each Rule shall be the point used to meet Rule .2802 of this Section.

(b) To achieve two through seven points for education standards, group leaders and assistant group leaders shall meet the applicable requirements in the following chart.

Group Leader/Assistant Group Leader (.2823) Point Level	Age of Assistant Group Leaders	BSAC	Semester hours of school-age care related coursework	Hours of verifiable experience working with school-aged children in a licensed child care program	Hours of verifiable experience working with school-aged children in an unlicensed school-age care or camp setting
2 Points		All group leaders.			
3 Points		All group leaders; and	25 percent of group leaders enrolled in or completed 2 additional hours.		
4 Points	All at least 16 years of age; and	All group leaders; and	25 percent of group leaders completed 2 additional hours; or	100; or	150.
5 Points		All group leaders; and	50 percent of group leaders completed 2 additional hours; or	300; or	450; and
	All at least 16 years of age; and	All assistant group leaders; or		250; or	400.
6 points		All group leaders; and	50 percent of group leaders completed 2 hours and completed or be enrolled in 2 additional hours; or	600; or	900; and
	All at least 17 years of age; and	All assistant group leaders; or		250; or	400.
7 Points	All at least 18 years of age; and	All group leaders and assistant group leaders; and	75 percent of group leaders completed 2 hours and completed or be enrolled in 2	600; or	900.

Group Leader/Assistant Group Leader (.2823) Point Level	Age of Assistant Group Leaders	BSAC	Semester hours of school-age care related coursework	Hours of verifiable experience working with school-aged children in a licensed child care program	Hours of verifiable experience working with school-aged children in an unlicensed school-age care or camp setting
			additional hours; or		

*History Note: Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3; Eff. August 1, 2012; Readopted Eff. March 1, 2019.*

**10A NCAC 09 .2824 ENHANCED EDUCATION STANDARDS FOR A RATED LICENSE FOR ADMINISTRATORS FOR CENTERS THAT PROVIDE CARE ONLY TO SCHOOL-AGE CHILDREN**

(a) This Rule shall apply to evaluating the education standards for administrators for centers that provide care only to school-age children. The points for education standards shall be determined by applying this Rule and Rules .2825 and .2826 of this Section. To determine the points attained for meeting the education standards, the lowest number of points attained pursuant to each rule shall be the point used to meet Rule .2802 of this Section.

(b) To achieve two through seven points for education standards, the administrator of a school-age only program shall meet the applicable requirements in the following chart.

Administrator (.2824) Point Level	NC Early Childhood Administration Credential, its equivalent,	Hours of verifiable experience performing administrative duties in a licensed child care program	Hours of verifiable experience performing administrative duties in an unlicensed school-age care or camp setting
2 Points	Level I or have enrolled in coursework as required in G.S. 110-91(8); and	1600.	
3 Points	Level I; and either	300; or	450.
4 Points	Level I; and either	450; or	600.
5 Points	Level II; and either	600; or	750.
6 Points	Level II; and either	750; or	1150.
7 Points	Level III; and either	900; or	1350.

(c) As used in this Rule, the definition of the term "experience working with school-aged children" in Rule .2510(h) of this Chapter shall apply.

*History Note: Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3; Eff. August 1, 2012; Readopted Eff. March 1, 2019.*

**10A NCAC 09 .2825 ENHANCED EDUCATION STANDARDS FOR PROGRAM COORDINATORS FOR A RATED LICENSE FOR CENTERS THAT PROVIDE CARE ONLY TO SCHOOL-AGE CHILDREN**

(a) This Rule shall apply to evaluating the education standards for program coordinators for centers that provide care only to school-age children. The points for education standards shall be determined by applying this Rule and Rules .2824 and .2826 of this Section. To determine the points attained for meeting the education standards, the lowest number of points attained pursuant to each Rule shall be the point used to meet Rule .2802 of this Section.

(b) To achieve two through seven points for education standards, the program coordinator shall meet the applicable requirements in Rule .2510(b) of this Chapter and the following chart.



**APPROVED RULES**

Program Coordinator (.2825) Point Level	Type of Degree	Certification on the NC School Age Professional Certification Scale	Semester Hours of school-age care related coursework	Hours of verifiable experience working with school-age children in a licensed child care program	Hours of verifiable experience working with school-age children in an unlicensed school-age care or camp setting
2 Points			Enrolled in 3 additional hours; or	200; or	300.
3 Points		Level I or higher; or	Completed 3 additional hours; or	300; or	450.
4 Points			Completed 3 additional hours; and	200; or	300; or
		Level I or higher; and		200; or	300; or
				450; or	600.
5 Points		Level II or higher; or	Completed 3 additional semester hours and be enrolled in 3 additional semester hours; or	600; or	750.
6 points				750; or	900; and
			Completed 6 additional hours; or		
	BA/BS; and		Completed 3 additional hours; or		
		Level III or higher.			
7 Points			Completed 6 additional hours; and	900; or	1350; or
			Completed 9 additional hours; and	600; or	900; or
	BA/BS; and		Completed 6 additional hours; and	300; or	450; or
		Level IV or higher; and		300; or	450; or

(c) As used in this Rule, the definition of the term "experience working with school-age children" in Rule .2510(h) of this Chapter shall apply.

(d) For programs with a licensed capacity of 200 or more school-age children, there shall be two program coordinators on site, one of whom shall not have concurrent group leader responsibilities. The additional program coordinator shall have completed the applicable staff requirements in Rule .2510(b) of this Chapter.

*History Note:* Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3;

*Eff. August 1, 2012;*

*Readopted Eff. March 1, 2019.*

**10A NCAC 09 .2826 EDUCATION STANDARDS FOR GROUP LEADERS AND ASSISTANT GROUP LEADERS FOR A RATED LICENSE FOR CENTERS THAT PROVIDE CARE ONLY TO SCHOOL-AGED CHILDREN**

*History Note:* Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3;

*Eff. August 1, 2012;*

*Repealed Eff. March 1, 2019.*

**10A NCAC 09 .2827 ENHANCED EDUCATION STANDARDS FOR OPERATORS FOR A RATED LICENSE FOR FAMILY CHILD CARE HOMES**

(a) This Rule shall apply to evaluating the operator of family child care homes.

(b) To achieve two through seven points for education standards, the operator shall meet the applicable requirements in the following chart:

FCCH Operator (.2827) Point Level	Degree	NC Family Child Care Credential or its equivalent	Certification on the NC Early Care and Education Professional Scale	Semester Hours	Verifiable Early Childhood Work Experience	Additional Clock Hours of On-going Training
2 Points				4 hours in early childhood education or child development; or	5 years; and	8 annually.
3 Points		√; or	Level I or higher.			
4 Points			Level II or higher; or			
		√; or	Level I or higher; and	6 hours in early childhood education or child development.		
5 Points			Level IV or higher; and		1 year; or	
		√; or	Level I or higher; and	12 hours in early childhood education or child development and either 2 of the 12 hours shall include child care administration; or	1 year.	
6 Points			Level VI or higher; and		1 year; or	
		√; or	Level I or higher; and	18 hours in early childhood education or child development and either 5 of the 18 hours shall include child care administration; or	2 years.	
7 Points	A.A.S. in any major; and			A minimum of 12 hours in early childhood education or child development; and	2 years; or	
	A.A.S. degree in early childhood education or child development; and				18 months; or	
			A Level VI; and		2 years.	

(c) Semester hours in early childhood education or child development shall not include the coursework necessary for the North Carolina Family Child Care Credential.

*History Note: Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3;  
Eff. May 1, 2006;  
Amended Eff. August 1, 2012;  
Readopted Eff. March 1, 2019.*

**10A NCAC 09 .2828      ENHANCED PROGRAM STANDARDS FOR A RATED LICENSE FOR FAMILY CHILD CARE HOMES**

- (a) This Rule shall apply to evaluating the program standards for a rated license for family child care homes.  
(b) To achieve two through seven points for program standards, the operator shall meet the criteria listed in the following chart:

FCCH Program Standards (.2828) Point Level	Criteria
2 points	Operator provides documentation of self-study and self-assessment using the Family Child Care Rating Scale over a 3-month time period. Documentation such as an ERS book with score sheets, self-assessments and program adjustments shall be reviewed by the Division as part of the rated license assessment.
3 points	Have a score of 4.0 or higher on the Family Child Care Rating Scale
4 points	Have a score of 4.25 or higher on the Family Child Care Rating Scale
5 points	Have a score of 4.5 or higher on the Family Child Care Rating Scale
6 points	Have a score of 4.75 or higher on the Family Child Care Rating Scale AND of the five preschoolers allowed to be enrolled, no more than four children shall be under one year of age
7 points	Have a score of 5.0 or higher on the Family Child Care Rating Scale AND of the five preschoolers allowed to be enrolled, no more than three children shall be under one year of age

*History Note: Authority G.S. 110-88(7); 110-90(4); 143B-168.3;  
Eff. May 1, 2006;  
Recodified from Rule .2821 Eff. August 1, 2012;  
Readopted Eff. March 1, 2019.*

**10A NCAC 09 .2829      QUALITY POINT OPTIONS**

Operators may choose to earn one additional quality point toward a rated license as described in Rule .2802 of this Section as follows:

- (1) Education options:

Quality Point Education Options (.2829)	
75 percent of infant/toddler teachers have obtained an Infant and Toddler Certificate;	OR
All teachers have the North Carolina Diploma in Early Childhood (1 year) from a regionally accredited college or university as defined in Rule .1103 of this Chapter;	OR
75 percent of teachers have an AAS or higher in early childhood education or child development;	OR
75 percent of lead teachers have a BA/BS or higher in early childhood education or child development;	OR
All lead teachers have an AAS or higher in early childhood education or child development;	OR
75 percent of group leaders have a North Carolina School-Age Care Credential or 6 semester hours in school-age coursework;	OR
A Family Child Care Home operator has an Infant and Toddler Certificate or a BA/BS or higher in early childhood education or child development;	OR
Completing 20 additional annual on-going training hours for full-time lead teachers and teachers, and staff working part-time;	OR
Completing 20 additional annual on-going training hours for family child care home operators;	OR
The child care administrator has at least 10 years of documented child care administrative work experience in a licensed program that can be verified by the Division;	OR
75 percent of lead teachers and teachers have at least 10 years of documented early childhood work experience that can be verified by the Division;	OR

Quality Point Education Options (.2829)	
All lead teachers and teachers have at least 5 years of documented early childhood work experience that can be verified by the Division and have been employed by no more than 2 different employers;	OR
When the program has earned at least 4 points in education and the program has a combined turnover rate of 20 percent or less for the administrator, program coordinator, lead teacher, teacher, and group leader positions over the last 12 months;	OR
In a stand-alone school age program, 75 percent of group leaders have at least 5 years of documented school-age work experience that can be verified by the Division and have been employed by no more than 2 different employers.	

(2) Programmatic options:

Quality Point Programmatic Options (.2829)	
Using a curriculum as defined in Rule .0102(10) of this Chapter. This programmatic option is not available to facilities that are required to use an approved curriculum in accordance with Rule .2802(d) of this Section;	OR
Having reduced group sizes decreased by at least one child per age group from the seven point level as described in Rule .2818(c) of this Section;	OR
Having staff/child ratios decreased by at least one child per age group from the seven point level as described in Rule .2818(c) of this Section;	OR
Meeting the following program standards: (1) Having a staff benefits package that offers at least four of the following benefits: paid leave for professional development, paid planning time, vacation, sick time, retirement, or health insurance; and (2) Having evidence of an infrastructure of parent involvement that includes at least two of the following: parent newsletters offered at least quarterly, parent advisory board, periodic conferences for all children, or parent information meetings offered at least quarterly	OR
A Family Child Care Home operator has completed a 30 hour or longer business training course;	OR
A center administrator has completed a business training course and a wage and hour training course that is at least 30 hours of total training time;	OR
Restricting enrollment to four preschool children in a Family Child Care Home;	OR
Reducing infant capacity by at least one child from the seven point level for a Family Child Care Home as described in Rule .2828(g)(3) of this Section.	

*History Note: Authority G.S. 110-85; 110-88(7); 110-90(4); 143B-168.3; S.L. 2011-145, s. 10.7(b); Eff. May 1, 2006;  
Amended Eff. December 1, 2006;  
Recodified from Rule .2823 Eff. August 1, 2012;  
Amended Eff. July 1, 2015; September 1, 2012;  
Readopted Eff. March 1, 2019.*

**10A NCAC 09 .2830 MAINTAINING THE STAR RATING**

(a) A representative of the Division may make announced or unannounced visits to facilities to assess on-going compliance with the requirements of a star rating after it has been issued. When the Division representative documents violations with the standards that determine a rating, the representative shall take one or more of the following actions:

- (1) advise the operator to submit written verification that the violations have been corrected;
- (2) return to the facility for an unannounced visit at a later date to determine if compliance has been achieved;

- (3) recommend an Environmental Rating Scale assessment be conducted;
- (4) recommend a complete reassessment of requirements of the star rating issued to the facility;
- (5) recommend that the star rating be reduced; or
- (6) recommend administrative action in accordance with G.S. 110, Article 7 and this Chapter.

(b) If changes unrelated to employment occur at a facility that result in the operator not complying with the standards in this Section for the star rating issued, the operator shall correct the noncompliance within 30 days. If the operator does not correct the noncompliance within 30 days, the operator shall notify the

Division. Based upon the information obtained, the Division shall take any of the actions described in Paragraph (a) of this Rule.

(c) If employment-related changes occur at a facility that result in the operator not complying with the standards in the Section for the star rating issued, the operator shall correct the noncompliance within 120 days. If the operator does not correct the noncompliance within 120 days, the operator shall notify the Division. Based upon the information obtained, the Division shall take any of the actions described in Paragraph (a) of this Rule.

(d) A complete assessment of requirements for a rated license of two stars or higher shall be conducted at least once every three years. The Division shall provide for one evaluation of program standards using the environment rating scales referenced in Rule .2802(e), free of charge, once every three years when reassessing the ratings of operators with three to five points for program standards.

*History Note:* Authority G.S. 110-88(7); 110-90(4); 143B-168.3;

*Eff. April 1, 1999;*

*Recodified from Rule .2809 Eff. May 1, 2006;*

*Recodified from Rule .2824 Eff. August 1, 2012;*

*Readopted Eff. March 1, 2019.*

#### **10A NCAC 09 .2831 HOW AN OPERATOR MAY REQUEST OR APPEAL A CHANGE IN RATING**

(a) An operator may request a change in the star rating by following the procedures in Rule .2802 of this Section.

(b) After an initial three- through five-star rating is issued, the Division shall provide one evaluation of program standards using the environment rating scales referenced in Rule .2802(e) of this Section during each three year period thereafter at no cost to the operator. An operator may have extra rating scale assessments, as referenced in Rule .2802(e) of this Section, performed at his or her own expense in addition to the free one performed by the Division. The additional rating scale assessments shall be completed by individuals approved by the Division to perform them. Approval shall be based upon the individual's successful completion of training designated or authorized by the authors of the environment rating scales.

(c) An operator may appeal the reduction of a star rating as provided in G.S. 110-94.

*History Note:* Authority G.S. 110-88(7); 110-90(4); 143B-168.3;

*Recodified from Rule .2810 Eff. May 1, 2006;*

*Amended Eff. May 1, 2006;*

*Recodified from Rule .2825 Eff. August 1, 2012;*

*Readopted Eff. March 1, 2019.*

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#### **10A NCAC 14A .0301 DEFINITIONS**

The following definitions apply throughout this Section:

- (1) "Facility" is defined in 42 CFR 483.5, which is herein incorporated by reference, including subsequent amendments and editions. The Code of Federal Regulations may be accessed free of charge at

[http://www.access.gpo.gov/nara/cfr/waisidx\\_08/42cfr483\\_08](http://www.access.gpo.gov/nara/cfr/waisidx_08/42cfr483_08).

- (2) "Hearing Officer" means the person at the Hearing Unit designated to preside over hearings between residents and nursing facility providers regarding transfers and discharges.
- (3) "Hearing Unit" means the Chief Hearing Officer and his or her staff in the Division of Medical Assistance of the Department of Health and Human Services.
- (4) "Notice" means a written notification of transfer or discharge, as required by 42 CFR 483.15 (c), by the facility to the resident and the resident's representative as defined in 42 CFR 483.5.
- (5) "Request for a Hearing" means a written expression by the resident, family member, or legal representative, that he or she wants the opportunity to present his or her case to the Hearing Officer.
- (6) "Resident" means any person who is receiving treatment or long-term care in a facility.
- (7) "Serve" means personal delivery, delivery by first class or certified United States Postal Service mail, or delivery by licensed overnight express mail, postage prepaid and addressed to the party at his or her last known address.

*History Note:* Authority G.S. 143B-165(10); 42 U.S.C. 1395i-3(c)(2)(B)(iii); 42 U.S.C. 1396r(e)(3); 42 U.S.C. 1396r(f)(3); 42 CFR 483.15(c);

*Eff. August 3, 1992;*

*Readopted Eff. January 1, 2019.*

#### **10A NCAC 14A .0302 TRANSFER OR DISCHARGE HEARING REQUEST**

Any resident who has been advised of the date of a transfer or discharge in writing may request that the Hearing Officer set a date for a hearing in accordance with these Rules. Hearing procedures shall be in accordance with rules in 10A NCAC 22H .0200, which are herein incorporated by reference, including subsequent amendments and editions. These Rules may be accessed free of charge at <http://reports.oah.state.nc.us/ncac.asp>.

*History Note:* Authority G.S. 143B-165(10); 42 U.S.C. 1395i-3(c)(2)(B)(iii); 42 U.S.C. 1396r(e)(3); 42 U.S.C. 1396r(f)(3); 42 CFR 483.15(c);

*Eff. August 3, 1992;*

*Readopted Eff. January 1, 2019.*

#### **10A NCAC 14A .0303 FILING A REQUEST FOR HEARING**

In order to initiate a hearing, a resident must first have been served by the facility administrator with a written notice and shall file a Request for Hearing in accordance with rules in 10A NCAC 22H .0200.

*History Note:* Authority G.S. 143B-165(10); 42 U.S.C. 1395i-3(c)(2)(B)(iii); 42 U.S.C. 1396r(e)(3); 42 U.S.C. 1396r(f)(3); 42 CFR 483.15(c);  
*Eff. August 3, 1992;*  
*Readopted Eff. January 1, 2019.*

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**10A NCAC 26F .0106 SCHEDULE V**

(a) Schedule V shall consist of the drugs and other substances by whatever official name, common or usual name, chemical name or brand name designated and listed in either G.S. 90-93 or this Rule. Each drug or substance is set forth below with its corresponding Drug Enforcement Administration (DEA) controlled substances code number set forth in the Code of Federal Regulations, Title 21, Section 1308.15.

(b) Narcotic drugs containing non-narcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which shall include one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone:

- (1) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams,
- (2) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams,
- (3) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams,
- (4) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit,
- (5) not more than 100 milligrams of opium per 100 milliliters or per 100 grams,
- (6) not more than 0.5 milligrams of difenoxin and not less than 25 micrograms atropine sulfate per dosage unit.

(c) Stimulants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers: Pyrovalerone - DEA controlled substances code number 1485.

(d) Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

- (1) Lacosamide – DEA controlled substances code number 2746; and
- (2) Ezogabine – DEA controlled substances code number 2779.

(e) Approved cannabidiol drugs. A drug product in finished dosage formulation that has been approved by the U.S. Food and Drug Administration that contains cannabidiol (2-[1R-3-methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol) derived from cannabis and no more than 0.1

percent (w/w) residual tetrahydrocannabinols –DEA controlled substances code number 7367.

*History Note:* Authority G.S. 90-88; 90-93; 143B-147;  
*Eff. June 30, 1978;*  
*Amended Eff. July 1, 2012; February 1, 2010; April 1, 1992; August 1, 1988; December 1, 1987; April 1, 1983;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016;*  
*Amended Eff. January 1, 2019.*

**TITLE 11 - DEPARTMENT OF INSURANCE**

**11 NCAC 07 .0401 DEFINITIONS**

The definitions contained in G.S. 66-455 are incorporated in this Section by reference. In addition to those definitions, the following definitions apply to this Section:

- (1) "Proof of Insurance" shall mean a Certificate of Insurance (COI) from an acceptable insurer.
- (2) "Acceptable Insurer" shall mean any insurance company licensed under G.S. 58-6-7.

*History Note:* Authority G.S. 66-458;  
*Eff. January 1, 2019.*

**11 NCAC 07.0402 PROOF OF INSURANCE COVERAGE**

(a) A person operating a challenge course, zip line, or other similar device subject to the provisions of G.S. 66-455 through G.S. 66-458 shall file with the Commissioner, on an annual basis, proof that it has obtained liability insurance satisfying the requirements of G.S. 66-456 from an acceptable insurer.

(b) Proof of Insurance shall be filed with the Director of Risk Management, North Carolina Department of Insurance, 1201 Mail Service Center, Raleigh, NC 27699 or may be filed electronically by e-mailing [challengecoursecoi@ncdoi.gov](mailto:challengecoursecoi@ncdoi.gov).

*History Note:* Authority G.S. 66-458;  
*Eff. January 1, 2019.*

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**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](mailto:dockets@ic.nc.gov).

(c) All unrepresented persons or entities with matters before the Commission shall inform 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"), email to

forms@ic.nc.gov, 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 EDPF, email to dockets@ic.nc.gov, facsimile, U.S. Mail, private courier service, or hand delivery.

*History Note:* Authority G.S. 97-80;  
Eff. January 1, 2019.

**11 NCAC 23A .0502 COMPROMISE SETTLEMENT AGREEMENTS**

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

- (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 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) An affirmative statement that no rights other than those arising under the provisions of the Workers' Compensation Act are compromised or released by this agreement.
- (4) Whether the employee has, or has not, returned to work.
- (5) If the employee has returned to work, whether the employee is earning the same or greater average weekly wage.
- (6) If the employee has returned to work at a lower average weekly wage, a description of the specific job or position, the name of the employer, and the average weekly wage earned. This Subparagraph does not apply 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.
- (7) If the employee has not returned to work, 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 if:
  - (A) it places an unreasonable burden upon the parties;
  - (B) the employee is represented by counsel; or

- (C) the employee 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 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. This list of known medical expenses shall include:
  - (A) All expenses that have been paid by the employer, carrier, or administrator;
  - (B) All expenses that the employer, carrier, or administrator disputes;
  - (C) All expenses that have been paid by the employee;
  - (D) All expenses that have been paid by a health benefit plan;
  - (E) All unpaid expenses that will be paid by the employer, carrier, or administrator; and
  - (F) All unpaid expenses that will be paid by the employee.
- (5) The settlement agreement provides that a party who has agreed to pay a disputed unpaid medical expense will notify 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 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.
- (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.
- (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 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) 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 who seeks fees in connection with a compromise settlement agreement shall submit a copy of the fee agreement with the employee. Further, if the employee's attorney is aware of a fee being claimed by a prior attorney for the employee, the employee's attorney shall advise the Commission at the time of the submission of a compromise settlement agreement whether an agreement has been reached with the prior attorney regarding a division of the fee and, if so, the division proposed.

*History Note: Authority G.S. 97-17; 97-80(a); 97-82; Eff. January 1, 1990; Amended Eff. February 1, 2016; November 1, 2014; August 1, 2006; June 1, 2000; March 15, 1995; Recodified from 04 NCAC 10A .0502 Eff. June 1, 2018; Amended Eff. January 1, 2019.*

#### **11 NCAC 23A .0604 APPOINTMENT OF GUARDIAN AD LITEM**

(a) Minors or incompetent individuals 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, 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 individual. 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 an incompetent individual shall be paid directly to the guardian ad litem, unless the guardian ad litem has authority to receive the money pursuant to a federal or state court order. 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 services rendered upon receipt of an affidavit of time spent in representation of the minor or incompetent individual as part of the costs.

*History Note: Authority G.S. 97-50; 97-79(e); 97-80(a); 97-91; Eff. January 1, 1990; Amended Eff. November 1, 2014; January 1, 2011; June 1, 2000; March 15, 1995; Recodified from 04 NCAC 10A .0604 Eff. June 1, 2018; Amended Eff. January 1, 2019.*

#### **11 NCAC 23A .0609 MOTIONS PRACTICE**

(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 Chair of the Commission and filed in accordance with Rule .0108 of this Subchapter.
- (3) 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.

(e) All motions and responses 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.

(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, and any effort made by the moving party to resolve the issue in dispute before filing of the motion. Service shall be made on all opposing attorneys of record, or on all opposing parties if not represented.

(g) Motions to continue or remove a case from the hearing calendar on which the case is set shall be made as far 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 of the other parties regarding the motion, or that there has been a reasonable attempt to contact the opposing party and ascertain its position regarding the motion.

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

(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.

(j) Motions shall be ruled upon without oral argument unless the Commission determines that oral argument is necessary for a complete understanding of the issues.

(k) All written 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 Industrial Commission file number(s);
- (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 shall include the attorney and firm name, email address, telephone number, and fax number. If a party is unrepresented, then the proposed Order shall include the party's email

address, telephone number, and fax number, if available.

*History Note:* Authority G.S. 97-79(b); 97-80(a); 97-84; 97-91;

*Eff. January 1, 1990;*

*Amended Eff. February 1, 2016; November 1, 2014; June 1, 2000; March 15, 1995;*

*Recodified from 04 NCAC 10A .0609 Eff. June 1, 2018;*

*Amended Eff. January 1, 2019.*

## **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, 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 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 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 as defined in Rule .0109 of this Subchapter of new counsel if such counsel has been retained. The proposed Order shall include fax numbers for all parties, if known.

*History Note:* Authority G.S. 97-80(a); 97-90; 97-91;

*Eff. January 1, 2011;*

*Amended Eff. February 1, 2016; November 1, 2014;*

*Recodified from 04 NCAC 10A .0617 Eff. June 1, 2018;*

*Amended Eff. January 1, 2019.*

**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 interpreter upon request. For purposes of this Rule, "language" means foreign language or sign language.

(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 and truthfully, meaning 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 Chapter 90D of the North Carolina General Statutes.

(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.

(e) Upon receiving or giving the notice required in Paragraph (d) of this Rule, the employer or insurer shall retain an 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 (d) of this Rule has been given or received.

(f) The interpreter's fee shall constitute a cost as set forth in 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. When the Commission ultimately determines that the request for an interpreter was unfounded, attendant costs shall be assessed against the movant.

(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, [https://www.nccourts.gov/assets/inline-files/02\\_2\\_NC\\_Standards\\_for\\_Language\\_Access\\_0.pdf?NhuszCAEVfS8KkdLetH97b9I4NRBcd.f](https://www.nccourts.gov/assets/inline-files/02_2_NC_Standards_for_Language_Access_0.pdf?NhuszCAEVfS8KkdLetH97b9I4NRBcd.f), or upon request, at the offices of the Commission, located in the Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, 27603, 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.

*History Note:* Authority G.S. 97-79(b); 97-80(a);

*Eff. November 1, 2014;*

*Recodified from 04 NCAC 10A .0619 Eff. June 1, 2018;*

*Amended Eff. January 1, 2019.*

**11 NCAC 23A .0620 WRITTEN COMMUNICATIONS WITH THE COMMISSION**

(a) This Rule shall apply to written communications related 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, shall not be used as an opportunity to introduce new evidence or to argue the merits of the case.

*History Note:* Authority G.S. 97-80(a);

*Eff. January 1, 2019.*

**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 was given. A letter requesting review shall be 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 shall 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.

(c) Acknowledging Receipt; Form 44; Joint Certification. 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.

- (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 email 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 10 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.

(d) Appellant's Form 44. The appellant shall submit a Form 44 Application for Review stating with particularity all assignments of error and grounds for review, including, where applicable, the pages in the transcript or the record on which the alleged errors shall be 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, a party may obtain a single extension of time not to exceed 15 days by filing a written stipulation pursuant to Rule .0108 of this Subchapter.

(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 or as a means to submit documents into evidence. 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 considered by the Full Commission at the time of 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.

(j) **Oral Argument.**

- (1) Each appellant shall have 20 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 20 minutes to present oral argument, unless otherwise specified by Order of the Commission. 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 20-minute allowance. Such requests shall be made in writing and submitted to the Full Commission no less than 10 days prior to the scheduled hearing date. The written request for additional time shall state with particularity 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 or appearance before the Commission 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 or appearance before the Commission.
- (5) If any party fails to appear before the Full Commission upon the call of the case, the Commission may, in the interests of justice or judicial economy, 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.

*History Note: Authority G.S. 97-80(a); 97-85;*

*Eff. January 1, 1990;*

*Amended Eff. November 1, 2014; January 1, 2011; August 1, 2006; June 1, 2000;*

*Recodified from 04 NCAC 10A .0701 Eff. June 1, 2018;*

*Amended Eff. January 1, 2019.*

## **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, 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. 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) shall be filed with the 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 in matters before the Full Commission for review pursuant to G.S. 97-85, including orders dismissing reviews to the Full Commission or denying a request for immediate 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.

*History Note:* Authority G.S. 97-79(g); 97-80(a); 97-85; S.L. 2014-77;  
*Eff. January 1, 1990;*  
*Amended Eff. November 1, 2014; January 1, 2011; June 1, 2000;*  
*Recodified from 04 NCAC 10A .0702 Eff. June 1, 2018;*  
*Amended Eff. January 1, 2019.*

#### **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 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.

*History Note:* Authority G.S. 97-80(a);  
*Eff. January 1, 1990;*  
*Amended Eff. November 1, 2014;*  
*Recodified from 04 NCAC 10A .0801 Eff. June 1, 2018;*  
*Amended Eff. January 1, 2019.*

#### **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. 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 in lieu of an in-person hearing. 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, and shall not be limited by the business hours of the Commission as set forth in Rule .0101 of this Subchapter.

(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 the North Carolina Rules of Professional Conduct, 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 excused by the Commission.

(c) A motion for a continuance shall be allowed 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 and rescheduled 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 with the Commission with a copy to the opposing party or counsel, for review by the Commission in accordance with G.S. 143-296.

*History Note:* Authority G.S. 143-296; 143-300;  
*Eff. January 1, 1989;*  
*Recodified from 04 NCAC 10B .0202 Eff. April 17, 2000;*  
*Amended Eff. July 1, 2014; January 1, 2011; May 1, 2000;*  
*Recodified from 04 NCAC 10B .0206 Eff. June 1, 2018;*  
*Amended Eff. Pending Legislative Review.*

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

*History Note:* Authority G.S. 97-101.1; 143-296; 143-300;  
*Eff. January 1, 1989;*  
*Recodified from 04 NCAC 10B .0204 Eff. April 17, 2000;*  
*Amended Eff. July 1, 2014; May 1, 2000;*  
*Recodified from 04 NCAC 10B .0207 Eff. June 1, 2018;*  
*Repealed Eff. Pending Legislative Review.*

**11 NCAC 23B .0503 SANCTIONS**

The Commission may, on its own initiative or motion of a party, impose a sanction against a party, or attorney, or both, when the Commission determines that such party, or attorney, or both failed to comply with the Rules in this Subchapter, an Order of the Commission, the North Carolina Rules of Civil Procedure, and North Carolina Rules of Professional Conduct, or other applicable law.

*History Note:* Authority G.S. 1A-1, Rule 11 and Rule 37; 143-291; 143-296; 143-300;  
*Eff. January 1, 2011;*  
*Amended Eff. July 1, 2014;*  
*Recodified from 04 NCAC 10B .0503 Eff. June 1, 2018;*  
*Amended Eff. Pending Legislative Review.*

**11 NCAC 23H .0201 DETERMINATION OF CLAIMS BY THE COMMISSION**

(a) Upon application for an award under the provisions of the Public Safety Employees' Death Benefits Act, the Commission shall determine whether sufficient evidence is contained in the Commission's workers' compensation or other files upon which to base an order for the payment of benefits. If the Commission is satisfied that such an order should be issued, it shall, without conducting a hearing, file an award directing the payment of benefits.

(b) If the Commission is of the opinion that the Commission's workers' compensation or other files have insufficient evidence upon which to base an award for the payment of benefits, the Commission shall place the case upon the Commission's hearing docket. The Commission shall set a contested case for hearing in a location deemed convenient to witnesses and the Commission.

*History Note:* Authority G.S. 143-166.4;  
*Eff. August 1, 1979;*  
*Amended Eff. July 1, 2014;*  
*Recodified from 04 NCAC 10H .0201 Eff. June 1, 2018;*  
*Amended Eff. January 1, 2019.*

**11 NCAC 23H .0202 HEARINGS BEFORE THE COMMISSION**

(a) The Commissioner or Deputy Commissioner before whom a case regarding the Public Safety Employees' Death Benefits Act is set for hearing, shall order the parties to participate in a pre-trial conference. This conference shall be conducted at such place and by such method as the Commissioner or Deputy Commissioner deems appropriate in consideration of the interests of justice and judicial economy, including conference telephone calls.

(b) The Commission shall give notice of hearing in every case. Postponement or continuance of a scheduled hearing shall be granted in the interests of justice or to promote judicial economy.

(c) Notice of the hearing shall be given to the Attorney General of the State of North Carolina, who may appear as amicus curiae.

*History Note:* Authority G.S. 143-166.4;  
*Eff. August 1, 1979;*  
*Amended Eff. July 1, 2014;*  
*Recodified from 04 NCAC 10H .0202 Eff. June 1, 2018;*  
*Amended Eff. January 1, 2019.*

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**TITLE 12 - DEPARTMENT OF JUSTICE**

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**12 NCAC 09G .0103 RULE-MAKING AND ADMINISTRATIVE HEARING PROCEDURES**

(a) Petitions for Rule-Making shall be submitted to the Commission and shall contain:

- (1) petitioner's name, address and telephone number;
- (2) a draft of the proposed rule or rule change for adoptions or amendments; and
- (3) the reason for its proposal.

(b) Petitioners may also submit the following in the petition:

- (1) the effect of the proposal on existing rules or decisions;
- (2) data supporting the proposal;
- (3) practices likely to be affected by the proposal; and
- (4) a list or description of persons likely to be affected by the proposed rule.

(c) Administrative hearings in contested cases conducted by the Commission or an Administrative Law Judge (as authorized in G.S. 150B-40) shall be governed by:

- (1) procedures set out in G.S. 150B, Article 3;
- (2) the Rules of Civil Procedure as contained in G.S. 1A-1;
- (3) the General Rules of Practice for the Superior and District Courts as authorized by G.S. 7A-34 and found in the Rules Volume of the North Carolina General Statutes.

(d) The rules establishing procedures for contested cases incorporated by the Office of Administrative Hearings as contained in 26 NCAC 03 are hereby incorporated by reference, including subsequent amendments and editions, for contested cases for which this agency has authority to adopt rules under G.S. 150B-38(h).

(e) If the case is conducted under G.S. 150B-40(b), the presiding officer shall have the powers and duties given to the Chief

Administrative Law Judge or the presiding Administrative Law Judge in 26 NCAC 03.  
(f) An applicant for certification or a certified officer shall have 30 days from the date of receipt of a notice of proposed action by the Commission to request a contested case hearing.

*History Note:* Authority G.S. 17C-6; 17C-11(b); 150B-20; 150B-38(h); 150B-40;  
*Temporary Adoption Eff.* January 1, 2001;  
*Eff.* August 1, 2002;  
*Amended Eff.* January 1, 2019.

**TITLE 14B - DEPARTMENT OF PUBLIC SAFETY**

**14B NCAC 01C .0401 AGREEMENT TO PAY COSTS**  
**14B NCAC 01C .0402 STATEMENT OF COSTS**

*History Note:* Authority G.S. 160A-288.1; 153A-212;  
*Eff.* December 1, 1979;  
*Transferred from 14A NCAC 01C .0401, .0402 Eff.* June 1, 2013;  
*Repealed Eff.* January 1, 2019.

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**14B NCAC 05 .0201 NOTICE OF AVAILABILITY OF FUNDS**  
**14B NCAC 05 .0202 CONSISTENCY WITH STATE OR FEDERAL GRANT PROGRAMS**  
**14B NCAC 05 .0203 REQUEST FOR PREAPPLICATION FORMS**  
**14B NCAC 05 .0204 GRANT PREAPPLICATION FORM**  
**14B NCAC 05 .0205 PREAPPLICATION SUBMISSION PROCEDURES**  
**14B NCAC 05 .0206 INCOMPLETE PREAPPLICATIONS**  
**14B NCAC 05 .0207 REVIEW OF PREAPPLICATIONS**  
**14B NCAC 05 .0208 NOTIFICATION TO PREAPPLICANTS**

*History Note:* Authority G.S. 143B-477; 143B-479;  
*Eff.* April 1, 1988;  
*Transferred from 14A NCAC 07 .0204 - .0211 Eff.* June 1, 2013;  
*Repealed Eff.* March 1, 2019.

**14B NCAC 05 .0301 APPLICATION FORM AND REQUIREMENTS**  
**14B NCAC 05 .0302 APPLICATION SUBMISSION PROCEDURES**  
**14B NCAC 05 .0303 APPLICATION DUE DATE**  
**14B NCAC 05 .0304 GRANT APPLICATION PROCESS**  
**14B NCAC 05 .0305 GRANT PERIOD**  
**14B NCAC 05 .0306 TIME LIMITATION ON FEDERAL FUNDING**  
**14B NCAC 05 .0307 GRANT AWARD CONTRACTS**

*History Note:* Authority G.S. 143B-477; 143B-479;  
*Eff.* April 1, 1988;  
*Amended Eff.* April 1, 1999; May 10, 1998; July 1, 1989;  
*Transferred from 14A NCAC 07 .0308 - .0314 Eff.* June 1, 2013;  
*Repealed Eff.* March 1, 2019.

**14B NCAC 05 .0310 CONTINUATION FUNDS**  
**14B NCAC 05 .0311 ADJUSTMENTS TO GRANTS**

*History Note:* Authority G.S. 143B-477; 143B-479;  
*Eff.* April 1, 1988;  
*Transferred from 14A NCAC 07 .0317, .0318 Eff.* June 1, 2013;  
*Repealed March 1, 2019.*

**14B NCAC 05 .0401 GRANT TERMINATION OR SUSPENSION**  
**14B NCAC 05 .0402 LOSS OF GRANTEE ELIGIBILITY**

*History Note:* Authority G.S. 143B-477; 143B-479;  
*Eff.* April 1, 1988;  
*Transferred from 14A NCAC 07 .0406, .0407 Eff.* June 1, 2013;  
*Repealed March 1, 2019.*

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**14B NCAC 05 .0501 APPEAL**

*History Note:* Authority G.S. 150B-2; 150B-23;  
*Eff.* May 1, 1988;  
*Transferred from 14A NCAC 07 .0504 Eff.* June 1, 2013;  
*Repealed March 1, 2019.*

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**14B NCAC 07A .0104 VEHICLE REMOVAL PROCEDURES**

(a) Vehicles on the paved or main-traveled portion of the highway:

- (1) A member who encounters a vehicle parked, disabled from a collision, or otherwise left standing on the paved or main-traveled portion of the highway shall:
  - (A) remove the vehicle to a position off the roadway;
  - (B) with consent from the owner, operator, or legal possessor, arrange the transportation and storage of the vehicle; or
  - (C) without consent from the owner, operator, or legal possessor, arrange the transportation and storage of the vehicle if the vehicle presents a hazard, a potential hazard or otherwise as authorized by State law.
- (2) A member shall permit an objecting owner, operator, or legal possessor to remove a vehicle to a safe position off the roadway, if the driver is competent and licensed to drive the vehicle.

A member may arrange to transport and store a vehicle that cannot be safely parked off the roadway as authorized in this Rule.

(b) Vehicles off the paved or main-traveled portion of the highway:

- (1) A member investigating an accident or collision in which a disabled vehicle is located off the paved or main-traveled portion of the highway may arrange the transportation and storage of the vehicle. If the owner, operator, or legal possessor objects, a member shall not transport and store a vehicle unless, as standing, the vehicle creates a hazard.
- (2) A member who observes a vehicle unlawfully parked or disabled on the right-of-way, but not on the main-traveled portion of the highway, may remove and store the vehicle only if the vehicle interferes with the regular flow of traffic or otherwise constitutes a hazard.
- (3) A member shall not arrange the transportation and storage of a vehicle unlawfully parked on the highway right-of-way that does not interfere with the regular flow of traffic or otherwise constitutes a hazard until the vehicle remains on the highway right-of-way for a period of 24 hours or more, has been vandalized, or is otherwise abandoned.

(c) Vehicles subject to seizure - Vehicles that are authorized by law to be seized or which may be evidence in a criminal proceeding may be towed and stored.

*History Note: Authority G.S. 20-184; 20-188;  
Temporary Adoption Eff. June 9, 2000;  
Eff. April 1, 2001;  
Transferred from 14A NCAC 09H .0309 Eff. June 1, 2013;  
Readopted Eff. January 1, 2019.*

**14B NCAC 07A .0105 SECURING VEHICLES WHEN OPERATOR IS ARRESTED**

Upon arresting or placing a vehicle operator in custody, a member shall:

- (1) With consent of owner, operator, or legal possessor, allow another licensed, competent person to drive or move the vehicle to a position off the roadway; or
- (2) If no licensed, competent person is present, or if the owner, operator, or legal possessor will not consent to such removal, then a member may move the vehicle, if necessary, to a position off the roadway, lock the vehicle and return the key to the owner, operator, or legal possessor, except that, in any case where the operator of the vehicle is arrested for DWI, a member shall either turn the keys over to the magistrate or jailer or to a sober, responsible person.

*History Note: Authority G.S. 20-184; 20-188;  
Temporary Adoption Eff. June 9, 2000;*

*Eff. April 1, 2001;  
Amended Eff. July 18, 2008;  
Transferred from 14A NCAC 09H .0310 Eff. June 1, 2013;  
Readopted Eff. January 1, 2019.*

**14B NCAC 07A .0106 VEHICLES TRANSPORTED AND STORED OVER OBJECTION OF OWNER**

A member may transport and store a vehicle over the objection or without consent of the owner, operator, or legal possessor when:

- (1) The vehicle cannot be lawfully parked off the roadway;
- (2) The vehicle is lawfully parked off the roadway but creates a hazard;
- (3) The owner, operator, or legal possessor refuses or is unable to remove the vehicle from the roadway;
- (4) The vehicle is subject to seizure pursuant to G.S. 20-28.3 or other lawful authority; or
- (5) The vehicle is being detained pursuant to G.S. 20-96.

*History Note: Authority G.S. 20-184; 20-188;  
Temporary Adoption Eff. June 9, 2000;  
Eff. April 1, 2001;  
Amended Eff. July 18, 2008;  
Transferred from 14A NCAC 09H .0311 Eff. June 1, 2013;  
Readopted Eff. January 1, 2019.*

**14B NCAC 07A .0107 PARKING VEHICLES OFF THE ROADWAY**

(a) A member who removes or allows a vehicle to be removed to a position off the roadway shall, when circumstances permit:

- (1) Lawfully park the vehicle in an apparently safe and secure location off the main-traveled portion of the highway; or
- (2) Place the vehicle in a position that creates no apparent hazard or other interference with the regular flow of traffic.

(b) A member shall take reasonable precautions to secure the vehicle and its contents against theft, vandalism, and other damage by locking the vehicle (if possible) and returning the keys to the owner, operator, or legal possessor. In any case where the operator of the vehicle is arrested for DWI, a member shall either turn the keys over to the magistrate or jailer or, when appropriate, to a sober, responsible person.

*History Note: Authority G.S. 20-184; 20-188;  
Temporary Adoption Eff. June 9, 2000;  
Eff. April 1, 2001;  
Transferred from 14A NCAC 09H .0312 Eff. June 1, 2013;  
Readopted Eff. January 1, 2019.*

**14B NCAC 07A .0108 TRANSPORTING AND STORING VEHICLES**

(a) When necessary for accident reconstruction or a criminal investigation when multiple vehicles are involved in an incident, a single storage location shall be designated. The storage facility of the first wrecker service dispatched shall be used unless otherwise designated by a supervisor.



(b) When necessary for an accident reconstruction or a criminal investigation, a member shall designate the indoor or other storage facility a vehicle shall be stored to ensure preservation of the evidence. The storage facility shall be the first wrecker service dispatched unless otherwise designated by a supervisor.

(c) DWI seized vehicles shall be towed and stored in accordance with instructions from the State or regional contractor.

(d) Vehicles stored pursuant to G.S. 20-96 shall be held by the towing or storage company until all civil assessment(s) have been satisfied and release is approved by the investigating member.

*History Note: Authority G.S. 20-184; 20-188;*

*Temporary Adoption Eff. June 9, 2000;*

*Eff. April 1, 2001;*

*Amended Eff. July 18, 2008;*

*Transferred from 14A NCAC 09H .0313 Eff. June 1, 2013;*

*Readopted Eff. January 1, 2019.*

#### **14B NCAC 07A .0109 NOTIFICATION**

(a) Unless exempted by vehicle seizure law, the Troop Communications Center must notify the registered owner when a vehicle is towed and stored. In order to accomplish this, the authorizing member shall immediately notify the appropriate Troop Communications Center of the following:

- (1) a description of the vehicle;
- (2) the place where the vehicle is stored;
- (3) the procedure the owner must follow to have the vehicle returned to him or her; and
- (4) the procedure the owner must follow to request a probable cause hearing on the towing.

(b) Upon notification by the authorizing member, the Troop Communications Center shall, as soon as practicable, attempt to notify the owner of the towing or storage. The Troop Communications Center shall attempt to contact the owner by telephone and provide the owner with the location of the vehicle. At least three attempts shall be made for vehicles registered in North Carolina and one attempt for vehicles registered out-of-state. The Telecommunicator shall record the person contacted or the attempts made.

(c) In the absence of an HP-305 (Vehicle Towing Authorization) signed by the registered owner, Form Letter HPC-305.2 (Vehicle Towing/Notification, which is a form letter computer-generated at the Troop Communications Center) shall be mailed to the owner within 24 hours. A duplicate copy of the Form Letter HPC-305.2 is also computer-generated and will print automatically in the District office of the member. Whether or not the owner is reached by telephone, a copy of the Form Letter HPC-305.2 shall be mailed to the last registered owner by the Troop Communications Center.

(d) Whenever a vehicle with neither a valid registration plate nor registration is towed, in the absence of an HP-305 signed by the registered owner, the authorizing member shall attempt, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him or her of the information listed in Paragraph (a) of this Rule. Attempts shall include checking the vehicle identification number (VIN).

(e) Whenever a vehicle is seized pursuant to G.S. 20-28.3, the charging officer shall complete and forward the appropriate DMV

notification form to DMV and to the statewide contractor within 24 hours.

*History Note: Authority G.S. 20-28.3; 20-184; 20-188;*

*Temporary Adoption Eff. June 9, 2000;*

*Eff. April 1, 2001;*

*Amended Eff. July 18, 2008;*

*Transferred from 14A NCAC 09H .0314 Eff. June 1, 2013;*

*Readopted Eff. January 1, 2019.*

#### **14B NCAC 07A .0110 RELEASE OF VEHICLES**

If no legal justification to hold the vehicle exists, a member shall authorize the release of a stored vehicle to the owner upon proof of ownership.

*History Note: Authority G.S. 20-184; 20-187; 20-188;*

*Temporary Adoption Eff. June 9, 2000;*

*Eff. April 1, 2001;*

*Amended Eff. July 18, 2008;*

*Transferred from 14A NCAC 09H .0315 Eff. June 1, 2013;*

*Readopted Eff. January 1, 2019.*

#### **14B NCAC 07A .0111 VEHICLE INVENTORY**

(a) A member who authorizes the transportation and storage of a vehicle in the absence of Form Letter HP-305 signed by the owner, operator, or legal possessor shall take precautions to protect all property in and on the vehicle prior to removal from the scene.

(b) A Form Letter HP-305 signed by the owner, operator, or legal possessor is documentation that the vehicle was not removed from the possession of such person; therefore, the completion of a vehicle inventory is not required.

(c) The storage and security of the vehicle and its contents become the responsibility of the wrecker service when the vehicle is towed from the scene and stored at the wrecker service storage facility. If the vehicle is to be stored at a Patrol facility, the storing member shall conduct an inventory, itemizing all property contained in the vehicle.

(d) All vehicles inventoried pursuant to this Rule shall be inventoried at the time of storage unless an emergency situation dictates otherwise. The inventory shall list all items that are toxic, explosive, flammable, or of monetary value. Unless locked or securely wrapped, all containers in the vehicle, whether open or closed, shall be opened to determine contents unless evidence is discovered to indicate that opening the container may subject the member to exposure of toxic, flammable, or explosive substances. Locked or securely wrapped luggage, packages, and containers shall not be opened except as otherwise authorized by law or by owner consent, but shall be indicated on the inventory list as locked or securely wrapped items. Locked or securely wrapped containers (luggage, attaché cases, etc.) shall be considered as units of inventory and shall not be searched without obtaining consent or a search warrant unless there is evident danger to the member or public. The member shall seek to obtain a search warrant when there is probable cause for a search of the vehicle or its contents when time and conditions permit.

*History Note: Authority G.S. 20-184; 20-187; 20-188;*

*Temporary Adoption Eff. June 9, 2000;*

*Eff. April 1, 2001;*  
*Amended Eff. July 18, 2008;*  
*Transferred from 14A NCAC 09H .0316 Eff. June 1, 2013;*  
*Readopted Eff. January 1, 2019.*

**14B NCAC 07A .0112 REIMBURSEMENT OF WRECKER OPERATORS**

If a court orders the release of any vehicle without payment of transportation and storage costs, the member shall obtain a statement of the transportation and storage fees. The Patrol may decide to appeal this court order. If the Patrol does not appeal, then the Patrol shall compensate the wrecker operator for reasonable transportation and storage fees in cases where no appeal is taken. When an appeal is taken, the Patrol shall not compensate wrecker operators until all appeals are exhausted.

*History Note: Authority G.S. 20-184; 20-187; 20-188;*  
*Temporary Adoption Eff. June 9, 2000;*  
*Eff. April 1, 2001;*  
*Amended Eff. July 18, 2008;*  
*Transferred from 14A NCAC 09H .0317 Eff. June 1, 2013;*  
*Readopted Eff. January 1, 2019.*

**14B NCAC 07A .0113 FINANCIAL INTEREST**

*History Note: Authority G.S. 20-184; 20-185; 20-187; 20-188;*  
*Temporary Adoption Eff. June 9, 2000;*  
*Eff. April 1, 2001;*  
*Transferred from 14A NCAC 09H .0318 Eff. June 1, 2013;*  
*Repealed Eff. January 1, 2019.*

**14B NCAC 07A .0114 IMPARTIAL USE OF SERVICES**

The Patrol shall use wrecker services to tow disabled, seized, wrecked, or abandoned vehicles. Members of the Patrol shall assure the impartial use of wrecker services through compliance with this Subchapter. In no event shall any member recommend any wrecker service, motor club, or automobile membership service to the owner or driver of a wrecked or disabled vehicle, nor shall any member recommend the services of a particular wrecker service, motor club, or automobile membership service in the performance of his or her duties. Members shall, whenever possible and practicable, dispatch the wrecker service requested by the motorist requiring such services.

*History Note: Authority G.S. 20-184; 20-187; 20-188;*  
*Temporary Adoption Eff. June 9, 2000;*  
*Eff. April 1, 2001;*  
*Transferred from 14A NCAC 09H .0319 Eff. June 1, 2013;*  
*Readopted Eff. January 1, 2019.*

**14B NCAC 07A .0115 ROTATION, ZONE, CONTRACT, AND DEVIATION FROM SYSTEM**

(a) The Troop Commander shall arrange for the Telecommunications Center to maintain a rotation wrecker system within each District of the Troop that shall include any of the following:

- (1) Separate computerized large and small rotation wrecker lists and manual rotation lists for the

entire District, whereby wrecker services are called in the order they appear on a list;

- (2) A zone system within the District, with a rotation wrecker list being maintained in each Rotation Wrecker Zone;
- (3) A zone, contract, or other system operated in conjunction with one or more local agencies; or
- (4) A combination of any such system.

(b) The Patrol member shall use the wrecker service requested by the vehicle owner or person in apparent control of the motor vehicle to be towed. Patrol members shall not attempt to influence the person's choice of wrecker services, but may answer questions and provide factual information. If no such request is made, the Patrol system in place in the Rotation Wrecker Zone shall be used, absent an emergency.

(c) The Troop Commander may deviate from any provisions in this Rule in emergency situations if there are insufficient wrecker services of the type needed within a District to meet the needs of the Patrol.

(d) Whenever vehicles are removed pursuant to G.S. 20-161(f), the investigating member(s) may request the closest available zone rotation wrecker service or available Department of Transportation (DOT) resource for the purpose of removing the obstruction from the roadway. Members shall ensure that the requested wrecker service is capable of responding without delay and is staffed and equipped to handle the request for service. All requests for assistance from DOT shall be made through the appropriate Telecommunications Center, where a list of on-duty/recall DOT personnel with the authority to concur with the decision to implement Quick Clearance shall be maintained.

*History Note: Authority G.S. 20-184; 20-187; 20-188;*  
*Temporary Adoption Eff. June 9, 2000;*  
*Eff. April 1, 2001;*  
*Amended Eff. July 18, 2008;*  
*Transferred from 14A NCAC 09H .0320 Eff. June 1, 2013;*  
*Readopted Eff. January 1, 2019.*

**14B NCAC 07A .0116 ROTATION WRECKER SERVICE REGULATIONS**

(a) The Troop Commander shall include on the rotation wrecker list only those wrecker services that agree in writing to adhere to the following provisions:

- (1) A wrecker service desiring to be included on the rotation wrecker list shall complete a wrecker application on a form designated by the Patrol. This application and all forms referenced in this Rule may be accessed at [www.ncdps.gov](http://www.ncdps.gov), State Highway Patrol, Wrecker Inspections tab. All applications shall be submitted to the appropriate District First Sergeant.
- (2) In order to be listed on a rotation wrecker list within a rotation wrecker zone, a wrecker service shall have a full-time business office within that rotation wrecker zone that is staffed and open 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding State holidays, and a storage facility. The wrecker service shall have someone available to accept telephone calls

- from the Patrol, to allow access to towed vehicles, or to retrieve towed vehicles by the registered owner, operator, or legal possessor during business hours. The business office may not be the same physical address as the owner's residence unless zoned for commercial purposes and advertised as a business property. A representative from the wrecker service shall be available on call on a 24-hour basis for emergencies. The wrecker service shall allow vehicles to be retrieved between the hours of 8:00 a.m. and 5:00 p.m., seven days a week, excluding State holidays. An individual (registered owner, legal possessor, or operator) shall not be charged a storage fee for days that he or she could not retrieve his or her vehicle as a result of an action or omission on the part of the wrecker service, such as where the wrecker service was not open, did not answer the telephone, or a representative was not available to release the vehicle.
- (3) Wrecker service facilities and equipment, including vehicles, office, telephone lines, office equipment, and storage facilities shall not be shared with or otherwise located on the property of another wrecker service and shall be independently insured. Vehicles towed at the request of the Patrol shall be placed in the storage owned and operated by the wrecker service on the rotation wrecker list. A storage facility for a small wrecker shall be located within the assigned zone. For wrecker services with large wreckers, the storage facility for vehicles towed with the large wrecker may be located anywhere within the county. To be listed on the large rotation wrecker list, a wrecker service shall have at least one large wrecker located within the county and designated for the sole use in that county. To be listed on the small rotation wrecker list, a wrecker service shall have at least one small wrecker located within the assigned zone and designated for the sole use in that assigned zone. A wrecker shall not be on more than one rotation wrecker list. In any case where husband and wife or other family members are engaged in the business of towing vehicles and desire to list each business separately on the wrecker rotation list, the wrecker service shall establish that it is a separate legal entity for every purpose, including federal and state tax purposes. Nothing in this Rule precludes a wrecker service from responding to private calls outside the assigned zone or county.
- (4) Each wrecker shall be equipped with legally required lighting and other safety equipment to protect the public and the equipment must be in good working order.
- (5) Each wrecker on the rotation wrecker list shall be equipped with the equipment required on the application list and the equipment shall be operating properly at all times.
- (6) The wrecker service operator must remove all debris, other than hazardous materials, from the highway and the right-of-way prior to leaving the incident or collision scene. "Hazardous Materials" consist of those materials and amounts that are required by law to be handled by local Hazardous Materials Teams. This service must be completed as part of the required rotation service and shall not be charged as an extra service provided. Hazardous materials or road clean-up other than debris may be billed in quarter-hour increments after the first hour on scene.
- (7) The wrecker service shall be available to the Patrol for rotation service on a 24-hour per day basis and accept collect calls (if applicable) from the Patrol. Calls for service shall not go unanswered for any reason, unless the wrecker company has notified the Patrol is unable respond as set forth in Subparagraph (a)(16) of this Rule.
- (8) The wrecker service shall respond, under normal conditions, in a timely manner. Failure to respond in a timely manner shall result in a second rotation wrecker being requested. If the second wrecker is requested before the arrival of the first rotation wrecker, the initial requested wrecker shall forfeit the call and shall leave the collision or incident scene.
- (9) For Patrol-involved incidents, the wrecker service shall respond only upon request from Patrol authority or at the request of the person in apparent control of the vehicle to be towed.
- (10) The wrecker service, when responding to rotation wrecker calls, shall charge reasonable fees for services rendered. Towing, storage, and related fees charged for rotation services may not exceed the wrecker service's charges for nonrotation service calls that provide the same service, labor, and conditions. Wrecker services may secure assistance from another rotation wrecker service when necessary, but only one bill shall be presented to the owner or operator of the vehicle for the work performed. A price list for recovery, towing, and storage shall be established and kept on file at the place of business. A price list for all small wreckers and rollbacks with a GVWR of less than 26,001 pounds shall be furnished in writing on a Patrol form to the District First Sergeant upon request. The District First Sergeant shall approve all price lists submitted within his or her respective District, if they are determined to be reasonable, consistent with fees charged by other Highway Patrol rotation wrecker services within the

- District and do not exceed the wrecker service's charges for nonrotation service calls that provide the same service, labor, and conditions. The District First Sergeant shall retain a copy of all approved price lists in the appropriate wrecker service file located in the district office. Storage fees shall not begin to accrue until the next calendar day following the initial towing of the vehicle. Wrecker service towing fees for recovery and transport of vehicles after 5:00 p.m. and on weekends shall not exceed the towing fees by more than 10 percent for recovery and transport of vehicles charged during regular business hours. A mileage fee shall be charged only if the customer requests the vehicle to be towed to a location outside of the assigned wrecker zone or county. If a mileage fee is warranted, the wrecker driver shall inform the owner, operator, or legal possessor of the vehicle of any additional charge for mileage prior to towing. The individual price list for each respective wrecker service shall be made available to customers upon request. Copies of the approved price list shall be maintained within each wrecker and shall be given to the owner, operator, or legal possessor of a vehicle being towed as a result of a Highway Patrol rotation wrecker call by the wrecker driver, if the owner, operator, or legal possessor of the vehicle being towed is present at the scene. Prices indicated on this form shall be the maximum amount that will be charged for a particular service; however, this does not prevent charges of a lesser amount for said service.
- (11) All wrecker operators shall have a valid driver's license for the type of vehicles driven. A limited driving privilege is not allowed.
  - (12) Wrecker owners, operators, and employees shall not be abusive, disrespectful, or use profane language when dealing with the public or any member of the Patrol and shall cooperate at all times with members of the Patrol.
  - (13) The wrecker service shall adhere to all Federal and State laws and local ordinances and regulations related to registration and operation of wrecker service vehicles and have insurance as required by G.S. 20-309(a).
  - (14) The wrecker service shall employ only wrecker operators who demonstrate an ability to perform required services in a safe, timely, efficient, and courteous manner and who satisfy all of the requirements for wrecker drivers established or referenced by this Rule. The wrecker service shall not take any passengers to the service call who have been convicted, pled guilty to, or received a prayer for judgment continued (PJC) for any of the offenses listed in Subparagraph (a)(21) of this Rule, with the exception of a Chapter 20 violation.
  - (15) The wrecker service shall notify the District First Sergeant of any insurance lapse or change. Wrecker services shall list the NC Highway Patrol as "Certificate Holder" on the Certificate of Liability Insurance, in c/o the District First Sergeant, complete with the current mailing address for the Highway Patrol District Office tasked with the responsibility of ensuring compliance with Highway Patrol policy regarding the respective wrecker service.
  - (16) The wrecker service shall notify the Patrol whenever the wrecker service is unable to respond to calls.
  - (17) Notification of rotation wrecker calls shall be made to the owner or operator or employee of the wrecker service. Notification shall not be made to any answering service, pager, or answering machine.
  - (18) Wrecker service vehicles shall be marked on each side by printing the wrecker service name, city, and state in at least three inch letters. No magnetic or stick-on signs shall be used. Decals are permissible. The wrecker service operator shall provide a business card to the investigating officer or person in apparent control of the vehicle before leaving the scene.
  - (19) Each wrecker service vehicle shall be registered with the Division of Motor Vehicles in the name of the wrecker service and insured by the wrecker service. Dealer tags shall not be displayed on wreckers that respond to rotation calls.
  - (20) Wrecker services shall secure all personal property at the scene of a collision to the extent possible, and preserve personal property in a vehicle that is about to be towed.
  - (21) The owner shall ensure that he or she and each wrecker driver has not been convicted of, pled guilty to, or received a prayer for judgment continued (PJC):
    - (A) Within the last five years of:
      - (i) A first offense under G.S. 20-138.1, G.S. 20-138.2, G.S. 20-138.2A, or G.S. 20-138.2B;
      - (ii) Any misdemeanor involving an assault, an affray, disorderly conduct, being drunk and disruptive, larceny, or fraud;
      - (iii) Misdemeanor Speeding to Elude Arrest; or
      - (iv) A violation of G.S. 14-223.
    - (B) Within the last ten years of:
      - (i) Two or more offenses in violation of G.S. 20-138.1,

- G.S. 20-138.2, G.S. 20-138.2A or G.S. 20-138.2B;
    - (ii) Felony speeding to elude arrest; or
    - (iii) Any Class F, G, H, or I felony involving sexual assault, assault, affray, disorderly conduct, being drunk and disruptive, fraud, larceny, misappropriation of property, or embezzlement.
  - (C) At any time of:
    - (i) Class A, B1, B2, C, D, or E felonies;
    - (ii) Any violation of G.S. 14-34.2, G.S. 14-34.5, or G.S. 14-34.7;
    - (iii) Any violation of G.S. 20-138.5; or
    - (iv) Three felony offenses in any federal or state court or combination thereof. The commission of a felony is not considered to be a second or subsequent felony unless it is committed after the conviction of or guilty plea to the previous felony.

For convictions occurring in federal court, another state or country, or for North Carolina convictions for felonies that were not assigned a class at the time of conviction, the North Carolina offense that is substantially similar to the federal or out of state conviction or the class of felony that is substantially similar to the North Carolina felony shall be used to determine whether the owner or driver is eligible. Any question from the owner of a wrecker service concerning a criminal record shall be discussed with the First Sergeant or his or her designee.
- (22) Upon employment or upon the request of the District First Sergeant, the owner of the wrecker service shall supply to the Patrol the full name, current address, date of birth, and photocopy of drivers license, valid work VISA, or other INS documentation for all wrecker drivers and owner(s) in order for the Patrol to obtain criminal history information. The owner of the wrecker service shall also provide a certified copy of the driving record for the owner and each driver authorized to drive on rotation upon initial application, upon the hiring of a driver hired after initial application, and at the time of periodic wrecker inspections conducted by the Patrol to ensure compliance with this Rule and applicable statutes. The wrecker service shall inform the District First Sergeant if the owner or a driver is charged with, convicted of, enters a plea of guilty or no contest to, or receives a prayer for judgment continued (PJC) for any of the crimes listed in Subparagraph (21) of this Paragraph. Upon notification that a driver or owner was charged with any of the crimes listed in Subparagraph (21) of this Paragraph, the Patrol shall conduct an independent administrative investigation. Willful failure to notify the District First Sergeant as required by this Subparagraph shall result in removal from the rotation wrecker service for 12 months.
- (23) Upon request of the vehicle owner, the rotation wrecker shall return personal property stored in or with a vehicle, whether or not the towing, repair, or storage fee on the vehicle has been or will be paid. Personal property, includes any goods, wares, freight, or any other property having any value other than the functioning vehicle itself.
- (24) The wrecker service shall tow disabled vehicles to any destination requested by the vehicle owner or other person with apparent authority after financial obligations have been finalized.
- (25) Unless notified by the Patrol that the vehicle is being preserved as evidence, the wrecker service shall allow insurance adjusters access to and allow inspection of the vehicle at any time during the wrecker service's normal working hours.
- (26) Being called by the Patrol to tow a vehicle does not create a contract with or obligation on the part of the Patrol or Patrol personnel to pay any fee or towing charge except when towing a vehicle:
  - (A) owned by the Patrol;
  - (B) that is later forfeited to the Patrol; or
  - (C) that a court determines that the Patrol wrongfully authorized the tow and orders the Patrol to pay transportation and storage fees.
- (27) Being placed on the rotation wrecker list does not guarantee a particular number or quantity of calls, does not guarantee an equivalent number of calls to every wrecker service on the rotation wrecker list, nor does it entitle any wrecker service to any compensation as a consequence for not being called in accordance with the list or when removed from the rotation wrecker list.
- (28) The willful failure to respond to a call by the Patrol shall result in the wrecker service being placed at the bottom of any rotation wrecker list and the wrecker service shall then be "automatically by-passed" when that wrecker service comes up for its next rotation call.
- (29) The District First Sergeant or his or her designee shall subject rotation wreckers and

facilities to inspections during normal business hours.

- (30) A rotation wrecker service, upon accepting a call for service from the Patrol, shall use its wrecker. Wrecker services shall not refer a call to another wrecker company or substitute for each other.
- (31) If a rotation wrecker service plans to move its business location, the owner shall send written notification of the new address to the District First Sergeant not less than 10 days prior to the move. The wrecker service shall not receive rotation calls prior to inspection of the new facility.
- (32) A wrecker service may dispatch either a wrecker or a rollback in response to a Patrol rotation wrecker call, except where the wrecker service is advised that a particular type of recovery vehicle is needed due to existing circumstances.
- (33) A rotation wrecker driver or employee shall not respond to a Patrol related incident with the odor of alcohol on his or her breath or while under the influence of alcohol, drugs, or any impairing substance.
- (34) A wrecker service shall have in effect a valid hook or cargo insurance policy issued by a company authorized to do business in the State of North Carolina in the amount of fifty thousand dollars (\$50,000) for each small wrecker and one hundred fifty thousand dollars (\$150,000) for each large wrecker or as otherwise required by Federal regulation, whichever is greater. In addition, each wrecker service shall have a garage keeper's insurance policy from an insurance company authorized to do business in the State of North Carolina covering towed vehicles in the amount of one hundred thousand dollars (\$100,000).

(b) The District First Sergeant shall conduct an investigation of each wrecker service that applied to be placed on the rotation wrecker list and determine if the wrecker service meets the requirements set forth in this Rule. If the District First Sergeant determines that a wrecker service fails to satisfy one or more of the requirements set forth in this Rule, the First Sergeant shall notify the wrecker service owner of the reason(s) for refusing to place it on the rotation wrecker list. Any wrecker service that fails to comply with the requirements of this Rule shall be removed from the rotation wrecker list.

(c) The Troop Commander or designee shall ensure that a wrecker service shall be included only once on each rotation wrecker list.

(d) Each Troop Commander shall designate a Troop Lieutenant to serve as a Rotation Wrecker Liaison for his or her respective Troop.

(e) If the Troop Commander or designee chooses to use a contract, zone, or other system administered by DOT or a local agency, the agency rules govern the system.

(f) If a wrecker service responds to a call, it shall be placed at the bottom of the rotation wrecker list by the Patrol Communications Center unless the wrecker service, through no fault of its own, is not used and receives no compensation for the call. In that event, it shall be placed back at the top of the rotation wrecker list.

*History Note: Authority G.S. 20-184; 20-187; 20-188;  
Temporary Adoption Eff. June 9, 2000;  
Eff. April 1, 2001;  
Amended Eff. April 1, 2010; July 18, 2008;  
Transferred from 14A NCAC 09H .0321 Eff. June 1, 2013;  
Amended Eff. March 19, 2015;  
Readopted Eff. January 1, 2019.*

#### **14B NCAC 07A .0118 SANCTIONS FOR VIOLATIONS**

(a) If a District First Sergeant determines that a violation of the rules in this Section has occurred, the First Sergeant may:

- (1) Issue a written warning and request for compliance to the wrecker service;
- (2) Remove the wrecker service from the rotation wrecker list until corrective measures have been taken to bring the wrecker service into compliance with the rules in this Section and verification of such compliance has been demonstrated; or
- (3) Remove the wrecker service from the rotation wrecker list for a period of time.

(b) The severity of the sanction imposed shall be commensurate with the nature of the violation and prior record of the wrecker service.

(c) If a wrecker service owner commits, is convicted of, pleads guilty to, or receives a prayer for judgment continued (PJC) for any of the offenses specified in 14B NCAC 07A .0116(a)(21), the wrecker service shall be removed from the rotation wrecker list and shall not be eligible to reapply for inclusion on the list for the designated period of time as set out in that Rule. If a wrecker service owner is charged with any of the offenses specified in 14B NCAC 07A .0116(a)(21), the wrecker service may be removed from the rotation wrecker list for the designated period of time prior to conviction only if an administrative investigation by the Patrol corroborates the commission of the offense. In such cases, the period of ineligibility shall commence on the date of removal.

(d) A wrecker service shall not employ or continue to employ as a driver any person who commits, is convicted of, pleads guilty to or receives a prayer for judgment continued for any of the offenses specified in 14B NCAC 07A .0116(a)(21). This prohibition is for the designated period of time as set out in that Rule. A wrecker service that willfully violates this provision shall be removed from the rotation wrecker list for a minimum of 12 months.

(e) A wrecker service driver or owner who responds to a Patrol related incident with an odor of alcohol on his or her breath shall immediately be removed from the rotation wrecker list for not less than 12 months. If the owner was not the driver and had no knowledge that the driver had been drinking, the wrecker service shall not be removed if the driver is prohibited from responding to Patrol calls for not less than 12 months. This period of removal is in addition to any removal that may result as a consequence of a conviction, plea of guilty, or prayer for judgment continued (PJC) pursuant to 14B NCAC 07A .0116(a)(21).

- (f) A wrecker service driver or owner who responds to a Patrol related incident with an odor of alcohol on his or her breath, and who refuses to submit to any requested chemical analysis, shall immediately be removed from the rotation wrecker list for a period of five years. If the owner was not the driver and had no knowledge that the driver had been drinking, the wrecker service shall not be removed if the driver is prohibited from responding to Patrol calls for 12 months. This period of removal is in addition to any removal that may result as a consequence of a conviction, plea of guilty, or prayer for judgment continued (PJC) pursuant to 14B NCAC 07A .0116(a)(21).
- (g) A willful misrepresentation of any material fact may result in removal from the rotation wrecker list.
- (h) For any violation of these Rules for which no specific period of removal or disqualification is established, a wrecker service shall be removed, at a minimum, until the violation is corrected.
- (i) A wrecker service that is removed from the rotation wrecker list remains ineligible for reinstatement even if ownership has been transferred to a family member.
- (j) A wrecker service that is removed from the rotation list must demonstrate compliance with all rules in this Section in order to be reinstated.

*History Note: Authority G.S. 20-184; 20-187; 20-188; Temporary Adoption Eff. June 9, 2000; Eff. April 1, 2001; Amended Eff. July 18, 2008; Transferred from 14A NCAC 09H .0323 Eff. June 1, 2013; Readopted Eff. January 1, 2019.*

#### **14B NCAC 07A .0119 HEARING PROCEDURES**

- (a) If the District First Sergeant refuses to include a wrecker service on the rotation wrecker list, the wrecker service may make a written appeal to the Troop Commander or designee within 20 calendar days of receipt of the decision. The Troop Commander or designee shall conduct a hearing or review the record and shall render a decision, in writing, within 10 calendar days of receipt of the appeal. The Troop Commander or designee's decision, if unfavorable, may be appealed to the Office of Administrative Hearings (OAH) within 60 calendar days of receipt of the decision, pursuant to the provisions of Article 3 of G.S. 150B.
- (b) If a District First Sergeant issues a written warning to a wrecker service for a violation of any of the rules in this Section, the wrecker service may, within 20 days of receipt of the warning, submit a written response to the First Sergeant in mitigation, explanation, or rebuttal. After considering the mitigation, explanation, or rebuttal, the First Sergeant may reconsider, and remove the written warning.
- (c) If a District First Sergeant determines that a violation of the rules in this Section has occurred, and determines that removal from the rotation wrecker list may be warranted, the District First Sergeant shall send written notice to the wrecker service of this determination and afford the wrecker service an opportunity to be heard. The hearing shall take place within 10 calendar days of actual notice or, if notice is by first class mail, within 13 days of the date the notice is placed in the mail. The hearing shall take place within 10 calendar days of the request for hearing and not less than three days written notice. If a District First Sergeant removes a wrecker service from the rotation wrecker list, the

- wrecker service may appeal the removal to the Troop Commander or designee in writing, within 20 calendar days of receipt of the notice. The Troop Commander or designee, may conduct a hearing or review the record. If the Troop Commander or designee decides to conduct a hearing, he or she shall give the wrecker service not less than 10 calendar days notice. The Troop Commander or designee shall issue a written decision within 10 calendar days of receipt of the appeal or date of the hearing, whichever occurs last. The Troop Commander or designee's decision, if unfavorable, may be appealed to OAH within 60 calendar days, pursuant to the provisions of G.S. 150B.
- (d) Hearings conducted by District First Sergeants or Troop Commanders or their designees shall be informal and no party shall be represented by legal counsel.
- (e) A wrecker service that is removed from the rotation wrecker list and later placed back on the list, for any reason, shall not be entitled to additional calls, priority listing, or any other form of compensation.
- (f) A wrecker service may remain on the rotation wrecker list pending a final decision of the Troop Commander or designee. A District First Sergeant, with the concurrence of the Troop Commander or designee, may, however, summarily remove a wrecker service from the rotation wrecker list in those cases where there exists reasonable grounds to believe a violation enumerated in 14B NCAC 07A .0116(a)(12), (a)(20), or (a)(31) or any other violation relating to licensing, registration, insurance requirements, or the safe and proper operation of the business or that may jeopardize the public health, safety, or welfare.

*History Note: Authority G.S. 20-184; 20-187; 20-188; 150B-22; Temporary Adoption Eff. June 9, 2000; Eff. April 1, 2001; Amended Eff. July 18, 2008; Transferred from 14A NCAC 09H .0324 Eff. June 1, 2013; Readopted Eff. January 1, 2019.*

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#### **14B NCAC 15A .2301 DEFINITIONS**

As used in this Section:

- (1) "Competition" means, as the term is used in G.S. 18B-306, a gathering or activity organized by homemakers at which homemade product is entered to be judged, that is either:
  - (a) sanctioned by a national or international beer or wine judging program; or
  - (b) judged by individuals of whom at least 50% are currently certified as judges by a national or international beer or wine judging program.

National or international beer or wine judging programs include the American Homebrew Association/Beer Judge Certification Program, the Cicerone Certification Program, the International Wine and Spirits Guild Certification Program, the American Wine

- Society Certification Program, and the National Wine School Sommelier Certification Program.
- (2) "Contest" means, as the term is used in G.S. 18B-306, a gathering or activity organized by a homemaker club at which homemade product of members of the club is entered to be judged.
  - (3) "Exhibition" means, as the term is used in G.S. 18B-306, a gathering or activity at which homemade product produced by multiple homemakers is displayed or shown but is not consumed or judged.
  - (4) "Event" includes an organized affair, exhibition, or competition.
  - (5) "Family" means a spouse, lineal descendant, ancestor, sibling, spouse's lineal descendant, spouse's ancestor, and spouse's sibling of the homemaker, and the spouse of any of these individuals.
  - (6) "General public" means any individual not a homemaker, a homemaker's family, or a guest.
  - (7) "Guest" means an individual known to the homemaker or the homemaker's family who is invited to the event by direct contact, including in person or by telephone, mail, or electronic mail, between the individual and the homemaker or the homemaker's family, and that person's guest.
  - (8) "Homemade product" means wine or malt beverages produced pursuant to G.S. 18B-306.
  - (9) "Homemaker" means a person who makes homemade product.
  - (10) "Homemaker club" means an organization devoted to homemade product that:
    - (a) has a defined membership with a stated common purpose;
    - (b) has a written policy for granting membership that includes a written application submitted by each member, both of which may be produced or maintained electronically; and
    - (c) maintains a list of all active members and their addresses that is present at all organized affairs of the club and is open to inspection by alcohol law-enforcement agents upon request.
  - (11) "Organized affair" means, as the term is used in G.S. 18B-306, a gathering or activity, other than a competition or exhibition, organized in whole or part by homemakers that includes as one of its purposes tasting or judging of homemade product. An organized affair includes meetings of a homemaker club, and a home product production educational meeting that meets the requirements of Rule .2305 of this Section, if tasting of homemade product is included as part of the meeting.
  - (12) "Tasting" means, as the term is used in G.S. 18B-306, a gathering or activity at which

samples of one or more home products are given for immediate consumption by a homemaker to another homemaker, that homemaker's family, or that homemaker's guest or to registered attendees at a home product production education meeting in accordance with the requirements of Rule .2305 of this Section.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-306; Eff. January 1, 2019.*

#### **14B NCAC 15A .2302 COMPETITIONS**

(a) Consumption of homemade products at a competition, other than at a private residence, shall be limited to judges and stewards of the competition, as defined by a national or international beer or wine judging program, who are identified in advance of the competition by the competition organizer. Judges may enter their homemade product in competitions in which they judge provided they do not judge any competition category in which they have entries. A competition may be limited to invitees or open to the general public, except as prohibited in Paragraph (c) of this Rule.

(b) A competition may be held on a premise holding a retail ABC permit if the following conditions are met:

- (1) the competition shall be segregated from the remainder of the premises in a separate space with closable doors, or by a barrier that may include curtains, partitions or other structures, that separates the competition area and makes the competition not visible from the portion of the premises where food or beverages are served to the general public during the time of the event;
- (2) no homemade product shall be consumed outside of the homemade product consumption area designated pursuant to Subparagraph (1) of this Paragraph during the times any portion of the retail premises is open to the general public;
- (3) the retail permittee shall only provide or offer commercial alcoholic products to participants in the competition at the same rate and method as offered to the general public at any other times of that business day that the permittee is authorized to sell; and
- (4) homemade product for the competition shall not be stored on permitted premises for more than 48 hours prior to the competition, provided the homemade product is sealed, labeled as "homemade product for competition entry," and segregated from other alcoholic beverages located on the premises. No homemade product shall remain on the permitted premises the day after the conclusion of the competition. All containers of homemade product left on the permitted premises contrary to the provisions of this Rule shall be disposed of by the permittee or the permittee's employee by making the homemade product unsuitable for, or incapable of, being consumed.



(c) A competition may be held on a premise holding a commercial ABC permit if the following conditions are met:

- (1) the area for consumption of homemade product during a competition shall only be in the areas of the permitted premises without active production;
- (2) the competition shall only be held on those portions of permitted premises that are not open to the public;
- (3) no homemade product shall be consumed on the commercial permitted premises, except for judges and stewards, during the times any portion of the commercial premises is open to the general public; and
- (4) homemade product for the competition shall not be stored on permitted commercial premises for more than 30 days prior to the competition, provided the homemade product is sealed, labeled as "homemade product for competition entry," stored only in post-production areas that may also contained sealed alcoholic beverages produced by the commercial permittee, and segregated from other alcoholic beverages located on the premises. No homemade product shall remain on the permitted premises the day after the conclusion of the competition. All containers of homemade product left on the permitted premises contrary to the provisions of this Rule shall be disposed of by the permittee or the permittee's employee by making the homemade product unsuitable for, or incapable of, being consumed.

(d) Cash prizes may be paid to entrants in a competition from the registration fees collected so long as not all homemakers participating in the event share in the proceeds from the registration fees.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-306; Eff. January 1, 2019.*

#### **14B NCAC 15A .2303 EXHIBITIONS**

- (a) An exhibition may be open to the general public.
- (b) An exhibition shall not be held at a private residence.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-306; Eff. January 1, 2019.*

#### **14B NCAC 15A .2304 ORGANIZED AFFAIRS**

- (a) Homemade product may be consumed at organized affairs provided that, if the affair is a contest, it is not sanctioned by a national or international beer or wine judging program and no fee is charged to attend or participate, except for fees as authorized pursuant to Rule .2305 of this Section. Consumption at organized affairs shall be limited to homemakers, their families, and their guests.
- (b) All judges of a contest shall be members of the homemaker club or their guests. Prizes shall not be awarded as a result of the contest, but homemakers may be recognized for their homemade products.

(c) An organized affair may be held on a premise holding a retail ABC permit if the following conditions are met:

- (1) the area for consumption of homemade product during an organized affair shall be segregated from the portion of the premises open to the general public during the time of the event by vertical boundaries that separate the private event from areas open for public consumption;
- (2) no homemade product shall be consumed outside of the homemade product consumption area designated pursuant to Subparagraph (1) of this Paragraph during the times any portion of the retail premises is open to the general public;
- (3) the retail permittee may sell or offer commercial alcoholic products the permittee is authorized to sell to persons attending the organized affair on the retail permittee's premises, provided that all alcoholic beverages offered to participants in the organized affair shall be at the same price and method as offered to the general public at any other times of that business day; and
- (4) for an organized affair, homemade product may be stored on permitted premises for no more than 48 hours prior to the organized affair, provided that the homemade product shall be sealed, labeled as "homemade product for contest entry," and segregated from other alcoholic beverages located on the premises. No homemade product shall remain on the permitted premises the day after the conclusion of the organized affair. All containers of homemade product left on the permitted premises contrary to the provisions of this Rule shall be disposed of by the permittee or the permittee's employee, by making the homemade product unsuitable for, or incapable of, being consumed.

(d) An organized affair may not be held on a premise holding a commercial ABC permit.

(e) There shall be no admission or entrance fee charged for an organized affair occurring at a private residence.

*History Note: Authority G.S. 18B-100; 18B-207; 18B-306; Eff. January 1, 2019.*

#### **14B NCAC 15A .2305 HOME PRODUCT PRODUCTION EDUCATION MEETING**

A home product production education meeting shall be an organized affair of a state, regional, national, or international homemade beer or wine organization that requires payment of dues for membership, that includes programs to educate and inform homemakers concerning the production of homemade products. Registration may be charged to participate in the educational portions of the program. In addition to educational programs, the home product production education meeting may include homemade product tastings by registered attendees of homemade product brought to the meeting by registered attendees. Commercial alcoholic products may be sold or offered

at home product education meetings by a retail permittee, in addition to home products, provided that all commercial alcoholic products offered by the retail permittee to participants at the meeting shall be at the same price and method as offered to the general public at any other times of that business day.

*History Note:* Authority G.S. 18B-100; 18B-207; 18B-306; Eff. January 1, 2019.

**14B NCAC 15A .2306 POSSESSION, CONSUMPTION, TRANSPORTATION, AND DISPOSITION OF HOMEMADE PRODUCT**

- (a) Possession and consumption of homemade product shall be limited to persons who are 21 years of age or older. Homemade product shall not be offered, given to, or consumed by the general public.
- (b) Except as limited by this Section, events may be held at locations where possession and consumption of malt beverages and unfortified wine are otherwise authorized by law.
- (c) Homemade product shall remain in possession of the homemaker, except:
  - (1) at an exhibition;
  - (2) when the homemade product is under the control of a retail permittee or a commercial permittee in accordance with Rules .2302 and .2304 of this Section; or
  - (3) when transfer of possession is acknowledged and custody, control and liability is assumed in writing by an individual acting on behalf of the organizer or sponsor of a competition held in accordance with Rule .2302 of this Section.

Only a homemaker shall deliver that person's homemade product to the location of an event.

- (d) A homemaker may transport quantities of homemade product up to the limits set forth in G.S. 18B-303(a), provided that the maximum aggregate amount of all homemade product transported by an individual homemaker at any one time for any one event shall not exceed 80 liters.
- (e) All containers of homemade product remaining on non-permitted premises after the conclusion of an event, other than events held at a private residence, shall be removed from the premises or the contents of the container shall be disposed of by being made unsuitable for, or incapable of, being consumed at the conclusion of the event.

*History Note:* Authority G.S. 18B-100; 18B-207; 18B-306; Eff. January 1, 2019.

**14B NCAC 15A .2307 ALLOWABLE FEES**

- (a) No admission fee shall be charged to persons consuming homemade product.
- (b) A fee required to enter into the site of a competition may be charged for a competition, except that no fees shall be charged for a competition occurring at a private residence.
- (c) An admission or entrance fee may be charged by the organizer of an exhibition.
- (d) A registration or entry fee may be charged to a homemaker for entering a homemade product to be judged in a competition,

or for participating in a home product production education meeting.

*History Note:* Authority G.S. 18B-100; 18B-207; 18B-306; Eff. January 1, 2019.

**TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY**

**15A NCAC 02B .0304 FRENCH BROAD RIVER BASIN**

(a) Effective February 1, 1976, the adopted classifications assigned to the waters within the French Broad River Basin are set forth in the French Broad River Basin Schedule of Classifications and Water Quality Standards, which may be inspected at the following places:

- (1) the Internet at <https://deq.nc.gov/river-basin-classification-schedule>; and
- (2) the North Carolina Department of Environmental Quality:
  - (A) Asheville Regional Office  
2090 US Highway 70  
Swannanoa, North Carolina; and
  - (B) Division of Water Resources  
Central Office  
512 North Salisbury Street  
Raleigh, North Carolina.

(b) Unnamed Streams. Such streams entering Tennessee are classified "B."

(c) The French Broad River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) September 22, 1976;
- (2) March 1, 1977;
- (3) August 12, 1979;
- (4) April 1, 1983;
- (5) August 1, 1984;
- (6) August 1, 1985;
- (7) February 1, 1986;
- (8) May 1, 1987;
- (9) August 1, 1990.

(d) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective March 1, 1989 as follows:

- (1) Cataloochee Creek (Index No. 5-41) and all tributary waters were reclassified from Class C-trout and Class C to Class C-trout ORW and Class C ORW.
- (2) South Fork Mills River (Index No. 6-54-3) down to Queen Creek and all tributaries were reclassified from Class WS-I and Class WS-III-trout to Class WS-I ORW and Class WS-III-trout ORW.

(e) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective October 1, 1989 as follows: Cane River (Index No. 7-3) from source to Bowlens Creek and all tributaries were reclassified from Class C trout and Class C to Class WS-III trout and Class WS-III.

(f) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective January

1, 1990 as follows: North Toe River (Index No. 7-2) from source to Cathis Creek (Christ Branch) and all tributaries were reclassified from Class C trout and Class C to Class WS-III trout and Class WS-III.

(g) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 02B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(h) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective October 1, 1993 as follows: Reasonover Creek Index No. 6-38-14-(1) from source to Reasonover Lake Dam and all tributaries were reclassified from Class B Trout to Class WS-V and B Trout, and Reasonover Creek Index No. 6-38-14-(4) from Reasonover Lake Dam to Lake Julia Dam and all tributaries were reclassified from Class C Trout to Class WS-V Trout.

(i) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective July 1, 1995 with the reclassification of Cane Creek [Index Nos. 6-57-(1) and 6-57-(9)] from its source to the French Broad River from Classes WS-IV and WS-IV Tr to Classes WS-V, WS-V Tr and WS-IV.

(j) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective November 1, 1995 as follows: North Toe River [Index Numbers 7-2-(0.5) and 7-2-(37.5)] from source to a point 0.2 miles downstream of Banjo Branch, including tributaries, has been reclassified from Class WS-III, WS-III Trout and WS-III Trout CA (critical area) to Class WS-IV Trout, WS-IV, WS-IV Trout CA, and C Trout.

(k) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective January 1, 1996 as follows: Stokely Hollow Index Numbers 6-121.5-(1) and 6-121.5-(2) from source to mouth of French Broad River has been reclassified from Class WS-II and Class WS-II CA to Class C.

(l) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended April 1, 1996 with the reclassification of the French Broad River Index No. 6-(1) from a point 0.5 miles downstream of Little River to Mill Pond Creek to Class WS-IV; French Broad River Index No. 6-(51.5) from a point 0.6 miles upstream of Mills River to Mills River to Class WS-IV CA (Critical Area), from Mills River to a point 0.1 miles upstream of Boring Mill Branch to Class C; and the Mills River Index No. 6-54-(5) was reclassified from City of Hendersonville water supply intake to a point 0.7 miles upstream of mouth of Mills River to Class WS-III, and from a point 0.7 miles upstream of mouth of Mills River to French Broad River to Class WS-III CA (Critical Area).

(m) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 1998 with the revision to the primary classification for portions of the French Broad River Index No. 6-(38.5) and the North Toe River 7-2-(10.5) from Class IV to Class C.

(n) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 1998 with the reclassification of Clear Creek Index No. 6-55-(1) from its source to Lewis Creek from Class C Tr to Class B Tr.

(o) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 2000 with the reclassification of Rough Creek Index No. 5-8-4-(1), including all tributaries, from its source to the Canton Reservoir from Class WS-I to Class WS-I Tr ORW.

(p) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 2002 with the revision to the primary classification for the French Broad River Index No. 6-(1), 6-(27), 6-(47.5), 6-(52.5), and 6-(54.5) including its four headwater forks' mainstems, watershed of tributary Davidson River, and watershed of tributary Bent Creek below Powhatan Dam, and the Nolichucky River Index No. 7 including a lower portion of the North Toe River from Class C and Class WS-IV to Class B.

(q) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 2002 with the reclassification of the North Toe River Index No. 7-2-(0.5), including all tributaries, from source to a point 0.2 mile upstream of Pyatt Creek, from Class C Tr to Class WS-V Tr.

(r) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended September 1, 2004 with the reclassification of a portion of Richland Creek Index No. 5-16(1), from source to a point approximately 11.2 miles from source (Boyd Avenue), from Class B to Class B Tr, and all tributaries to the portion of the creek referenced in this Paragraph from C, C HQW, and WS-I HQW, and WS-I HQW to C Tr, C HQW Tr, and WS-I HQW Tr, respectively, except Hyatt Creek Index No. 5-16-6, Farmer Branch Index No. 5-16-11, and tributaries already classified as Tr.

(s) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective November 1, 2007 with the reclassification of McClure's Bog near Gash Creek Index No. 6-47 to Class WL UWL as defined in 15A NCAC 02B .0101. The North Carolina Division of Water Resources maintains a Geographic Information Systems data layer of the UWL.

(t) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective September 1, 2009 with the reclassification of the entire watershed of Big Laurel Creek (Index No. 6-112) from source to the French Broad River from Class C Tr to Class C ORW Tr.

(u) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective September 1, 2009 with the reclassification of the entire watershed of Spring Creek Index No. 6-118-(1) and 6-118-(27) from source to the French Broad River from Class C Tr and Class C to Class C ORW Tr and Class C ORW.

(v) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin is amended December 1, 2011 with the reclassification of a portion of the French Broad River

Index No. 6-(54.5) from the confluence of the Mills River to a point 0.2 miles downstream of the confluence of the Mills River from Class B to Class WS-IV&B CA.

(w) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended January 1, 2019 with the reclassification of Enka Lake, which is a portion of the Bill Moore Creek (Index No. 6-76-7), from Class C to Class B.

*History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);*

*Eff. February 1, 1976;*

*Amended Eff. January 1, 2019; December 1, 2011; September 1, 2009; November 1, 2007; September 1, 2004; August 1, 2002; August 1, 2000; August 1, 1998; April 1, 1996; January 1, 1996; November 1, 1995; July 1, 1995.*

**15A NCAC 02K .0224 ADDITIONAL REQUIREMENTS FOR DAMS THAT IMPOUND COAL COMBUSTION RESIDUALS**

(a) For the purposes of this Rule:

- (1) "CCR" means Coal Combustion Residuals.
- (2) "CCR unit" means any CCR landfill, CCR surface impoundment, or lateral expansion of a CCR unit, or a combination of more than one of these units, based on the context of the paragraph(s) in which it is used. This term includes both new and existing units, unless otherwise specified in this Subchapter or the Dam Safety Law of 1967. For the purpose of this Rule, the term only applies to CCR dams and surface impoundments.
- (3) "Dam" means a structure and appurtenant works erected to impound or divert water.
- (4) "Design flood" means the flood hydrograph that is used during an engineering assessment of the CCR unit.
- (5) "Liquefaction" means a phenomenon whereby a saturated or partially saturated soil loses strength and stiffness in response to an applied stress, usually earthquake shaking or other sudden change in stress condition, causing it to behave like a liquid.
- (6) "Probable Maximum Flood" or "PMF" means the theoretically largest flood resulting from the most severe combination of meteorological and hydrological conditions that could conceivably occur in the drainage basin. The PMF is the runoff resulting from the Probable Maximum Precipitation.
- (7) "Probable Maximum Precipitation" or "PMP" means the theoretically greatest depth of precipitation for a given duration that is physically possible over a given storm area at a particular geographical location at a certain time of the year. Estimates of rainfall amounts and distributions associated with the PMP can be found at the following locations: [http://www.nws.noaa.gov/oh/hdsc/PMP\\_documents/HMR51.pdf](http://www.nws.noaa.gov/oh/hdsc/PMP_documents/HMR51.pdf) and

[http://www.nws.noaa.gov/oh/hdsc/PMP\\_documents/HMR52.pdf](http://www.nws.noaa.gov/oh/hdsc/PMP_documents/HMR52.pdf)

- (8) "Toe" means the point of intersection between the upstream or downstream face of a dam and the natural ground.
- (9) "100-year flood" means a flood that has a 1-percent chance of recurring in any given year. Rainfall amounts for the 100-year flood can be found at: [https://hdsc.nws.noaa.gov/hdsc/pfds/pfds\\_map\\_cont.html](https://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html).
- (10) "1000-year flood" means a flood that has a 0.1-percent chance of recurring in any given year. Rainfall amounts for the 1000-year flood can be found at: [https://hdsc.nws.noaa.gov/hdsc/pfds/pfds\\_map\\_cont.html](https://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html).

(b) This Rule shall apply to a CCR unit that meets one or more of the following:

- (1) has a dam height of 25 feet or more above the downstream toe of the structure and has a storage volume of 50 acre-feet or more, unless the unit is exempt by G.S. 143-215.25A;
- (2) contains residuals to an elevation of five feet or more above the downstream toe of the structure and that has a storage volume of 20 acre-feet or more;
- (3) contains residuals to an elevation of greater than or equal to 20 feet above the downstream toe of the structure; or
- (4) has been classified as high hazard (Class C) according to Rule .0105 of this Subchapter.

(c) Inspections and Structural Stability Assessments of CCR units shall be completed as follows:

- (1) At intervals not exceeding seven days, a qualified engineer, or a person under his or her responsible charge, shall inspect the discharge of all outlets of hydraulic structures that pass underneath the base of the CCR unit for discoloration of discharge or changes in flow.
- (2) A qualified engineer, or a person under his or her responsible charge, shall conduct monitoring of all instrumentation supporting the operation of the CCR unit no less than once per month according to the standards listed under 40 CFR 257.83(a), which is hereby incorporated by reference, including subsequent amendments and additions. A copy of this document may be obtained at no cost at [https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40cfr257\\_main\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40cfr257_main_02.tpl).
- (3) During the annual inspections of all CCR units, a qualified engineer, or a person under his or her responsible charge, shall conduct a visual inspection of hydraulic structures underlying the base of the CCR unit in order to maintain structural integrity by being kept free of

- (4) deterioration, deformation, distortion, bedding deficiencies, sedimentation, and debris.
- A qualified engineer, or a person under his or her responsible charge, shall conduct structural stability assessments and shall document whether the design, construction, operation, and maintenance of the CCR unit is consistent with the provisions of 40 CFR 257.73(d) and 257.74(d), which is hereby incorporated by reference, including subsequent amendments and additions, the NC Dam Safety Law of 1967, and the rules of this Subchapter. The structural stability assessment shall be completed by a qualified engineer once every five years and submitted to the Department for review for consistency with this Subchapter and the Dam Safety Law of 1967.

(d) All CCR dams described in Paragraph (b) of this Rule shall have a spillway system with capacity to pass a flow resulting from a design flood as specified in the Minimum Spillway Design Flood for CCR Units table provided in this Paragraph, unless the applicant provides calculations, designs, and plans, prepared in accordance with generally-accepted engineering standards, to show that the design flood can be stored, passed through, or passed over the CCR unit without failure occurring. The requirements in the table below shall apply in place of the Minimum Spillway Design Storm table under Rule .0205(e) of this Section.

<b>Minimum Spillway Design Flood for CCR Units</b>		
<b>Hazard<sup>1</sup></b>	<b>Size<sup>2</sup></b>	<b>Spillway Design Flood<sup>3</sup></b>
Low (Class A)	Small	100 year
	Medium	100 year
	Large	1/3 PMF
	Very Large	½ PMF
Intermediate (Class B)	Small	1000 year
	Medium	1/3 PMF or 1000 year, whichever is larger
	Large	½ PMF
	Very Large	¾ PMF
High (Class C)	Small	PMF
	Medium	PMF
	Large	PMF
	Very Large	PMF
<sup>1</sup> The "Hazard" categories in this table for CCR units are based on 15A NCAC 02K .0105 Classification of Dams and are the same "Hazard" categories shown in the "Minimum Spillway Design Storms" table for non-CCR dams contained in Rule .0205(e) of this Section.		

<sup>2</sup> The "Size" categories are the same as described in the "Criteria for Spillway Design Storm Size Classification" table found in Rule .0205(e) of this Section.

<sup>3</sup> The "Spillway Design Flood" specifications were derived from the combination of the more-stringent criterion from the spillway design-flood elements of the federal CCR regulations and the existing spillway design elements of Rule .0205(e) of this Section.

- (e) Structural stability assessments shall be evaluated as follows:
- (1) For purposes of this Rule, the "critical cross sections" utilized for the required structural stability assessments are the cross sections anticipated by the design engineer to be the most susceptible to structural failure.
  - (2) CCR surface impoundments shall be assessed under seismic loading conditions for a seismic loading event with a 2 percent probability of exceedance in 50 years, equivalent to a return period of approximately 2,500 years, based on the USGS Seismic Hazard Maps for seismic events with this return period for the region where the CCR unit is located. This document is hereby incorporated by reference, including subsequent amendments and editions. A copy may be obtained at no cost at <https://earthquake.usgs.gov/hazards/hazmaps>.
  - (3) CCR units constructed of or founded upon soils that are susceptible to liquefaction, as identified by a liquefaction potential analysis, shall meet liquefaction factors of safety as required in Part (5)(E) of this Subparagraph. The liquefaction potential analysis shall include:
    - (A) soil classifications of the embankment and foundation soils;
    - (B) fines content;
    - (C) plasticity index;
    - (D) water content;
    - (E) saturation;
    - (F) maximum current, past, and anticipated phreatic surface levels within the embankment, foundation, and abutments;
    - (G) location beneath or above the natural ground surface; and
    - (H) penetration resistance through cone penetration testing (CPT).
  - (4) Stability assessments shall be required for CCR units with downstream slopes that may be inundated by the pool of an adjacent water body. These assessments shall include conditions for maximum pool loading, minimum pool loading, and rapid drawdown of the adjacent waterbody.

- (5) The safety factor assessments shall be supported by the following engineering calculations:

- (A) The calculated static factor of safety for the end-of-construction loading condition shall equal or exceed 1.30. The assessment of this loading condition is only required for the initial safety factor assessment and is not required for subsequent assessments;
- (B) the calculated static factor of safety for the long-term, maximum storage pool loading condition shall equal or exceed 1.50;
- (C) the calculated static factor of safety under the maximum surcharge pool loading condition shall equal or exceed 1.40;
- (D) the calculated seismic factor of safety shall equal or exceed 1.00; and
- (E) for dams constructed of or founded upon soils that have susceptibility to liquefaction, the calculated liquefaction factor of safety shall equal or exceed 1.20. Post-liquefaction stability analyses shall include characterization of the site conditions, identification of the minimum liquefaction-inducing forces based on soil characterization, determination of seismic effect on liquefied layers of the embankment, and calculation of factors of safety against liquefaction for each liquefied layer of the embankment.

(f) CCR units and surrounding areas that are constructed of earthen material shall be designed, constructed, operated, and maintained so that the vegetation meets the conditions outlined in the FEMA 534 guidance document entitled, "Technical Manual for Dam Owners: Impacts of Plants on Earthen Dams" issued on September 2005. This document is hereby incorporated by reference, including subsequent amendments and editions. A copy may be obtained at no cost at <https://www.fema.gov/media-library/assets/documents/1027>. However, alternative forms of slope protection may be approved by the Director, upon request by a qualified engineer through a plan submittal showing that the proposed alternative slope protection will provide equal or better protection from erosion than would be achieved with vegetation as specified in FEMA 534.

*History Note:* Authority G.S. 143-215.25A; 143-215.26; 143-215.27; 143-215.31; 143-215.32; 143-215.34;  
Eff. January 1, 2019.

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## **15A NCAC 18C .1305 SOURCE WATER PROTECTION PLANNING**

(a) In compliance with G.S. 130A-320, every supplier of water operating a public water system treating and furnishing water from a surface water source shall create and implement a Source Water Protection Plan (SWPP) based upon the following schedule:

- (1) Water systems that have a single source of supply and a source susceptibility rating of higher or moderate, as determined by the Department, shall create and implement a SWPP by January 1, 2021.
- (2) Water systems that have multiple sources of supply and any source susceptibility rating of higher, as determined by the Department, shall create and implement a SWPP by January 1, 2022.
- (3) All other water systems treating and furnishing water from surface water sources shall create and implement an SWPP by January 1, 2023.
- (4) Any public water system that begins treating and furnishing water from a surface water source on or after January 1, 2021 shall create and implement a SWPP that satisfies the requirements of this Rule prior to the commencement of its operations.

(b) Any public water system required to create and implement a SWPP in accordance with this Rule shall review and update their SWPP at three year intervals from the creation deadline specified in Paragraph (a) of this Rule. Updated information in the SWPP must address the plan elements listed in Paragraph (c) of this Rule.

(c) Each SWPP shall contain the following elements:

- (1) A list of potential contaminant sources (PCSs), both provided by the Department and identified by the water system, located in the following areas as defined in Classifications and Water Quality Standards Applicable to Surface Waters and Wetlands of North Carolina, 15A NCAC 02B .0200, which is hereby incorporated by reference, including subsequent amendments and editions and can be found at no charge at [http://portal.ncdenr.org/c/document\\_library/get\\_file?uuid=f12e8078-b128-44cc-b55b-fc5e7d876f3c&groupId=38364](http://portal.ncdenr.org/c/document_library/get_file?uuid=f12e8078-b128-44cc-b55b-fc5e7d876f3c&groupId=38364);
- (A) within the entire watershed for waters classified as WS-I;
- (B) within the critical area and 1,000 feet from perennial streambanks within the protected area for waters classified as WS-II and WS-III;
- (C) within the critical area and 1,000 feet from perennial streambanks, within the protected area for waters classified as WS-IV;
- (D) within ½ mile from the normal pool elevation in which the intake is located, or to the ridge line of the watershed, whichever comes first, for

- a reservoir within waters classified as WS-V; and
  - (E) within ½ mile, measured as a straight line, upstream from and draining to the intake located directly in the stream or river, or to the ridge line of the watershed, whichever comes first, for a direct-stream intake within waters classified as WS-V.
- (2) For community water systems, a contingency strategy that documents the system's planned response to an emergency event or contamination of its water source(s) that includes the following:
  - (A) identification and contact information of personnel responsible for emergency management, including water system, local, State, and federal emergency response personnel;
  - (B) identification of foreseeable natural and human-caused emergency events including water shortages and outages;
  - (C) description of the emergency response strategies for each identified shortage or outage event and each potential contamination event associated with PCSs identified and listed in Subparagraph (c)(1) of this Rule;
  - (D) standard operating procedures to close intakes and switch to an alternate intake during a contamination event, including procedures that outline exercises designed to practice closure and switching of the intake(s);
  - (E) description of public notification procedures; and
  - (F) identification and evaluation of all facilities and equipment that upon failure would result in a water outage or violations of the Rules Governing Public Water Systems, 15A NCAC 18C.
- (3) For non-transient, non-community water systems, the contingency strategy shall contain the positions and phone numbers of responsible persons to contact in the event of an emergency, including water system, local, State, and federal emergency contacts.
- (4) An evaluation of a water system's ability to take the following actions:
  - (A) close its water intake(s) in the event of contamination, including a determination of the duration of time the water intake(s) can remain closed while maintaining positive water pressure within the distribution system;
  - (B) isolate or divert contaminated water from its surface water intake(s);
  - (C) reduce demand by implementing conservation measures during a contamination event. Water Shortage Response Plans can be referenced to fulfill this requirement for water systems required to prepare a Water Shortage Response Plan under 15A NCAC 02E .0607, which is hereby incorporated by reference, including subsequent amendments and editions and can be found at no charge at <http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2002%20-%20environmental%20management/subchapter%20e/15a%20ncac%2002e%20.0607.pdf>; and
  - (D) meet demand via alternate sources of supply in the event of contamination or loss of its primary water source.
- (5) Verification of outreach efforts provided to the owners of the PCSs identified in Subparagraph (c)(1) of this Rule to raise awareness of the proximity of the drinking water intake(s) and provide emergency contact information for use during a contamination event.
- (6) A description of proactive activities and management strategies designed to protect the source(s) from contamination, including documentation of any voluntary source water protection activities that have been implemented by the water system.
- (7) Description of public awareness communication efforts that include the following:
  - (A) publication of the emergency and source water protection planning status, the next revision date, and a reference to this Rule in the community water system's annual Consumer Confidence Report, as required by 15A NCAC 18C .1538; and
  - (B) notification to any other public water system to which the system is directly interconnected of the contingency strategy set forth in Subparagraph (c)(2) of this Rule. A description of this communication shall be maintained in the SWPP.
- (d) The supplier of water shall maintain a copy of the current SWPP onsite at each water treatment facility and make the SWPP available to personnel responsible for emergency management and operator(s) on duty at all times. The SWPP and any associated documentation used in its creation and implementation shall be available for review by Section staff upon request.

(e) The supplier of water shall certify that a SWPP has been created and implemented, and that the water system's governing body has been advised of the SWPP creation and implementation. The certification shall be submitted to the Department by the deadline specified in Paragraph (a) of this Rule.

(f) The supplier of water shall certify that a SWPP has been revised and that the water system's governing body has been advised of the revision. The certification shall be submitted to the Department by the revision deadline specified in Paragraph (b) of this Rule.

*History Note: Authority G.S. 130A-315; 130A-320(c); Eff. January 1, 2019.*

## **TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS**

### **CHAPTER 16 – BOARD OF DENTAL EXAMINERS**

#### **21 NCAC 16T .0101 RECORD CONTENT**

A dentist shall maintain treatment records on all patients for a period of 10 years from the last treatment date, except that work orders must only be maintained for a period of two years. Treatment records may include such information as the dentist deems appropriate but shall include:

- (1) the patient's full name, address, and treatment dates;
- (2) the patient's emergency contact or responsible party;
- (3) a current health history;
- (4) the diagnosis of condition;
- (5) the treatment rendered and by whom;
- (6) the name and strength of any medications prescribed, dispensed, or administered along with the quantity and date provided;
- (7) the work orders issued;
- (8) the treatment plans for patients of record, except that treatment plans are not required for patients seen only on an emergency basis;
- (9) the diagnostic radiographs, orthodontic study models, and other diagnostic aids, if taken;
- (10) the patient's financial records and copies of all insurance claim forms;
- (11) the rationale for prescribing each narcotic; and
- (12) A written record that the patient gave informed consent consistent with Rule .0103 of this Section.

*History Note: Authority G.S. 90-28; 90-48; Eff. October 1, 1996; Amended Eff. May 1, 2016; July 1, 2015; Readopted Eff. January 1, 2019.*

#### **21 NCAC 16T .0103 INFORMED CONSENT**

(a) To obtain informed consent to a specific procedure or treatment to be provided, the dentist shall discuss with a patient or other person authorized by the patient or by law to give informed consent on behalf of the patient, prior to any treatment

or procedure, information sufficient to permit the patient or authorized person to understand:

- (1) the condition to be treated;
  - (2) the specific procedures and treatments to be provided;
  - (3) the anticipated results of the procedures and treatments to be provided;
  - (4) the risks and hazards of the procedures or treatments to be provided that are recognized by dentists engaged in the same field of practice;
  - (5) the risks of foregoing the proposed treatments or procedures; and
  - (6) alternative procedures or treatment options;
- (b) A dentist is not required to obtain informed consent if:
- (1) treatment is rendered on an emergency basis; and
  - (2) the patient is incapacitated.

*History Note: Authority G.S. 90-28; 90-48; Eff. January 1, 2019.*

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### **CHAPTER 36 – BOARD OF NURSING**

#### **21 NCAC 36 .0109 SELECTION AND QUALIFICATIONS OF NURSE MEMBERS**

(a) Vacancies in nurse member positions on the Board that are scheduled to occur during the next year shall be announced in the last issue of the Board's "Bulletin" for the calendar year, which shall be posted on the Board's website at [www.ncbon.com](http://www.ncbon.com). The "Bulletin" and Board's website at [www.ncbon.com](http://www.ncbon.com) shall include a petition form for nominating a nurse to the Board and information on filing the petition with the Board.

(b) Each petition shall be checked with the records of the Board to validate that the candidate and each petitioner holds an active unencumbered North Carolina license to practice nursing. If the candidate does not hold an active unencumbered license, the petition shall be declared invalid. If any petitioners do not hold an active unencumbered licenses, and this decreases the number of petitioners to fewer than 10, the petition shall be declared invalid.

(c) In a format provided by the Board, each candidate shall submit a packet with the following information:

- (1) indicate the category of Board member position for which the candidate is seeking election;
- (2) attest to meeting the qualifications specified in G.S. 90-171.21(d);
- (3) provide permission to be listed on the slate; and
- (4) complete the Application for Boards and Commissions in accordance with Executive Order 55 Enhanced Disclosures from Applicants to Boards and Commissions.

The candidate packet shall be received by the Board on or before April 15 by electronic submission, mailed copy with postmarked envelope, or in-person received by Board staff during normal business hours.

(d) Minimum on-going employment requirements for the registered nurse or licensed practical nurse member shall include continuous employment equal to or greater than 50% of a full-



time position that meets the criteria for the specified Board member position.

(e) This Paragraph shall apply in determining qualifications for registered nurse categories of membership:

- (1) Nurse Educator includes any nurse who teaches in or directs a Board-approved nursing program in the specific category as outlined in G.S. 90-171.21(d).
- (2) Hospital is defined as any facility that has an organized medical staff and that is designed, used, and primarily operated to provide health care, diagnostic and therapeutic services, and continuous nursing services to inpatients, but excludes nursing homes and adult care homes.
- (3) A hospital system is defined as a multihospital system or a single diversified hospital system that includes a hospital as defined in Subparagraph (e)(2) of this Rule plus non-hospital pre-acute and post-acute client services.
- (4) A nurse accountable for the administration of nursing services shall be the chief nurse executive of a hospital or hospital system or the director of nursing services for a service division that includes inpatient care within a hospital or hospital system.
- (5) A nurse practitioner, nurse anesthetist, nurse midwife, or clinical nurse specialist includes any advanced practice registered nurse who meets the criteria specified in G.S. 90-171.21(d)(4).

(f) The term "nursing practice," when used in determining qualifications for registered or licensed practical nurse categories of membership, means any position for which the holder of the position is required to hold an active license to practice nursing at the appropriate licensure level for each category.

(g) A candidate shall be listed in only one category on the slate.

(h) Separate slates shall be prepared for election of registered nurse candidates and for election of licensed practical nurse candidates. Candidates shall be listed in random order on the slate for licensed practical nurse candidates and within the categories for registered nurse candidates. Slates shall be published in the "Bulletin" and posted on the Board's website at [www.ncbon.com](http://www.ncbon.com) following the Spring Board meeting and shall be accompanied by biographical data on candidates and a photograph.

(i) The procedure for voting shall be identified in the "Bulletin" and posted on the Board's website at [www.ncbon.com](http://www.ncbon.com) following the Spring Board meeting.

(j) The tabulation of results of the votes shall be verified by matching the license number of each nurse who voted with the database of licensed nurses maintained by the Board.

(k) If more than one candidate is to be elected in a category, the plurality vote shall be in descending order until the required number has been elected. In any election, if there is a tie vote between candidates, the tie shall be resolved by a draw from the names of candidates who have tied.

(l) The results of an election shall be recorded in the minutes of the next regular meeting of the Board following the election and shall include at least the following:

- (1) the number of nurses eligible to vote;
- (2) the number of votes cast; and
- (3) the number of votes cast for each candidate on the slate.

(m) The results of the election shall be reported to the Governor and in the annual report as directed in G.S. 93B-2 and G.S. 138A.

(n) All petitions to nominate a nurse, signed consents to appear on the slate, verifications of qualifications, and copies of the computerized validation and tabulation shall be retained for a period of four years following the close of an election.

*History Note: Authority G.S. 90-171.21; 90-171.23(b);*

*Eff. May 1, 1982;*

*Amended Eff. August 1, 1998; January 1, 1996; June 1, 1992; March 1, 1990; April 1, 1989;*

*Temporary Amendment Eff. July 2, 2001;*

*Amended Eff. December 1, 2010; November 1, 2008; January 1, 2004; August 1, 2002;*

*Readopted Eff. January 1, 2019.*

## **21 NCAC 36 .0112 DETERMINATION OF VACANCY**

(a) A Board member, with the exception of the At-Large Registered Nurse, shall notify the Executive Director immediately upon change of employment.

(b) Licensed nurse members of the Board, with the exception of the At-Large Registered Nurse, who cease to meet the employment criteria as defined in G.S. 90-171.21(d) and Rule .0109 Paragraphs (d) and (e) of this Section shall have 60 days to resume employment that meets the the criteria. If employment criteria for the specified area are not met within 60 days, the seat shall be declared vacant; provided, however, that if such a change in employment for the specified category of Board member occurs within 18 months of the end of the member's term, such member may continue to serve until the end of the term.

(c) If at any time a registered nurse member, with the exception of the At-Large Registered Nurse, no longer meets the eligibility requirements listed in G.S. 90-171.21(d)(1)(a) and (a1), such member shall no longer continue to serve and the position shall be declared vacant.

(d) If at any time a licensed practical nurse member no longer meets the eligibility requirements listed in G.S. 90-171.21(d)(2)(a) and (a1), such member shall no longer continue to serve and the position shall be declared vacant.

*History Note: Authority G.S. 90-171.21(c); 90-171.23(b);*

*Eff. May 1, 1988;*

*Amended Eff. November 1, 2008; January 1, 2004; August 1, 2002; March 1, 1990; May 1, 1989;*

*Readopted Eff. January 1, 2019.*

## **21 NCAC 36 .0113 DETERMINATION OF QUALIFICATIONS**

(a) For purposes of G.S. 90-171.21 and Rule .0109(d) and (e) of this Section, the Board shall consider the following factors in determining whether a candidate is qualified to run for election:

- (1) whether the licensee is presently employed equal to or greater than 50% of a full-time position in the applicable practice area;

- (2) whether the licensee has been employed equal to or greater than 50% of a full-time position in the applicable practice area for the preceding three years;
- (3) the duration of any periods of interruption of employment in the applicable practice area during the preceding three years and the reasons for such interruptions;
- (4) job descriptions, contracts, and any other relevant evidence concerning the time, effort, and education devoted to the applicable practice area; and
- (5) whether engagement in the applicable practice area is or has been for compensation, and whether income derived therefrom meets the eligibility requirements for the applicable practice area.

(b) While serving on the Board, currently seated Board members, with the exception of the At-Large Registered Nurse, shall maintain employment equal to or greater than 50% of a full-time position in the applicable practice area.

*History Note Authority G.S. 90-171.21(d); 90-171.23(b)(2); Eff. May 1, 1988;  
Amended Eff. January 1, 2004; August 1, 2002; May 1, 1989;  
Readopted Eff. January 1, 2019.*

## **21 NCAC 36 .0120 DEFINITIONS**

The following definitions apply throughout this chapter unless the context indicates otherwise:

- (1) "Administrative Law Counsel" means an attorney licensed to practice in this State whom the Board has retained to serve as procedural officer for contested cases.
- (2) "Academic term" means one semester of a school year.
- (3) "Accountability/Responsibility" means being answerable for action or inaction of self, and of others in the context of delegation or assignment.
- (4) "Accredited institution" means an institution accredited by a United States Department of Education-approved institutional accrediting body.
- (5) "Active Practice" means activities that are performed, either for compensation or without compensation, consistent with the scope of practice for each level of licensure as defined in G.S. 90-171.20(4), (7), and (8).
- (6) "Advanced Practice Registered Nurse (APRN)" means a nurse practitioner, nurse anesthetist, nurse-midwife, or clinical nurse specialist.
- (7) "Assigning" means designating responsibility for implementation of a specific activity or set of activities to an individual licensed and competent to perform such activities.
- (8) "Bulletin" means the official publication of the Board.

- (9) "Clinical experience" means application of nursing knowledge demonstrating clinical judgment in a current or evolving practice setting in which a student provides care to clients under the supervision of faculty or a preceptor.
- (10) "Clinical judgment" means the application of nursing knowledge, skills, abilities, and experience in making decisions about client care.
- (11) "Competent" means having the knowledge, skills, and ability to safely perform an activity or role.
- (12) "Continuing Competence" means on-going acquisition and application of knowledge and the decision-making, psychomotor, and interpersonal skills expected of the licensed nurse resulting in nursing care that contributes to the health and welfare of clients served.
- (13) "Contact Hour" means 60 minutes of an organized learning experience.
- (14) "Continuing Education Activity" means a planned, organized learning experience that is related to the practice of nursing or contributes to the competency of a nurse as outlined in 21 NCAC 36 .0223(a)(2).
- (15) "Controlling institution" means the degree-granting organization or hospital under which a nursing education program is operating.
- (16) "Curriculum" means an organized system of teaching and learning activities directed toward the achievement of specified learning objectives and outcomes.
- (17) "Delegation" means transferring to a competent individual the authority to perform a specific nursing activity in a selected situation. The nurse retains accountability/responsibility for the delegation.
- (18) "Debriefing" means an organized learning activity that follows a clinical or simulated experience and is led by a trained faculty facilitator. Students' reflective thinking is encouraged and feedback is provided regarding the students' performance during discussion of various aspects of the completed experiences.
- (19) "DHSR" means Division of Health Service Regulation.
- (20) "Dimensions of Practice" means aspects of nursing practice, including professional responsibility, knowledge-based practice, ethical and legal practice, and collaborating with others, consistent with G.S. 90-171.20(4), (7), and (8).
- (21) "Distance education" means teaching and learning strategies used to meet the learning needs of students when the students and faculty are not in the same location.
- (22) "External standardized examination" means a commercially available standardized predictive

- test that provides individual student scores that are linked to a probability of passing the NCLEX™ examination.
- (23) "Faculty directed clinical practice" means clinical experiences provided under the accountability/responsibility and direction of nursing program faculty.
- (24) "Focused client care experience" means a clinical experience that emulates an entry-level work experience in nursing, assisting the student in transitioning to an entry-level nursing practice. Supervision may be by faculty and preceptor dyad or direct faculty supervision.
- (25) "Initial Approval" means the status assigned to a newly-established nursing education program following submission of a complete application and documented evidence of compliance with Section .0300 of this Chapter.
- (26) "Interdisciplinary faculty" means faculty from professions other than nursing.
- (27) "Interdisciplinary team" means all individuals involved in providing a client's care who cooperate, collaborate, communicate, and integrate care to ensure that care is continuous and reliable.
- (28) "Learning resources" means materials that faculty use to assist students in meeting the expectations for learning defined by the curriculum.
- (29) "Level of Licensure" means practice of nursing by either a licensed practical nurse or a registered nurse, as defined in G.S. 90-171.20(7) and (8).
- (30) "Level of student" means the point in the program to which the student has progressed.
- (31) "Maximum enrollment" means the total number of pre-licensure students that can be enrolled in the nursing program at any one time. The number reflects the capacity of the nursing program based on demonstrated resources sufficient to implement the curriculum.
- (32) "Methods of Instruction" means the planned process through which teacher and student interact with selected environment and content so that the response of the student gives evidence that learning has taken place, based upon stated course objectives and outcomes for learning experiences in classroom, laboratory, simulation, and clinical settings.
- (33) "National Credentialing Body" means a credentialing body that offers certification or re-certification in the licensed nurse's or Advanced Practice Registered Nurse's specialty area of practice.
- (34) "NCLEX-PN™" means the National Council Licensure Examinations for Practical Nurses.
- (35) "NCLEX-RN™" means the National Council Licensure Examinations for Registered Nurses.
- (36) "Nursing Accreditation body" means a national nursing accrediting body that is recognized by the United States Department of Education.
- (37) "Nursing program faculty" means individuals employed full or part-time by an academic institution responsible for developing, implementing, evaluating, and updating nursing curricula.
- (38) "Nursing project" means a project or research study of a topic related to nursing practice that includes a problem statement, objectives, methodology, and summary of findings.
- (39) "Participating in" means to have a part in or contribute to the elements of the nursing process.
- (40) "Pattern of noncompliance" means episodes of recurring non-compliance with one or more Rules in Section .0300.
- (41) "Preceptor" means a registered nurse at or above the level of licensure that an assigned student is seeking who may serve as a teacher, mentor, role model, and supervisor for the student in a faculty-directed clinical experience.
- (42) "Prescribing Authority" means the legal permission granted by the Board of Nursing and Medical Board for the nurse practitioner and nurse midwife to procure and prescribe legend and controlled pharmacological agents and devices to a client in compliance with Board rules and other applicable federal and State law, regulations, and rules.
- (43) "Program Closure" means to cease operation of a nursing program.
- (44) "Program" means a course of study that prepares an individual to function as an entry-level practitioner of nursing. The three types of programs are:
- (a) Bachelor of Science Degree in Nursing (BSN) - Curriculum components for BSN provide for the attainment of knowledge and skill sets in the current practice in nursing, nursing theory, nursing research, community and public health, health care policy, health care delivery and finance, communications, therapeutic interventions, and current trends in health care. For this program type, the client is the individual, family, group, and community.
  - (b) Associate Degree in Nursing (ADN)/Diploma in Registered Nursing - Curriculum components for the ADN/Diploma in Registered Nursing provide for the attainment of knowledge and skill sets in the current practice in nursing, community concepts, health care delivery,

communications, therapeutic interventions, and current trends in health care. For this program type, client is the individual, group of individuals, and family.

- (c) Practical Nurse Diploma - Curriculum components for the practical nurse diploma prepare for providing direct nursing care under the supervision of a registered nurse or other health care provider as defined by the Nursing Practice Act. Curriculum components provide for the attainment of knowledge and skill sets in the current practice of practical nursing, communications, therapeutic interventions, including pharmacology, growth and development, and current trends in health care. For this program type client is the individual or group of individuals.
- (45) "Review" means collecting and analyzing information to assess compliance with Section .0300 of this Chapter. Information may be collected by multiple methods, including review of written reports and materials, on-site observations, review of documents, and in-person or telephone interviews and conferences.
- (46) "Self-Assessment" means the process whereby an individual reviews their own nursing practice and identifies the knowledge and skills possessed as well as those skills to be strengthened or acquired.
- (47) "Simulation" means a technique, not a technology, to replace or amplify clinical experiences with guided experiences that evoke or replicate substantial aspects of the real world of nursing practice in a fully interactive manner.
- (48) "Specialty" means a broad, population-based focus of study encompassing the common health-related problems of a particular group of patients and the likely co-morbidities, interventions, and responses to those problems.
- (49) "Supervision" means the provision of guidance or direction, evaluation, and follow-up by a licensed nurse to accomplish an assigned or delegated nursing activity or set of activities.
- (50) "Survey" means an on-site visit for the purpose of gathering data in relation to reviewing a nursing program's compliance with Section .0300 of this Chapter.

*History Note: Authority G.S. 90-171.23; 90-171.38; Eff. April 1, 2003; Amended Eff. June 1, 2017; December 1, 2016; July 1, 2012; November 1, 2008; May 1, 2006; December 1, 2005; August 1, 2005;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018; Amended Eff. January 1, 2019.*

## **21 NCAC 36 .0201 BIENNIAL RENEWAL**

(a) Each registered nurse or licensed practical nurse shall biennially renew their license with the Board no later than the last day of the applicant's birth month by:

- (1) submitting a completed application for renewal, stating that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application. Applications for renewal are posted on the Board's website at [www.ncbon.com](http://www.ncbon.com);
- (2) attesting to completion of continuing competence requirements and submitting evidence of completion if requested by the Board, as specified in Rule .0232(b) of this Section; and
- (3) submitting the fee for licensure renewal, as established in G.S. 90-171.27(b).

(b) It shall be the duty of each applicant to keep the Board informed of a current mailing address, telephone number, and email address.

(c) A member of the United States Armed Services shall be exempt from compliance if on active duty and to whom G.S. 105-249.2 grants an extension of time to file a tax return.

*History Note: Authority G.S. 90-171.29; 90-171.23(b); 90-171.34; 90-171.37; 93B-15; 105-249.2; Eff. February 1, 1976; Amended Eff. January 1, 2011; December 1, 2008; April 1, 1989; May 1, 1982;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018; Amended Eff. January 1, 2019.*

## **21 NCAC 36 .0202 INACTIVE AND RETIRED STATUS**

(a) A licensee who submits a request for inactive status shall be granted such status by the Board if the licensee:

- (1) holds an active unencumbered license issued by the Board; and
- (2) is not currently the subject of an investigation by the Board for possible violation of the Nursing Practice Act or rules promulgated thereunder.

(b) An applicant whose licensure status is inactive or retired and who desires to resume the practice of nursing in North Carolina shall:

- (1) submit a completed application for reinstatement, stating that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application. Application is posted on the Board's website at [www.ncbon.com](http://www.ncbon.com);

- (2) have no pending court conditions as a result of any misdemeanor or felony convictions. The applicant shall provide a written explanation and all investigative reports or court documents evidencing the circumstances of the crimes if requested by the Board. The Board shall use these documents when determining if a license should be denied pursuant to G.S. 90-171.48 and 90-171.37;
- (3) self-certify that the applicant is of mental and physical health necessary to competently practice nursing;
- (4) submit the licensure application fee, as established in G.S. 90-171.27(b);
- (5) attest to having completed continuing competence requirements and submit evidence of completion if requested by the Board, as specified in Rule .0232(b) of this Section; and,
- (6) complete a criminal background check in accordance with G.S. 90-171.48.

In the event any of the above-required information indicates a concern about the applicant's qualifications, an applicant may be required to appear in-person for an interview with the Board if more information is needed to evaluate the application.

(c) An applicant whose license has been inactive or retired for a period of five years or more shall also submit:

- (1) self-certification that the applicant is of mental and physical health necessary to competently practice nursing; and
- (2) evidence of
  - (A) satisfactory completion of a Board-approved refresher course; or
  - (B) proof of an active license in another jurisdiction within the last five years or an active license in another country within the last five years if the individual was originally licensed by national licensure examination in the United States.

(d) If a refresher course is required, an applicant shall apply for reinstatement of an active license within one year of completing the refresher course. The application for reinstatement shall include verification from the provider of the refresher course that the applicant has satisfactorily met both theory and clinical objectives.

(e) An applicant who has retired from the practice of nursing may request and be granted by the Board retired nurse status if the applicant:

- (1) holds an active unencumbered license issued by the Board;
- (2) is not currently the subject of an investigation by the Board for alleged violation of the Nursing Practice Act; and
- (3) pays the application fee, pursuant to G.S. 90-171.27(b).

(f) While remaining on retired status, an applicant shall not practice nursing in North Carolina and shall not be subject to payment of the license renewal fee.

- (g) An applicant may use the title "Retired Registered Nurse" or "Retired Licensed Practical Nurse" after issued retired status.
- (h) An applicant whose licensure status is retired shall not be eligible to vote in Board elections.
- (i) Any license issued shall be issued for the remainder of the biennial period.

*History Note: Authority G.S. 90-171.21; 90-171.23(b) 90-171.27(b); 90-171.36; 90-171.36A; 90-171.37; 90-171.43; Eff. February 1, 1976; Legislative Objection [(g)] Lodged Eff. June 16, 1980; Legislative Objection [(g)] Removed Eff. July 1, 1981; Amended Eff. November 1, 2008; January 1, 2004; January 1, 1996; January 1, 1990; May 1, 1982; January 1, 1980; Readopted Eff. January 1, 2019.*

### **21 NCAC 36 .0203 REINSTATEMENT OF EXPIRED LICENSE**

(a) An applicant whose license has expired and who desires reinstatement of that license shall:

- (1) submit a completed application for reinstatement, stating that the information on the application is true and complete and authorizing the release to the Board of all information pertaining to the application. The Application for Reinstatement is posted on the Board's website at [www.ncbon.com](http://www.ncbon.com);
- (2) have an unencumbered license in all jurisdictions in which a license is or has ever been held;
- (3) attest to having completed continuing competence requirements and submit evidence of completion if requested by the Board, as specified in Rule .0232(b) of this Section;
- (4) have no pending court conditions as a result of any misdemeanor or felony convictions. An Applicant shall provide a written explanation and all investigative reports or court documents evidencing the circumstances of the crime(s) if requested by the Board. The Board shall use these documents when determining if a license should be denied pursuant to G.S. 90-171.48 and G.S. 90-171.37;
- (5) submit such other evidence that the Board may require according to these rules to determine whether the license should be reinstated;
- (6) complete a criminal background check after license has been expired for 30 calendar days in accordance with G.S. 90-171.48;
- (7) self-certify that the applicant is of mental and physical health necessary to competently practice nursing; and
- (8) submit the reinstatement fee, as established in G.S. 90-171.27(b).

In the event any of the above-required information indicates a concern about the applicant's qualifications, an applicant may be required to appear in person for an interview with the Board if more information is needed to evaluate the application.

(b) A member of the United States Armed Services shall be exempt from payment of reinstatement fee if on active duty and to whom G.S. 105-249.2 grants an extension of time to file a tax return.

(c) An applicant whose license has lapsed for a period of five years or more shall also submit:

- (1) self-certification that the applicant is of mental and physical health necessary to competently practice nursing; and
- (2) evidence of satisfactory completion of a Board-approved refresher course or proof of active licensure within the past five years in another jurisdiction.

(d) If a refresher course is required, an applicant shall apply for reinstatement of an active license within one year of completing the refresher course. The application for reinstatement shall include verification from the provider of the refresher course that the applicant has satisfactorily met both theory and clinical objectives and is deemed competent to practice nursing at the appropriate level of licensure.

(e) Any license issued shall be issued for the remainder of the biennial period.

*History Note: Authority G.S. 90-171.23(b); 90-171.35; 90-171.37; 93B-15; 105-249.2;*

*Eff. February 1, 1976;*

*Amended Eff. December 1, 2010; December 1, 2008; January 1, 1996; February 1, 1994; August 3, 1992; January 1, 1990;*

*Readopted Eff. January 1, 2019.*

#### **21 NCAC 36 .0207 VERIFICATION TO ANOTHER STATE**

The Board shall verify the licensure of a licensee to another state or country upon receipt of a request from the licensee or another board of nursing that is accompanied by information properly identifying the licensee and by the appropriate fee.

*History Note: Authority G.S. 90-171.23(b)(3); 90-171.27(b); Eff. February 1, 1976;*

*Amended Eff. April 1, 1989;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;*

*Amended Eff. January 1, 2019.*

#### **21 NCAC 36 .0208 CHANGE OF NAME AND CONTACT**

(a) In the event of a name or address change, the licensee shall submit a request in their Gateway account through the Board's website at [www.ncbon.com](http://www.ncbon.com) and provide evidence of name or address change. A licensee may provide evidence such as the following:

- (1) marriage certificate;
- (2) voter registration card;
- (3) Social Security card;
- (4) divorce document reflecting name change;
- (5) passport;
- (6) change of name certificate as issued by a court;
- (7) immigration document; and
- (8) driver's license.

(b) In the event of an address, email, or telephone change, the licensee shall submit the change online on the Board's website at [www.ncbon.com](http://www.ncbon.com) within 30 calendar days of the change.

*History Note: Authority G.S. 90-171.23(b)(3); 90-171.27(b); Eff. February 1, 1976;*

*Amended Eff. December 1, 2006;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;*

*Amended Eff. January 1, 2019.*

#### **21 NCAC 36 .0211 LICENSURE BY EXAMINATION**

(a) To be eligible for licensure by examination, an applicant shall:

- (1) submit a completed application for licensure, attesting under oath or affirmation that the information on the application is true and complete and authorizing the release to the Board of all information pertaining to the application. Application for Examination is posted on the Board's website at [www.ncbon.com](http://www.ncbon.com);
- (2) submit the licensure application fee as established in G.S. 90-171.27(b);
- (3) have an unencumbered license in all jurisdictions in which a license is or has ever been held;
- (4) have no pending court conditions as a result of any misdemeanor or felony convictions. The applicant shall provide a written explanation and all investigative reports or court documents evidencing the circumstances of the crimes if requested by the Board. The Board shall use these documents when determining if a license should be denied pursuant to G.S. 90-171.48 and G.S. 90-171.37;
- (5) submit a written explanation and all related documents if the nurse has ever been listed as a nurse aide and if there have ever been any substantiated findings pursuant to G.S. 131E-255. The Board may take these findings into consideration when determining if a license should be denied pursuant to G.S. 90-171.37. In the event findings are pending, the Board may withhold taking any action until the investigation is completed; and
- (6) complete a criminal background check in accordance with G.S. 90-171.48;
- (7) apply to take and pass the National Council Licensure Examination (NCLEX™).

In the event any of the above required information indicates a concern about the applicant's qualifications, an applicant may be required to appear in person for an interview with the Board if the Board determines in its discretion that more information is needed to evaluate the application.

(b) An applicant shall meet the educational qualifications to take the examination for licensure to practice as a registered nurse or licensed practical nurse by:

- (1) graduating from a National Council State Board of Nursing (NCSBN) member Board-approved

nursing program, in accordance with Section .0300 of these Rules, designed to prepare a person for registered nurse or licensed practical nurse licensure;

- (2) graduating from a nursing program outside the United States that is designed to provide graduates with comparable education as required in 21 NCAC 36 .0321(b) through (d) for licensure as a registered nurse or licensed practical nurse, and submitting evidence from an evaluation agency of the required educational qualifications and evidence of English proficiency. The evaluation agencies for educational qualifications shall be selected from a list of evaluation agencies published by NCSBN, incorporated by reference including subsequent amendments and editions and available at no cost at [www.ncsbn.org](http://www.ncsbn.org). The evidence of English proficiency shall be a test as listed by NCSBN, incorporated by reference including subsequent amendments and editions and available at no cost at [www.ncsbn.org](http://www.ncsbn.org); or
- (3) being eligible for licensure as a registered nurse or licensed practical nurse in the country of nursing education program completion.

(c) An application shall be submitted to the Board and a registration form to Pearson VUE. The applicant shall meet all requirements of NCSBN. Applicants for a North Carolina license may take the examination for licensure developed by NCSBN at any NCSBN-approved testing site.

(d) An application for licensure shall be valid for a period of one year from the date the application is filed with the Board or until the Board receives notice that the applicant has either passed or failed the examination.

(e) The examinations for licensure developed by NCSBN shall be the examinations for licensure as a registered nurse or as a licensed practical nurse in North Carolina and these examinations shall be administered in accordance with the contract between the Board and NCSBN.

(f) Any license issued shall be issued for the remainder of the biennial period.

*History Note: Authority G.S. 90-171.23(15); 90-171.29; 90-171.30; 90-171.37(1); 90-171.48; Eff. February 1, 1976; Amended Eff. December 1, 2004; April 1, 2003; January 1, 1996; July 1, 1994; February 1, 1994; August 3, 1992; Readopted Eff. January 1, 2019.*

#### **21 NCAC 36 .0213 REEXAMINATION**

An applicant who fails an examination and is eligible to retake a subsequent examination shall submit a completed Board application, a completed testing service registration form, and related fees. The applicant shall be eligible to retake the examination by NCSBN, pursuant to 21 NCAC 36 .0211. NCSBN list is incorporated by reference including subsequent amendments and editions and available at no cost at [www.ncsbn.org](http://www.ncsbn.org).

*History Note: Authority G.S. 90-171.31; 90-171.33; 90-171.38; Eff. February 1, 1976; Temporary Amendment Eff. June 26, 1985, for a period of 120 days to expire on October 23, 1985; Amended Eff. August 1, 2000; July 1, 1994; February 1, 1994; October 1, 1989; May 1, 1989; Readopted Eff. January 1, 2019.*

#### **21 NCAC 36 .0217 INVESTIGATIONS; DISCIPLINARY HEARINGS**

(a) Behaviors and activities that may result in disciplinary action by the Board shall include the following:

- (1) drug or alcohol abuse or use of any substance or other agents while on duty or on call to the extent that such use impairs the nurse's ability to practice nursing;
- (2) testing positive on a drug screen for a non-prescribed drug or illicit substance;
- (3) illegally obtaining, possessing, or distributing drugs or alcohol for personal or other use or other violations of the North Carolina Controlled Substances Act, G.S. 90-86 et seq.;
- (4) conviction of any crime that bears on a licensee's fitness to practice nursing;
- (5) failure to make client information available to another health care professional;
- (6) practicing or offering to practice beyond the scope permitted by law;
- (7) accepting and performing professional responsibilities that the licensee knows or has reason to know that he or she is not competent to perform;
- (8) performing, without supervision, professional services that the licensee is authorized to perform only under the supervision of a licensed professional;
- (9) abandoning an assigned client without making arrangements for the continuation of equivalent nursing care;
- (10) neglecting a client in need of nursing care;
- (11) threatening, harassing, abusing, or intimidating a client;
- (12) failing to maintain an accurate record of all pertinent health care information as defined in Rule .0224(f)(2) or .0225(f)(2) for each client;
- (13) failing to exercise supervision over individuals who are authorized to practice only under the supervision of the licensed professional;
- (14) exercising influence on the client for the financial or personal gain of the licensee;
- (15) directly or indirectly offering, giving, soliciting, or receiving or agreeing to receive any fee or other consideration to or from a third party for the referral of a client, or other violations of G.S. 90-401;
- (16) failing to file a report, or filing a false report, required by law or by the Board or impeding or

- obstructing such filing or inducing another person to do so;
- (17) obtaining, accessing, or revealing healthcare information from a client record or other source, except as required by professional duties or authorized by law;
- (18) presenting false or fraudulent licensure information for any purpose;
- (19) assigning or delegating professional responsibilities to a person if the licensee assigning or delegating these responsibilities knows or has reason to know that such individual is not qualified by training, experience, or licensure;
- (20) assigning or delegating responsibilities to an individual if the licensee assigning or delegating knows or has reason to know that the competency of that individual is impaired by sleep deprivation, physical or psychological conditions, or alcohol or other agents, prescribed or not;
- (21) accepting responsibility for client care while impaired by sleep deprivation, physical or psychological conditions, or by alcohol or other agents, prescribed or not;
- (22) falsifying a client's record or the controlled substance records;
- (23) violating boundaries of a professional relationship such as physical, sexual, emotional, or financial exploitation of a client or a client's family member or caregiver. Financial exploitation shall include accepting or soliciting money, gifts, or the equivalent during the professional relationship;
- (24) misappropriating, in connection with the practice of nursing, anything of value or benefit, including any real or personal property of the client, employer, or any other individual or entity, or failing to take precautions to prevent such misappropriation. Failure to take precautions to prevent misappropriations shall include failing to secure anything of value or benefit, such as medication or property, of the client, employer, or any other individual or entity; or
- (25) violating any term of probation, condition, or limitation imposed on the licensee by the Board.

(b) If a summary suspension is issued pursuant to G.S. 150B-3(c), the order shall be effective on the date specified in the order or upon service of the certified copy of the order at the last known address of the licensee, whichever is later, and continues to be effective during the suspension proceedings. Failure to receive the order because of refusal of service or unknown address shall not invalidate the order.

(c) All motions related to a contested case, except motions for continuance and those made during the hearing, shall be in writing and submitted to the Board at least 10 calendar days before the hearing. Pre-hearing motions shall be heard at a pre-hearing

conference or at the contested case hearing prior to the commencement of testimony. The designated administrative law counsel shall hear the motions and the response from the non-moving party pursuant to Rule 6 of the General Rules of Practice for the Superior and District Courts and shall rule on the motions.

(d) Motions for a continuance of a hearing may be granted upon a showing of good cause. Motions for a continuance shall be in writing and received in the office of the Board no less than seven calendar days before the hearing date. In determining whether good cause exists, consideration shall be given to the ability of the party requesting a continuance to proceed without a continuance. A motion for a continuance filed less than seven calendar days from the date of the hearing shall be denied unless the reason for the motion could not have been ascertained earlier. Motions for continuance filed prior to the date of the hearing shall be ruled on by the administrative law counsel of the Board. Motions for continuance filed on the date of hearing shall be ruled on by the Board.

(e) The Board shall designate an administrative law counsel who shall advise the Board.

(f) If a majority of the members of the Board is unable or elects not to hear a contested case, the Board shall request the designation of an administrative law judge from the Office of Administrative Hearings to preside at the hearing. The provisions of G.S. 150B, Article 3A and this Rule shall govern a contested case in which an administrative law judge is designated as the Hearing Officer.

*History Note: Authority G.S. 90-171.23(b)(3); 90-171.23(b)(7); 90-171.37; 90-171.47; 90-401; 150B-3(c); 150B-38; 150B-39; 150B-40; 150B-41; 150B-42; Eff. February 1, 1976; Amended Eff. October 1, 1989; November 1, 1988; July 1, 1986; July 1, 1984; Temporary Amendment Eff. December 7, 1990 for a period of 180 days to expire on June 5, 1991; ARRC Objection Lodged December 20, 1990; Amended Eff. January 1, 1991; ARRC Objection Removed February 25, 1991; Temporary Amendment Eff. February 26, 1991 for a period of 35 days to expire on April 1, 1991; Amended Eff. January 1, 1996; February 1, 1995; April 1, 1991; Temporary Amendment Eff. March 5, 2001; Amended Eff. June 1, 2017; January 1, 2007; August 2, 2002; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018; Amended Eff. January 1, 2019.*

## **21 NCAC 36 .0218 LICENSURE BY ENDORSEMENT**

(a) To be eligible for licensure by endorsement, an applicant shall:

- (1) submit a completed application for endorsement, stating that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application. The



- Application for Endorsement is posted on the Board's website at [www.ncbon.com](http://www.ncbon.com);
- (2) submit the licensure application fee as established in G.S. 90-171.27(b);
  - (3) have an unencumbered license in all jurisdictions in which a license is or has ever been held;
  - (4) have an active unencumbered license in a jurisdiction. If the license has been inactive or expired for five or more years, the applicant shall meet the requirements for a refresher course as indicated in G.S. 90-171.35 and G.S. 90-171.36;
  - (5) have no pending court conditions as a result of any misdemeanor or felony convictions. The applicant shall provide a written explanation and all investigative reports or court documents evidencing the circumstances of the crime(s) if requested by the Board. The Board shall use these documents when determining if a license should be denied pursuant to G.S. 90-171.48 and G.S. 90-171.37;
  - (6) submit a written explanation and all related documents if the nurse has ever been listed as a nurse aide and if there have ever been any substantiated findings pursuant to G.S. 131E-255. The Board may take these findings into consideration when determining if a license should be denied pursuant to G.S. 90-171.37. In the event findings are pending, the Board shall withhold taking any action until the investigation is completed;
  - (7) submit a self-certification that the applicant is of mental and physical health necessary to competently practice nursing;
  - (8) show completion of a nursing education program which was approved by the jurisdiction of original licensure. If applying for licensure by endorsement as a licensed practical nurse, applicant may also show evidence that:
    - (A) applicant has successfully completed a course of study for military corpsman that is comparable to that required of licensed practical nurse graduates in North Carolina; or
    - (B) applicant has been licensed in another NCSBN-member jurisdiction for five or more years immediately prior to application submission and has practiced in a nursing position at the same level of licensure for which application is being made for two calendar years of full-time employment immediately prior to application as verified by the employer; and
  - (9) complete a criminal background check in accordance with G.S. 90-171.48.

In the event any of the above-required information indicates a concern about the applicant's qualifications, an applicant may be required to appear in person for an interview with the Board if more information is needed to evaluate the application.

(b) Applicants for licensure by endorsement educated in a foreign country, including Canada, shall complete all the requirements of 21 NCAC 36 (a)(1)-(7) and shall be eligible for North Carolina licensure by endorsement if the nurse has:

- (1) shown proof of education as required by the jurisdiction issuing the original certificate; and
- (2) shown evidence of passing the NCLEX-RN™ or NCLEX-PN™.

(c) An application for endorsement shall be valid for a period of one year from the date the application is filed with the Board or until a license is issued.

(d) Facts provided by the applicant and the board of original licensure shall be compared to confirm the identity and validity of the applicant's credentials.

(e) Any license issued shall be issued for the remainder of the biennial period.

*History Note: Authority G.S. 90-171.23(b); 90-171.32; 90-171.33; 90-171.37; 90-171.48;*

*Eff. May 1, 1982;*

*Amended Eff. December 1, 2005; April 1, 2003; January 1, 1996; July 1, 1994;*

*February 1, 1994; August 3, 1992;*

*Readopted Eff. January 1, 2019.*

## **21 NCAC 36 .0219 TEMPORARY LICENSE**

(a) The Board shall issue a non-renewable temporary license to individuals who have filed a completed application for licensure by endorsement with correct fee and provided validation of an active unencumbered license in another jurisdiction. If an applicant indicates prior court convictions or disciplinary actions in another jurisdiction, eligibility for a temporary license shall be determined after review of relevant documents.

(b) The temporary license shall be subject to the provisions of G.S. 90-171.37.

(c) The following shall apply to non-renewable temporary licenses:

- (1) A non-renewable temporary license shall expire on the lesser of six months or the date a full license is issued or if it is determined that the applicant is not qualified to practice nursing in North Carolina.
- (2) Temporary license shall authorize a holder to practice nursing in the same manner as a fully licensed registered nurse or licensed practical nurse, as applicable.
- (3) A holder of a valid temporary license shall identify himself or herself as a Registered Nurse Petitioner (R.N.P.) or a Licensed Practical Nurse Petitioner (L.P.N.P.), as applicable after signatures on records.
- (4) Upon expiration or revocation of the temporary license, the individual shall be ineligible to

practice nursing as described in Subparagraph (b)(2) of this Rule.

*History Note: Authority G.S. 90-171.33; Eff. May 1, 1982; Temporary Amendment Eff. June 29, 1988 for a period of 180 days to expire on December 25, 1988; Amended Eff. December 1, 2006; January 1, 1996; July 1, 1994; August 3, 1992; January 1, 1989; Readopted Eff. January 1, 2019.*

**21 NCAC 36 .0220 REFRESHER COURSE**

(a) A refresher course shall be designed for those individuals, previously licensed, who are not eligible for re-entry into nursing practice because their license has expired for five or more years.

(b) Satisfactory completion of a Board-approved refresher course shall be required of the individual who has not held an active license in any jurisdiction for five or more years and requests:

- (1) reactivation of an inactive license;
- (2) reinstatement of an expired license; or
- (3) endorsement to North Carolina.

(c) If satisfactory completion of a Board-approved refresher course is required by the Board based upon action as authorized in G.S. 90-171.37 or based upon a license being inactive due to disciplinary action, the individual may be subject to Board-stipulated restrictions in the clinical component of the refresher course, based upon the terms of the disciplinary actions and the contents of the clinical components. All eligibility requirements for reinstatement of the license shall have been met prior to refresher course enrollment.

(d) Application for approval of a refresher course shall be completed and submitted by the provider at least 90 days prior to the expected date of enrollment and shall include evidence of complying with the rules as defined in this Chapter for refresher courses. No student shall be enrolled prior to Board approval. Board approval shall be granted to a provider for a period of time not to exceed five years. All changes in faculty, curriculum, or clinical facilities shall be approved by the Board prior to implementation, as set out in the Rules of this Chapter.

(e) The application for approval of a refresher course shall include:

- (1) course objectives, content outline, and time allocation;
- (2) didactic and clinical learning experiences, including teaching methodologies for measuring the registrant's abilities to practice nursing;
- (3) a plan for evaluation of student competencies and ability to competently practice nursing;
- (4) a faculty list that includes the director and all instructors, and identifies their qualifications and their functions in teaching roles; and
- (5) the projected clinical schedule.

(f) The Board shall make site visits if it is unable to determine that all requirements have been met through application document review. A decision on an application to offer a refresher course shall be given within 30 days following receipt of a complete application.

(g) A provider of a refresher course shall be approved by the Board as set out in these Rules. A provider may be a post-secondary educational institution, a health care institution, or other agency.

(h) Administrative responsibility for developing and implementing a refresher course shall be vested in a registered nurse director.

(i) Instructors in the course shall be directly accountable to the nurse director. The director shall have had at least one year prior teaching experience preparing individuals for registered nurse or licensed practical nurse licensure at the post-secondary level or in a nursing staff development position. The director and each instructor shall:

- (1) hold an active unencumbered license to practice as a registered nurse in North Carolina;
- (2) hold a baccalaureate or higher degree in nursing; and
- (3) have had at least two years experience in direct patient nursing practice as a registered nurse.

(j) Proximity of the instructor to students is the major factor in determining faculty-student ratio for clinical learning experiences. The ratio of instructors to students shall not exceed 1:10.

(k) Clinical preceptors shall have competencies, assessed by the registered nurse director of the refresher course or a designated instructor, related to the area of assigned clinical precepting responsibilities. Clinical preceptors shall hold an active unencumbered license to practice as a registered nurse in North Carolina.

(l) The refresher course shall include both theory and clinical instruction. Course objectives shall be stated that:

- (1) show relationships between nursing theory and practice; and
- (2) identify behaviors consistent with the ability to competently practice nursing.

(m) The curriculum for a registered nurse refresher course shall include at least 240 hours of instruction, at least 120 of which shall consist of clinical learning experiences, and shall incorporate:

- (1) the scope of practice for the registered nurse, as defined in G.S. 90-171.20 and 21 NCAC 36 .0221, .0224, .0225 and .0401; and
- (2) instruction in and opportunities to demonstrate knowledge, skills, and abilities to competently practice nursing according to components of practice for the registered nurse as defined in 21 NCAC 36 .0224.

(n) The curriculum for a licensed practical nurse refresher course shall include at least 180 hours of instruction, at least 90 of which shall consist of clinical learning experiences, and shall incorporate:

- (1) the scope of practice for the licensed practical nurse, as defined in G.S. 90-171.20(8) and 21 NCAC 36 .0221, .0225 and .0401; and
- (2) instruction in and opportunities to demonstrate knowledge, skills, and abilities to competently practice nursing according to components of nursing practice for the licensed practical nurse as defined in 21 NCAC 36 .0225.

- (o) The refresher course director or the designated refresher course instructor shall assess each refresher student and ensure the appropriateness of all clinical learning settings and assignments.
- (p) Registered nurse and licensed practical nurse refresher courses shall limit simulation experiences to no more than 50 percent of clinical learning experiences, pursuant to 21 NCAC 26 .0321(m).
- (q) Evaluation processes shall be implemented that effectively measure the refresher student's ability to competently practice nursing consistent with the level of licensure and scope as set forth in 21 NCAC 36 .0221, .0224, .0225, and .0401.
- (r) Clinical resources shall indicate, in written contract, support and availability to provide the necessary clinical experiences.
- (s) Individuals previously licensed in North Carolina and presently residing outside of North Carolina may meet the requirements of this Rule by successfully completing a refresher course approved by another state board of nursing.
- (t) Individuals enrolled in refresher courses shall identify themselves as RN Refresher Student (R.N.R.S.) or LPN Refresher Student (L.P.N.R.S.), consistent with the course level, after signatures on records or on name pins.
- (u) In a format specified by the Board, the course provider shall provide the Board with the names and license numbers of those individuals who have satisfactorily completed the refresher course at the appropriate level of licensure on the Board supplied form.
- (v) Upon request, the Board shall provide:
  - (1) a list of approved providers;
  - (2) the format for applications for program approval; and
  - (3) the format for verification of successful completion to all approved programs.

*History Note: Authority G.S. 90-171.23(b)(3); 90-171.35; 90-171.36; 90-171.37; 90-171.38; 90-171.83; Eff. May 1, 1982; Amended Eff. January 1, 2007; July 1, 2000; June 1, 1993; April 1, 1989; Readopted Eff. January 1, 2019.*

**21 NCAC 36 .0221 LICENSE REQUIRED**

- (a) No cap, pin, uniform, insignia, or title shall be used to represent to the public that an unlicensed person is a registered nurse or a licensed practical nurse as defined in G.S. 90-171.43.
- (b) The repetitive performance of a common task or procedure that does not require the professional judgment of a registered nurse or licensed practical nurse shall not be considered the practice of nursing for which a license is required. Tasks that may be delegated to a Nurse Aide I and a Nurse Aide II shall be established by the Board pursuant to 21 NCAC 36 .0403. Tasks may be delegated to an unlicensed person that:
  - (1) frequently recur in the daily care of a client or group of clients;
  - (2) are performed according to an established sequence of steps;
  - (3) involve little or no modification from one client-care situation to another;
  - (4) may be performed with a predictable outcome; and

- (5) do not inherently involve ongoing assessment, interpretation, or decision-making that cannot be logically separated from the tasks themselves.

Client-care services that do not meet all of these criteria shall be performed by a licensed nurse.

(c) A registered nurse or licensed practical nurse shall not delegate the professional judgment required to implement a treatment or pharmaceutical regimen that is likely to produce side effects, toxic effects, allergic reactions, or other unusual effects or that may rapidly endanger a client's life or well-being and that is prescribed by an individual authorized by State law to prescribe such a regimen. A nurse who assumes responsibility directly or through delegation for implementing a treatment or pharmaceutical regimen shall be accountable for:

- (1) recognizing side effects;
- (2) recognizing toxic effects;
- (3) recognizing allergic reactions;
- (4) recognizing immediate desired effects;
- (5) recognizing unusual and unexpected effects;
- (6) recognizing changes in a client's condition that contraindicates continued administration of the pharmaceutical or treatment regimen;
- (7) anticipating those effects that may rapidly endanger a client's life or well-being; and
- (8) making judgments and decisions concerning actions to take in the event such effects occur.

(d) If health care needs of a client are incidental to the personal care needs of the client, a nurse shall not be accountable for care performed by clients themselves, their families or significant others, or by caretakers who provide personal care to the individual.

(e) Pharmacists may administer drugs in accordance with 21 NCAC 46 .2507.

*History Note: Authority G.S. 90-85.3; 90-171.23(b); 90-171.43; 90-171.83; Eff. May 1, 1982; Amended Eff. July 1, 2004; April 1, 2002; December 1, 2000; July 1, 2000; January 1, 1996; February 1, 1994; April 1, 1989; January 1, 1984; Emergency Amendment Eff. September 10, 2004; Amended Eff. April 1, 2008; December 1, 2004; Readopted Eff. January 1, 2019.*

**21 NCAC 36 .0223 CONTINUING EDUCATION PROGRAMS**

(a) Definitions.

- (1) Continuing education in nursing means a planned, organized learning experience, taken after completion of a basic nursing program, that prepares a nurse to perform advanced skills. Types of learning experiences that may be considered continuing education as defined in Subparagraph (a)(3) of this Rule include:
  - (A) a non-degree oriented program;
  - (B) courses or components of courses in an academic degree-oriented program; or

- (C) an advanced academic degree-granting program that prepares a registered nurse for advanced practice as a clinical nurse specialist, nurse anesthetist, nurse midwife, or nurse practitioner.
  - (2) Programs offering an educational experience designed to enhance the practice of nursing mean those that include one or more of the following:
    - (A) enrichment of nursing knowledge;
    - (B) development or change of nursing practice attitudes; or
    - (C) acquisition or improvement of nursing skills.
  - (3) Programs that teach nurses advanced skills mean those that include:
    - (A) skills not generally included in the basic educational preparation of the nurse; and
    - (B) a period of instruction sufficient to assess or provide necessary knowledge from the physical, biological, or behavioral and social sciences and includes supervised clinical practice to ensure that the nurse is able to practice the skill safely and properly.
  - (4) Student status means the status granted to an individual who does not hold a North Carolina nursing license but who participates in a clinical component of a continuing education program in North Carolina if:
    - (A) the individual possesses an active unencumbered license to practice nursing in a jurisdiction other than North Carolina;
    - (B) the course offering meets one of the following criteria:
      - (i) is part of an academic degree-granting nursing program that has approval in a jurisdiction other than North Carolina or national accreditation; or
      - (ii) is offered through an in-state academic institution that has Board approval for basic nursing education programs or national accreditation for advanced nursing education programs; or
      - (iii) is approved by the Board as a continuing education offering, thereby meeting the criteria defined in Paragraph (b) of this Rule;
    - (C) the individual receives supervision by a qualified preceptor or member of the faculty who has a valid license to practice as a registered nurse in North Carolina;
  - (D) the course of instruction has a specified period of time not exceeding 12 months;
  - (E) the individual is not employed in nursing practice in North Carolina during participation in the program; and
  - (F) the Board has been given advance notice of the name of each student, the jurisdiction in which the student is licensed, the license number, and the license expiration date.
- (b) Criteria for voluntary approval of continuing education programs in nursing.
- (1) Planning an educational program shall include:
    - (A) definition of learner population, such as registered nurse, licensed practical nurse, or both;
    - (B) identification of characteristics of the learner, such as clinical area of practice, place of employment, and position; and
    - (C) assessment of needs of the learner, such as specific requests from individuals or employers, pre-tests, or audits of patient records.
  - (2) Objectives shall:
    - (A) be measurable and stated in behavioral terms;
    - (B) reflect the needs of the learners;
    - (C) state desired outcomes;
    - (D) serve as criteria for the selection of content, learning experiences, and evaluation of achievement;
    - (E) be achievable within the time allotted; and
    - (F) be applicable to nursing.
  - (3) Content shall:
    - (A) relate to required by Subparagraph (b)(2) of this Paragraph;
    - (B) reflect input by qualified faculty; and
    - (C) contain learning experiences appropriate to objectives.
  - (4) Teaching methodologies shall:
    - (A) use pertinent educational principles;
    - (B) provide adequate time for each learning activity; and
    - (C) include informing participants of the course objectives required by Subparagraph (b)(2) of this Paragraph.
  - (5) Resources shall include:
    - (A) faculty who have knowledge and experience necessary to assist the participants in meeting the program objectives and are in sufficient number not to exceed a faculty-participant

ratio in a clinical practicum of 1:10. If higher ratios are desired, sufficient justification shall be provided to the Board; and

- (B) physical facilities that ensure that appropriate clinical resources and adequate and appropriate equipment and space are available.

- (6) Evaluation shall be conducted:

- (A) by the provider to assess the participant's achievement of program objectives and content. This evaluation shall be documented; and
- (B) by the participant in order to assess the program and resources.

- (7) Records shall be maintained by the provider for a period of three years and shall include a summary of program evaluations, a roster of participants, and the course outline. The provider shall award a certificate to each participant who successfully completes the program.

(c) Approval process.

- (1) The provider shall:

- (A) make application on forms provided by the Board no less than 60 days prior to the proposed enrollment date;
- (B) present written documentation as specified in (b)(1) through (b)(7) of this Rule; and
- (C) notify the Board of any significant changes relative to (b)(1) through (b)(7) of this Rule, such as changes in faculty or total program hours.

- (2) Approval shall be granted for a two-year period. A request to offer an approved program by anyone other than the original provider shall be made to the Board.

- (3) If a course is not approved, the provider may appeal in writing for reconsideration within 30 days after notification of the disapproval. If the course is not approved upon reconsideration, the provider may request, within 10 days, a hearing at the next regularly-scheduled meeting of the Board or no later than 90 days from the date of request, whichever shall come first.

- (4) Site visits may be made by the Board as appropriate to determine compliance with the criteria as specified in Paragraph (b) of this Rule.

- (5) The Board shall withdraw approval from a provider if the provider does not successfully achieve course outcomes or if there is misrepresentation of facts within the application for approval.

- (6) Approval of continuing education programs shall be included in published reports of Board actions. A list of approved programs shall be

posted on the Board's website at [www.ncbon.com](http://www.ncbon.com).

*History Note: Authority G.S. 90-171.23(b); 90-171.42; Eff. January 1, 1984; Amended Eff. October 1, 1992; October 1, 1991; October 1, 1989; January 1, 1989; Readopted Eff. January 1, 2019.*

**21 NCAC 36 .0224 COMPONENTS OF NURSING PRACTICE FOR THE REGISTERED NURSE**

(a) The responsibilities that a registered nurse can safely accept shall be determined by such practice setting variables as:

- (1) the nurse's qualifications, including:
  - (A) basic educational preparation; and
  - (B) knowledge and skills subsequently acquired through continuing education and practice;
- (2) the complexity and frequency of nursing care needed by the client population;
- (3) the proximity of clients to personnel in the practice setting in which the nurse practices;
- (4) the qualifications and number of personnel in the practice setting in which the nurse practices;
- (5) the accessible resources in the practice setting in which the nurse practices; and
- (6) established policies, procedures, practices, and channels of communication that lend support to the types of nursing services offered in the practice setting in which the nurse practices.

(b) Assessment is an on-going process and shall consist of a determination of nursing care needs based upon collection and interpretation of data relevant to the health status of a client, group, or community.

- (1) Collection of data shall include:
  - (A) obtaining data from relevant sources regarding the biophysical, psychological, social, and cultural factors of the client's life and the influence these factors have on health status, including:
    - (i) subjective reporting;
    - (ii) observations of appearance and behavior;
    - (iii) measurements of physical structure and physiological functions; and
    - (iv) information regarding resources available to the client; and
  - (B) verifying the data collected.
- (2) Interpretation of data shall include:
  - (A) analyzing the nature and inter-relationships of collected data; and
  - (B) determining the significance of data to client's health status, ability to care for self, and treatment regimen.

- (3) Formulation of a nursing diagnosis shall include:
  - (A) describing actual or potential responses to health conditions. Such responses are those for which nursing care is indicated or for which referral to medical or community resources is appropriate; and
  - (B) developing a statement of a client problem identified through interpretation of collected data.
- (c) Planning nursing care activities includes identifying the client's needs and selecting or modifying nursing interventions related to the findings of the nursing assessment. Components of planning shall include:
  - (1) prioritizing nursing diagnoses and needs;
  - (2) setting realistic, measurable goals and outcome criteria;
  - (3) initiating or participating in multidisciplinary planning;
  - (4) developing a plan of care that includes determining and prioritizing nursing interventions; and
  - (5) identifying resources based on necessity and availability.
- (d) Implementation of nursing activities shall be the initiating and delivering of nursing care according to an established plan, which includes:
  - (1) procuring resources;
  - (2) implementing nursing interventions and medical orders consistent with 21 NCAC 36 .0221(c) and within an environment conducive to client safety;
  - (3) prioritizing and performing nursing interventions;
  - (4) analyzing responses to nursing interventions;
  - (5) modifying nursing interventions; and
  - (6) assigning, delegating, and supervising the nursing activities of other licensed and unlicensed personnel consistent with Paragraphs (a) and (i) of this Rule, G.S. 90-171.20(7)(d) and (7)i, and 21 NCAC 36 .0401.
- (e) Evaluation shall consist of determining the extent to which desired outcomes of nursing care are met and planning for subsequent care, including:
  - (1) collecting evaluative data from relevant sources;
  - (2) analyzing the effectiveness of nursing interventions; and
  - (3) modifying the plan of care based upon newly collected data, new problem identification, a change in the client's status, and expected outcomes.
- (f) Reporting and Recording by the registered nurse shall be those communications required in relation to all aspects of nursing care.
  - (1) Reporting means the communication of information to other individuals responsible for, or involved in, the care of the client. The registered nurse shall:
    - (A) direct the communication to the appropriate individuals;
    - (B) assure that these communications are consistent with established policies, procedures, practices, and channels of communication which lend support to types of nursing services offered;
    - (C) communicate within a time period that is consistent with the client's need for care;
    - (D) evaluate the responses to information reported; and
    - (E) determine whether further communication is indicated.
  - (2) Recording means the documentation of information on the appropriate client record, nursing care plan or other documents. This documentation shall:
    - (A) be pertinent to the client's health care;
    - (B) accurately describe all aspects of nursing care, including assessment, planning, implementation, and evaluation;
    - (C) be completed within a time period consistent with the client's need for care;
    - (D) reflect the communication of information to other individuals; and
    - (E) verify the proper administration and disposal of controlled substances.
- (g) Collaborating involves communicating and working cooperatively with individuals whose services may have a direct or indirect effect upon the client's health care and shall include:
  - (1) initiating, coordinating, planning, and implementing nursing or multidisciplinary approaches for the client's care;
  - (2) participating in decision-making and in cooperative goal-directed efforts;
  - (3) seeking and utilizing appropriate resources in the referral process; and
  - (4) safeguarding confidentiality.
- (h) Teaching and counseling clients shall be the responsibility of the registered nurse, consistent with 90-171.20(7)g.
  - (1) Teaching and counseling shall consist of providing accurate and consistent information, demonstrations, and guidance to clients, their families, or significant others for the purpose of:
    - (A) increasing knowledge regarding the client's health status and health care;
    - (B) assisting the client to reach an optimum level of health functioning and participation in self-care; and
    - (C) promoting the client's ability to make informed decisions.
  - (2) Teaching and counseling shall include:
    - (A) assessing the client's needs, abilities, and knowledge level;

- (B) adapting teaching content and methods to the identified needs, abilities of the clients, and knowledge level;
- (C) evaluating effectiveness of teaching and counseling; and
- (D) making referrals to appropriate resources.

(i) Managing the delivery of nursing care through the on-going supervision, teaching, and evaluation of nursing personnel shall be the responsibility of the registered nurse, as specified in the legal definition of the practice of nursing, and includes:

- (1) continuous availability for direct participation in nursing care, onsite when necessary, as indicated by client's status and by the variables cited in Paragraph (a) of this Rule;
- (2) assessing capabilities of personnel in relation to client status and the plan of nursing care;
- (3) delegating responsibility or assigning nursing care functions to personnel qualified to assume such responsibility and to perform such functions;
- (4) accountability for nursing care given by all personnel to whom that care is assigned and delegated; and
- (5) direct observation of clients and evaluation of nursing care given.

(j) Administering nursing services is the responsibility of the registered nurse, as specified in the legal definition of the practice of nursing in G.S. 90-171.20(7)i, and includes:

- (1) identification, development, and updating of standards, policies, and procedures related to the delivery of nursing care;
- (2) implementation of the identified standards, policies, and procedures to promote safe and effective nursing care for clients;
- (3) planning for and evaluation of the nursing care delivery system; and
- (4) management of licensed and unlicensed personnel who provide nursing care consistent with Paragraphs (a) and (i) of this Rule including:
  - (A) appropriate allocation of human resources to promote safe and effective nursing care;
  - (B) defined levels of accountability and responsibility within the nursing organization;
  - (C) a mechanism to validate qualifications, knowledge, and skills of nursing personnel;
  - (D) provision of educational opportunities related to expected nursing performance; and
  - (E) implementation of a system for periodic performance evaluation.

(k) Accepting responsibility for self for individual nursing actions, competence, and behavior shall be the responsibility of the registered nurse, including:

- (1) having knowledge and understanding of the statutes and rules governing nursing;
- (2) functioning within the legal boundaries of registered nurse practice; and
- (3) respecting client rights and property and the rights and property of others.

*History Note: Authority G.S. 90-171.20(7); 90-171.23(b); 90-171.43(4);*

*Eff. January 1, 1991;*

*Temporary Amendment Eff. October 24, 2001;*

*Amended Eff. August 1, 2002;*

*Readopted Eff. January 1, 2019.*

## **21 NCAC 36 .0225 COMPONENTS OF NURSING PRACTICE FOR THE LICENSED PRACTICAL NURSE**

(a) A licensed practical nurse shall accept only those assigned nursing activities and responsibilities, as defined in Paragraphs (b) through (i) of this Rule, that the licensee can safely perform, as determined by practice setting variables such as:

- (1) the nurse's qualifications in relation to client need and plan of nursing care, including:
  - (A) basic educational preparation; and
  - (B) knowledge and skills subsequently acquired through continuing education and practice;
- (2) the degree of supervision by the registered nurse consistent with Paragraph (d)(3) of this Rule;
- (3) the stability of each client's clinical condition;
- (4) the complexity and frequency of nursing care needed by each client or client group;
- (5) the accessible resources; and
- (6) established policies, procedures, practices, and channels of communication that lend support to the types of nursing services offered.

(b) Assessment is an on-going process and shall consist of participation in the determination of nursing care needs based upon collection and interpretation of data relevant to the health status of a client.

- (1) Collection of data shall consist of obtaining data from relevant sources regarding the biophysical, psychological, social, and cultural factors of the client's life and the influence these factors have on health status, according to structured written guidelines, policies, and forms, including:
  - (A) subjective reporting;
  - (B) observations of appearance and behavior;
  - (C) measurements of physical structure and physiologic function; and
  - (D) information regarding resources available to the client.
- (2) Interpretation of data shall be limited to:
  - (A) participation in the analysis of collected data by recognizing existing relationships between data gathered

- and a client's health status and treatment regimen; and
  - (B) determining a client's need for immediate nursing interventions based upon data gathered regarding the client's health status, ability to care for self, and treatment regimen, consistent with Paragraph (a)(6) of this Rule.
- (c) Planning nursing care activities shall include participation in the identification of client's needs related to the findings of the nursing assessment. Components of planning include:
  - (1) participation in making decisions regarding implementation of nursing intervention, medical orders, and plan of care through the utilization of assessment data;
  - (2) participation in multidisciplinary planning by providing resource data; and
  - (3) identification of nursing interventions and goals for review by the registered nurse.
- (d) Implementation of nursing activities shall consist of delivering nursing care according to an established health care plan and as assigned by the registered nurse or other individuals authorized by law as specified in 90-171.20(8)c.
  - (1) Nursing activities and responsibilities that may be assigned to the licensed practical nurse shall include:
    - (A) procuring resources;
    - (B) implementing nursing interventions and medical orders consistent with Paragraph (b) of this Rule and 21 NCAC 36 .0221(c) and within an environment conducive to client safety;
    - (C) prioritizing and performing nursing interventions;
    - (D) recognizing responses to nursing interventions;
    - (E) modifying immediate nursing interventions based on changes in a client's status; and
    - (F) delegating specific nursing tasks as outlined in the plan of care and consistent with Paragraph (d)(2) of this Rule and 21 NCAC 36 .0401.
  - (2) The licensed practical nurse may participate, consistent with 21 NCAC 36 .0224(d)(6), in implementing the health care plan by assigning nursing care activities to other licensed practical nurses and delegating nursing care activities to unlicensed personnel qualified and competent to perform such activities, if all of the following criteria are met:
    - (A) validation of qualifications of personnel to whom nursing activities may be assigned or delegated;
    - (B) continuous availability of a registered nurse for supervision consistent with 21 NCAC 36 .0224(i) and Paragraph (d)(3) of this Rule;
    - (C) accountability maintained by the licensed practical nurse for responsibilities accepted, including nursing care given by self and by all other personnel to whom such care is assigned or delegated;
    - (D) participation by the licensed practical nurse in on-going observations of clients and evaluation of clients' responses to nursing actions; and
    - (E) provision of supervision limited to the validation that tasks have been performed as assigned or delegated and according to established standards of practice.
- (3) The degree of supervision required for the performance of any assigned or delegated nursing activity by the licensed practical nurse when implementing nursing care shall be determined by variables that include:
  - (A) educational preparation of the licensed practical nurse, including both the basic educational program and the knowledge and skills subsequently acquired by the nurse through continuing education and practice;
  - (B) stability of the client's clinical condition, which involves both the predictability and rate of change. If a client's condition is one in which change is highly predictable and would be expected to occur over a period of days or weeks rather than minutes or hours, the licensed practical nurse may participate in care with minimal supervision. If the client's condition is unpredictable or unstable, the licensed practical nurse may participate in the performance of the task under close supervision of the registered nurse or other individuals authorized by law to provide such supervision;
  - (C) complexity of the nursing task, which is determined by depth of scientific body of knowledge upon which the action is based and by the task's potential threat to the client's well-being. If a task is complex, the licensed practical nurse shall participate in the performance of the task under close supervision of the registered nurse or other individuals authorized by law to provide such supervision;
  - (D) the complexity and frequency of nursing care needed by the client population;



- (E) the proximity of clients to personnel in the facility in which the nurse practices;
  - (F) the qualifications and number of personnel in the facility in which the nurse practices;
  - (G) the accessible resources in the facility in which the nurse practices; and
  - (H) established policies, procedures, practices, and channels of communication that lend support to the types of nursing services offered.
- (e) Evaluation, a component of implementing the health care plan, shall consist of participation in determining the extent to which desired outcomes of nursing care are met and in planning for subsequent care, including:
- (1) collecting evaluative data from relevant sources according to written guidelines, policies, and forms;
  - (2) recognizing the effectiveness of nursing interventions; and
  - (3) proposing modifications to the plan of care for review by the registered nurse or other individuals authorized by law to prescribe such a plan.
- (f) Reporting and recording shall be those communications required in relation to the aspects of nursing care for which the licensed practical nurse has been assigned responsibility.
- (1) Reporting means the communication of information to other individuals responsible for or involved in the care of the client. The licensed practical nurse shall:
    - (A) direct the communication to the appropriate individuals;
    - (B) assure that these communications are consistent with established policies, procedures, practices, and channels of communication which lend support to types of nursing services offered;
    - (C) communicate within a time period that is consistent with the client's need for care;
    - (D) evaluate the nature of responses to information reported; and
    - (E) determine whether further communication is indicated.
  - (2) Recording means the documentation of information on the appropriate client record, nursing care plan, or other documents. This documentation shall:
    - (A) be pertinent to the client's health care, including client's response to care provided;
    - (B) accurately describe all aspects of nursing care provided by the licensed practical nurse;
    - (C) be completed within a time period consistent with the client's need for care;
- (D) reflect the communication of information to other persons; and
  - (E) verify the proper administration and disposal of controlled substances.
- (g) Collaborating involves communicating and working cooperatively in implementing the health care plan with individuals whose services may have a direct or indirect effect upon the client's health care. As delegated by the registered nurse or other individuals authorized by law, the licensed practical nurse's role in collaborating in client care shall include:
- (1) participating in planning and implementing nursing or multidisciplinary approaches for the client's care;
  - (2) seeking and utilizing appropriate resources in the referral process; and
  - (3) safeguarding confidentiality.
- (h) Participating in the teaching and counseling of clients as assigned by the registered nurse, physician or other qualified professional licensed to practice in North Carolina shall be the responsibility of the licensed practical nurse. Participation shall include:
- (1) providing accurate and consistent information, demonstrations, and guidance to clients, their families, or significant others for the purpose of:
    - (A) increasing knowledge regarding the client's health status and health care;
    - (B) assisting the client to reach an optimum level of health functioning and participation in self-care; and
    - (C) promoting the client's ability to make informed decisions.
  - (2) collecting evaluative data consistent with Paragraph (e) of this Rule.
- (i) Accepting responsibility for self for individual nursing actions, competence, and behavior including:
- (1) having knowledge and understanding of the statutes and rules governing nursing;
  - (2) functioning within the legal boundaries of licensed practical nurse practice; and
  - (3) respecting client rights and property and the rights and property of others.
- History Note: Authority G.S. 90-171.20(7),(8); 90-171.23(b); 90-171.43(4); Eff. January 1, 1991; Amended Eff. January 1, 1996; Temporary Amendment Eff. October 24, 2001; Amended Eff. August 1, 2002; Readopted Eff. January 1, 2019.*

**21 NCAC 36 .0226 NURSE ANESTHESIA PRACTICE**

- (a) Only a registered nurse who completes a program accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs, is credentialed as a certified registered nurse anesthetist by the Council on Certification of Nurse Anesthetists, and who maintains recertification through the Council on Recertification of Nurse Anesthetists, shall perform nurse anesthesia activities in

collaboration with a physician, dentist, podiatrist, or other lawfully qualified health care provider. A nurse anesthetist shall not prescribe a medical treatment regimen or make a medical diagnosis except under the supervision of a licensed physician.

(b) For the purpose of this Rule, collaboration means a process by which the certified registered nurse anesthetist works with one or more qualified health care providers, each contributing his or her respective area of expertise consistent with the appropriate occupational licensure laws of the State and according to the established policies, procedures, practices, and channels of communication that lend support to nurse anesthesia services and that define the roles and responsibilities of the qualified nurse anesthetist within the practice setting. The individual nurse anesthetist shall be accountable for the outcome of his or her actions.

(c) Nurse Anesthesia activities and responsibilities that the appropriately qualified registered nurse anesthetist may safely accept shall depend upon the individual's knowledge, skills, and other variables in each practice setting as outlined in 21 NCAC 36 .0224(a), including:

- (1) Preanesthesia preparation and evaluation of the client, including:
  - (A) performing a pre-operative health assessment;
  - (B) recommending, requesting, and evaluating pertinent diagnostic studies; and
  - (C) selecting and administering preanesthetic medications.
- (2) Anesthesia induction, maintenance, and emergence of the client to include:
  - (A) securing, preparing, and providing safety checks on all equipment, monitors, supplies, and pharmaceutical agents used for the administration of anesthesia;
  - (B) selecting, implementing, and managing general anesthesia; monitored anesthesia care; and regional anesthesia modalities, including administering anesthetic and related pharmaceutical agents, consistent with the client's needs and procedural requirements;
  - (C) performing tracheal intubation, extubation, and providing mechanical ventilation;
  - (D) providing perianesthetic invasive and non-invasive monitoring, recognizing abnormal findings, implementing corrective action, and requesting consultation with appropriately qualified health care providers as necessary;
  - (E) managing the client's fluid, blood, electrolyte, and acid-base balance; and
  - (F) evaluating the client's response during emergence from anesthesia and implementing pharmaceutical and

supportive treatment to ensure the adequacy of client recovery from anesthesia.

- (3) Postanesthesia Care of the client, including:
  - (A) providing postanesthesia follow-up care, including evaluating the client's response to anesthesia, recognizing potential anesthetic complications, implementing corrective actions, and requesting consultation with appropriately qualified health care professionals as necessary;
  - (B) initiating and administering respiratory support to ensure adequate ventilation and oxygenation in the immediate postanesthesia period;
  - (C) initiating and administering pharmacological or fluid support of the cardiovascular system during the immediate postanesthesia period;
  - (D) documenting all aspects of nurse anesthesia care and reporting the client's status, perianesthetic course, and anticipated problems to an appropriately qualified postanesthetic health care provider who assumes the client's care following anesthesia, consistent with 21 NCAC 36 .0224(f); and
  - (E) releasing clients from the postanesthesia care or surgical setting in compliance with established agency policy.
- (d) Other clinical activities for which the qualified registered nurse anesthetist may accept responsibility shall include:
  - (1) inserting central vascular access catheters and epidural catheters;
  - (2) identifying, responding to, and managing emergency situations, including initiating and participating in cardiopulmonary resuscitation;
  - (3) providing consultation related to respiratory and ventilatory care and implementing such care according to established policies within the practice setting; and
  - (4) initiating and managing pain relief therapy using pharmaceutical agents, regional anesthetic techniques, and other accepted pain relief modalities according to established policies and protocols within the practice setting.

*History Note:* Authority G.S. 90-171.20(4); 90-171.20(7); 90-171.21; 90-171.23; 90-171.42(b);

*Eff.* July 1, 1993;

*Temporary Amendment Eff.* July 25, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

*Amended Eff.* December 1, 2010; December 1, 1994;

*Readopted Eff.* January 1, 2019.

**21 NCAC 36 .0228 CLINICAL NURSE SPECIALIST PRACTICE**

(a) Effective July 1, 2015, only a registered nurse who meets the qualifications outlined in Paragraph (b) of this Rule shall be recognized by the Board as a clinical nurse specialist to perform advanced practice registered nursing activities listed in Paragraph (f) of this Rule.

(b) The Board shall recognize an applicant who:

- (1) has an active, unencumbered license to practice as a registered nurse in North Carolina or a state that has adopted the Nurse Licensure Compact;
- (2) has an unrestricted previous approval, registration, or license as a clinical nurse specialist if previously approved, registered, or licensed as a clinical nurse specialist in another state, territory, or possession of the United States;
- (3) has successfully completed a master's or higher level degree program that is accredited by a nursing accrediting body approved by the United States Secretary of Education or the Council for Higher Education Accreditation and meets the qualifications for clinical nurse specialist certification by an approved national credentialing body under Part (b)(4)(A) of this Rule; and
- (4) either:
  - (A) has current certification as a clinical nurse specialist from a national credentialing body approved by the Board, as defined in Paragraph (h) of this Rule and 21 NCAC 36 .0120(26); or
  - (B) if no clinical nurse specialist certification is available in the specialty, meets requirements that are equivalent to national certification. The Board shall determine equivalence based on consideration of an official transcript and course descriptions validating Subparagraph (b)(3) of this Rule, a current curriculum vitae, work history, professional recommendations indicating evidence of at least 1,000 hours of clinical nurse specialist practice, and documentation of certificates indicating 75 contact hours of continuing education applicable to clinical nurse specialist practice during the previous five years.

(c) An applicant certified as a clinical nurse specialist by a national credentialing body prior to January 1, 2007, and who has maintained that certification and active clinical nurse specialist practice and holds a master's or higher degree in nursing or a related field shall be recognized by the Board as a clinical nurse specialist.

(d) New graduates seeking first-time clinical nurse specialist recognition in North Carolina shall hold a master's or doctoral

degree or a post-master's certificate from a clinical nurse specialist program accredited by a nursing accrediting body approved by the U.S. Secretary of Education or the Council for Higher Education Accreditation and shall meet all requirements in Subparagraph (b)(1) and Part (g)(3)(A) of this Rule.

(e) A clinical nurse specialist seeking Board recognition who has not practiced as a clinical nurse specialist in more than two years shall complete a clinical nurse specialist refresher course approved by the Board in accordance with 21 NCAC 36 .0220(o) and (p), consisting of common conditions and their management related to the clinical nurse specialist's area of education and certification. A clinical nurse specialist refresher course participant shall be granted clinical nurse specialist recognition that is limited to clinical activities taught in the refresher course.

(f) The scope of practice of a clinical nurse specialist shall incorporate the basic components of nursing practice as defined in Rule .0224 of this Section as well as the understanding and application of nursing principles at an advanced practice registered nurse level in the area of clinical nursing specialization in which the clinical nurse specialist is educationally prepared and for which competency is maintained, including:

- (1) assessing clients' health status, synthesizing and analyzing multiple sources of data, and identifying alternative possibilities as to the nature of a healthcare problem;
- (2) diagnosing and managing clients' acute and chronic health problems within an advanced practice nursing framework;
- (3) assessing for and monitoring the usage and effect of pharmacologic agents within an advanced practice nursing framework;
- (4) formulating strategies to promote wellness and prevent illness;
- (5) prescribing and implementing therapeutic and corrective non-pharmacologic nursing interventions;
- (6) planning for situations beyond the clinical nurse specialist's expertise and consulting with or referring clients to other health care providers as appropriate;
- (7) promoting and practicing in collegial and collaborative relationships with clients, families, other health care professionals, and individuals whose decisions influence the health of individual clients, families, and communities;
- (8) initiating, establishing, and using measures to evaluate health care outcomes and modify nursing practice decisions;
- (9) assuming leadership for the application of research findings for the improvement of health care outcomes; and
- (10) integrating education, consultation, management, leadership, and research into the clinical nurse specialist role.

(g) A registered nurse seeking recognition by the Board as a clinical nurse specialist shall:

- (1) complete the appropriate application that includes the following:

- (A) evidence of a master's or doctoral degree or a post-master's certificate, as set out in Subparagraph (b)(3) or Paragraph (d) of this Rule; and either
- (B) evidence of current certification in a clinical nursing specialty from a national credentialing body, set out in Part (b)(4)(A) of this Rule; or
- (C) meet requirements set out in Part (b)(4)(B) of this Rule;
- (2) renew the recognition every two years at the time of registered nurse renewal; and
- (3) either:
  - (A) submit evidence of initial certification and re-certification by a national credentialing body at the time such occurs in order to maintain Board recognition, consistent with Paragraphs (b) and (h) of this Rule; or
  - (B) if subject to Part (b)(4)(B) of this Rule, submit evidence of at least 1,000 hours of practice and 75 contact hours of continuing education every five years.
- (h) The Board shall approve those national credentialing bodies offering certification and recertification in a clinical nursing specialty that have established the following minimum requirements:
  - (1) unrestricted licensure as a registered nurse; and
  - (2) certification as a clinical nurse specialist that is limited to applicant prepared with a master's or doctoral degree or a post-master's certificate.

*History Note: Authority G.S. 90-171.20(4); 90-171.20(7); 90-171.21(d)(4); 90-171.23(b); 90-171.27(b); 90-171.42(b); Eff. April 1, 1996; Amended Eff. January 1, 2015; April 1, 2008; January 1, 2007; November 1, 2005; August 1, 2005; April 1, 2003; Readopted Eff. January 1, 2019.*

**21 NCAC 36 .0232 CONTINUING COMPETENCE**

- (a) Upon application for license renewal or reinstatement, each licensee shall:
  - (1) complete a self-assessment of practice, including professional responsibility, knowledge based practice, legal and ethical practice, and collaborating with others;
  - (2) develop a plan for continued learning; and
  - (3) select and implement a learning activity option from those outlined in Paragraph (b) of this Rule.
- (b) Upon application for license renewal or reinstatement, each licensee shall attest to having completed one of the following learning activity options during the preceding renewal cycle and submit evidence of completion if requested by the Board:
  - (1) national certification or re-certification related to the nurse's practice role by a national credentialing body recognized by the Board, consistent with 21 NCAC 36 .0120 and 21 NCAC 36 .0801;

- (2) 30 contact hours of continuing education activities related to the nurse's practice;
  - (3) completion of a Board-approved refresher course, consistent with 21 NCAC 36 .0220 and 21 NCAC 36 .0808(d);
  - (4) completion of a minimum of two semester hours of post-licensure academic education related to nursing practice;
  - (5) 15 contact hours of a continuing education activity related to the nurse's practice and completion of a nursing project as principal or co-principal investigator including a statement of the problem, project objectives, methods, and a summary of findings;
  - (6) 15 contact hours of a continuing education activity related to the nurse's practice and authoring or co-authoring a published nursing-related article, paper, book, or book chapter;
  - (7) 15 contact hours of a continuing education activity related to the nurse's practice and designing, developing, and conducting an educational presentation or presentations totaling a minimum of five contact hours for nurses or other health professionals; or
  - (8) 15 contact hours of a continuing education activity related to the nurse's practice and 640 hours of active practice within the previous two years.
- (c) The following documentation shall be accepted as evidence of completion of learning activity options described in Paragraph (b) of this Rule:
    - (1) Evidence of national certification that includes a copy of a certificate that states name of licensee, name of certifying body, date of certification, date of certification expiration. Certification shall be initially attained during the licensure period, have been in effect during the entire licensure period, or have been re-certified during the licensure period.
    - (2) Evidence of contact hours of continuing education that includes the name of the licensee, title of educational activity, name of the provider, number of contact hours, and date of activity.
    - (3) Evidence of completion of a Board-approved refresher course that includes written correspondence from the provider stating the name of the licensee, name of the provider, and verification of successful completion of the course.
    - (4) Evidence of post-licensure academic education that includes a copy of a transcript stating the name of the licensee, name of educational institution, date of attendance, name of course with grade, and number of credit hours received.
    - (5) Evidence of completion of a nursing project shall include an abstract or summary of the project, the name of the licensee, role of the

- licensee as principal or co-principal investigator, date of project completion, statement of the problem, project objectives, methods used, and a summary of findings.
- (6) Evidence of authoring or co-authoring a published nursing-related article, paper, book, or book chapter that includes a copy of the publication stating the name of the licensee and publication date.
  - (7) Evidence of developing and conducting an educational presentation or presentations totaling at least five contact hours for nurses or other health professionals that includes a copy of the program brochure or course syllabi, objectives, content and teaching methods, and date and location of presentation.
  - (8) Evidence of 640 hours of active practice in nursing shall include documentation of the name of the licensee, number of hours worked in calendar or fiscal year, name and address of employer, and signature of supervisor. If self-employed, hours worked shall be validated through other methods such as tax records or other business records. If active practice is of a volunteer or gratuitous nature, hours worked shall be validated by the recipient agency.

(d) A licensee shall retain supporting documentation to provide proof of completion of the option chosen in Paragraph (b) of this Rule for three years.

(e) At the time of license renewal or reinstatement, licensees shall be subject to audit for proof of compliance with the Board's requirements for continuing competence.

(f) The Board shall inform licensees of their selection for audit at the time of license renewal or request for reinstatement. Documentation of acceptable evidence shall be consistent with Paragraph (c) of this Rule and shall be submitted to the Board no later than the last day of the renewal month.

(g) Failure of a licensee to meet the requirements of this Rule at the time of renewal shall result in the license not being renewed until evidence of compliance is submitted and approved by the Board.

(h) Licensee shall not be reinstated until licensee has met all of the requirements of this Rule.

*History Note:* Authority G.S. 90-171.23(b); 90-171.37(1) and (8);

*Eff. May 1, 2006;*

*Amended Eff. November 1, 2008;*

*Readopted Eff. January 1, 2019.*

#### **21 NCAC 36 .0233 OUT OF STATE STUDENTS**

(a) Unlicensed nursing students enrolled in out-of-State nursing education programs who request use of North Carolina clinical facilities shall be allowed such experiences following approval by the Board. Upon receiving such a request, the chief nursing administrator of a North Carolina clinical facility shall provide the Board with the following at least 30 days prior to the start of the requested experience:

- (1) a letter of request for approval to provide the clinical offering, including proposed starting and completion dates;
  - (2) documentation that the nursing program is currently approved by the Board of Nursing in the state in which the parent institution is located;
  - (3) the name, qualifications, and evidence of an active, unencumbered registered nurse licensure of the faculty responsible for coordinating the student's experience; and
  - (4) the name, qualifications, and evidence of active unencumbered license to practice as a registered nurse in North Carolina for the preceptor or on-site faculty.
- (b) Copies of the following shall be distributed by the chief nursing administrator of the clinical facility to all students and faculty involved in the clinical experiences:
- (1) North Carolina Nursing Practice Act;
  - (2) North Carolina administrative rules and related interpretations provided by the Board regarding the role of the registered nurse, licensed practical nurse, and unlicensed nursing personnel; and
  - (3) North Carolina Board of Nursing developed Suggestions for Utilization of Preceptors.
- (c) Failure to continue in compliance with the requirements of Paragraph (a) of this Rule shall result in the immediate withdrawal of the Board's approval of the clinical offering and student status, consistent with G.S. 90-171.43(2).

*History Note:* Authority G.S. 90-85.3; 90-171.23(b) 90-171.43; 90-171.83;

*Eff. April 1, 2008;*

*Readopted Eff. January 1, 2019.*

#### **21 NCAC 36 .0302 ESTABLISHMENT OF A NURSING PROGRAM - INITIAL APPROVAL**

(a) An institution seeking initial approval to operate a nursing program shall employ a program director qualified pursuant to Rule .0317(c) of this Section.

(b) The program director shall submit an application for initial approval at least six months prior to the proposed program start date that documents the following:

- (1) a narrative description of the organizational structure of the program and its relationship to the controlling institution, including accreditation status. The controlling institution shall be an accredited institution;
- (2) a general overview of the entire proposed curriculum that includes:
  - (A) the program philosophy, purposes, and objectives;
  - (B) a master plan of the curriculum, indicating the sequence for both nursing and non-nursing courses, as well as prerequisites and corequisites;
  - (C) course descriptions and course objectives for all courses; and

- (D) course syllabi pursuant to 21 NCAC 36. 0321(i) for all first-year nursing courses;
- (3) the proposed student population;
- (4) the projected student enrollment;
- (5) evidence of learning resources and clinical experiences available to implement and maintain the program;
- (6) financial resources adequate to begin and maintain the program;
- (7) physical facilities adequate to house the program;
- (8) support services available to the program from the controlling institution;
- (9) approval of the program by the governing body of the controlling institution; and
- (10) a plan with a specified time frame for:
  - (A) availability of qualified faculty as specified in 21 NCAC 36 .0318;
  - (B) course syllabi as specified in 21 NCAC 36. 0321(h) of this Section for all nursing courses;
  - (C) student policies for admission, progression, and graduation of students, pursuant to 21 NCAC 36 .0320; and
  - (D) comprehensive program evaluation, pursuant to 21 NCAC 36 .0317(d).
- (c) The application to establish a nursing program shall contain current and accurate information required in Paragraph (a) of this Rule, be complete, and be signed by the program director and the chief executive officer of the controlling institution.
- (d) The completed application shall be received by the Board not less than 120 days prior to a regular meeting of the Board to be considered for placement on the agenda of that meeting.
- (e) If another program exists in the institution, the application shall include:
  - (1) the organizational relationship of the existing program and the proposed program in the institution;
  - (2) the NCLEX pass rate of the existing program for the past three years; and
  - (3) a description of the expected impact of the proposed program on the existing program, including:
    - (A) the availability of a program director for each program;
    - (B) the availability of qualified faculty;
    - (C) the physical facilities adequate to house both programs;
    - (D) the availability of learning resources;
    - (E) the availability of clinical experiences; and
    - (F) the adequacy of student services.
- (f) No new program application shall be considered if a nursing program currently exists in the institution if:
  - (1) the NCLEX pass rate of the existing program has not met the standard for the past three years, pursuant to 21 NCAC 36 .0320(e); and
  - (2) resources are not demonstrated to be adequate to maintain both the existing and the proposed program in compliance with Rules .0300 to .0323 of this Section.
- (g) Programs on initial approval may admit students.
- (h) The Board shall conduct an on-site survey of the proposed program after the application meets all the requirements set forth in this Rule, shall prepare a survey report, and afford the petitioning institution an opportunity to respond to the survey report.
- (i) The Board shall consider all evidence, including the application, the survey report, comments from representatives of the petitioning institution, public comments, and the status of other nursing programs at the institution in determining whether to approve the application.
- (j) If the application is approved, the Board shall grant initial approval and shall establish a maximum enrollment and implementation date.
- (k) The Board shall rescind the initial approval of a program if the controlling institution fails to submit documentation as set forth in the plan required by Subparagraph (b)(10) of this Rule.
- l) The Board shall rescind the initial approval of a program if the first class of students is not enrolled in the program within one year after issuing the initial approval.
- (m) For 12 months following rescission of approval, the controlling institution shall not submit an application for establishing a nursing program.
- (n) A program shall retain initial approval status for the time necessary for full implementation of the curriculum, provided that the program complies with Section .0300 of this Chapter.
- (o) Programs with initial approval shall be surveyed:
  - (1) during the final term of curriculum implementation of the program; and
  - (2) upon receipt by the Board of information that the program may not be complying with Section .0300.
- (p) If at any time a program on initial approval is not complying with Section .0300 of this Chapter, the program, upon written notification, shall:
  - (1) correct the area of noncompliance and submit written evidence of this correction to the Board; or
  - (2) submit and implement a plan for correction to the Board.
- (q) The Board shall rescind the initial approval of a program if the program does not comply with Paragraph (o) of this Rule.
- (r) If, following the survey and during final curriculum implementation, the Board finds that the program is complying with Section .0300 of this Chapter, the Board shall place the program on full approval status.
- (s) If, following the survey and during final curriculum implementation, the program does not comply with the Section .0300 of this Chapter, the Board shall rescind the program's initial approval and provide the program with written notice of the Board's decision.
- (t) Upon written request from the program submitted within 10 business days of the Board's written notice of rescinding the initial approval, the Board shall schedule a hearing at the next available meeting of the Board for which appropriate notice can be

provided, or at a meeting of the Board that is scheduled by consent of the parties.

(u) Following the hearing and consideration of all evidence provided, the Board shall assign the program full approval status or shall enter an Order rescinding the initial approval status, which shall constitute program closure pursuant to 21 NCAC 36 .0309.

*History Note: Authority G.S. 90-171.23(b)(8); 90-171.38; Eff. February 1, 1976; Amended Eff. June 1, 1992; January 1, 1989; November 1, 1984; May 1, 1982; Temporary Amendment Eff. October 11, 2001; Amended Eff. December 1, 2016; January 1, 2009; December 1, 2005; August 1, 2002; Readopted Eff. January 1, 2019.*

**21 NCAC 36 .0303 EXISTING NURSING PROGRAM**

(a) All nursing programs that are governed by the rules in this Chapter may obtain national program accreditation by a nursing accreditation body as defined in 21 NCAC 36 .0120(30).

(b) Board action is based upon each program's performance and demonstrated compliance with the Board's requirements and responses to the Board's recommendations. The Board may, depending on the severity and pattern of violations of this Chapter, require corrective action for identified deficiencies, impose a monitoring plan, conduct a program survey, change program approval status, issue discipline, or close a program.

(c) Full Approval

(1) The Board shall review approved programs at least every eight years as specified in G.S. 90-171.40. Reviews of individual programs shall be conducted at shorter intervals upon request from the individual institution or as considered necessary by the Board. National accreditation self-study reports shall provide a basis for review of accredited programs.

(2) The Board shall send a written report of the review no more than 20 business days following the completion of the review process. Responses from a nursing education program regarding a review report or warning status as referenced in Paragraph (d) of this Rule shall be received in the Board office by the deadline date specified in the letter accompanying the report or notification of warning status. If no materials or documents are received by the specified deadline date, the Board shall act upon the findings in the review report and the testimony of the Board staff.

(3) If the Board finds a pattern of noncompliance with one or more rules in this Section, the Board may take action as outlined in Paragraph (b) of this Rule.

(d) Warning Status

(1) If the Board finds that a program is not complying with the rules in this Section, the Board shall assign the program warning status and shall give written notice by certified mail to the program specifying:

(A) the areas in which there is noncompliance;

(B) the date by which the program must comply with the rules in this Section. The maximum time for compliance shall be two years after issuance of the written notice; and

(C) the opportunity to schedule a hearing. Any request for a hearing regarding the program warning status shall be submitted to the Board. A hearing shall be afforded pursuant to the provisions of G.S. 150B, Article 3A.

(2) On or before the required date of compliance specified in Part (d)(1)(B) of this Rule if the Board determines that the program is complying with the rules in this Section, the Board shall assign the program full approval status.

(3) If the Board finds the program is not in compliance with the rules in this Section by the date specified in Part (d)(1)(B) of this Rule, the program shall remain on warning status, a review by the Board shall be conducted during that time and the Board shall either:

(A) continue the program on warning status; or

(B) withdraw approval, constituting a program closure consistent with Subparagraph (c)(3) of this Rule.

(4) Upon written request from the program submitted within 10 business days of the Board's written notice of warning status, the Board shall schedule a hearing at the next available meeting of the Board for which appropriate notice can be provided, or at a meeting of the Board that is scheduled by consent of the parties.

(5) If a hearing is held at the request of the program and the Board determines that the program is not in compliance with the rules in this Section, the program shall remain on warning status, a review by the Board shall be conducted during that time and the Board shall either:

(A) continue the program on warning status; or

(B) withdraw approval, constituting program closure consistent with Subparagraph (c)(3) of this Rule.

*History Note: Authority G.S. 90-171.23(b); 90-171.38; 90-171.39; 90-171.40; Eff. February 1, 1976; Amended Eff. December 1, 2016; August 1, 2011; July 3, 2008; March 1, 2006; January 1, 2004; June 1, 1992; January 1, 1989; Readopted Eff. January 1, 2019.*

**21 NCAC 36 .0309      PROCESS FOR PROGRAM CLOSURE**

- (a) When the controlling institution makes the decision to close a nursing program, the Administration of the institution shall submit a written plan for the discontinuation of the program to the Board and shall include the reasons for program closure, the date of intended closure, and a plan for students to complete this or another approved program.
- (b) When the Board closes a nursing program, the program director shall, within 30 days, develop and submit a plan for discontinuation of the program for Board approval. The plan shall address transfer of students to approved programs.
- (c) The controlling institution shall notify the Board of the arrangement for secure storage and access to academic records and transcripts.

*History Note: Authority G.S. 90-171.38; 90-171.39; 90-171.40;*

*Eff. June 1, 1992;*

*Amended Eff. December 1, 2016; December 1, 2005;*

*Readopted Eff. January 1, 2019.*

**21 NCAC 36 .0317      ADMINISTRATION**

- (a) The controlling institution of a nursing program shall provide those human, physical, technical, and financial resources and services essential to support program processes and outcomes, including those listed in Paragraph (f) and (g) of this Rule, and maintain compliance with Section .0300 of this Chapter.
- (b) The controlling institution shall ensure that a full-time registered nurse, qualified pursuant to Paragraph (e) of this Rule, has the authority to direct the nursing program.
- (c) The controlling institution shall ensure that the program director has the authority and responsibility for maintaining compliance with the Rules in this Chapter and other legal requirements in all areas of the program.
- (d) The controlling institution shall ensure that the program director has non-teaching time sufficient to allow for program organization, administration, continuous review, planning, and development.
- (e) The program director in a program preparing students for initial nurse licensure shall satisfy the following requirements:
- (1) hold an active unencumbered license or multistate licensure privilege to practice as a registered nurse in North Carolina;
  - (2) have two years of full-time experience as a faculty member in a Board-approved nursing program;
  - (3) be experientially qualified, having clinical nursing experience, experience as a faculty member in a nursing program, and academic or nursing leadership experience to lead the program to accomplish the mission, goals, and expected program outcomes;
  - (4) hold either a baccalaureate in nursing or a graduate degree in nursing from an accredited institution. If newly employed on or after January 1, 2016, hold a graduate degree from an accredited institution. If newly employed on or

- after January 1, 2021, hold a graduate degree in nursing from an accredited institution;
- (5) prior to or within the first three years of employment, have education in teaching and learning principles for adult education, including curriculum development, implementation, and evaluation, appropriate to the program director role. Once completed, this preparation need not be repeated if employing organization is changed. This preparation may be demonstrated by one of the following:
- (A) completion of 45 contact hours of Board-approved continuing education courses;
  - (B) completion of a certificate program in nursing education;
  - (C) nine semester hours of graduate course work in adult learning and learning principles;
  - (D) national certification in nursing education; or
  - (E) documentation of successful completion of structured, individualized development activities of at least 45 contact hours approved by the Board. Criteria for approval shall include content in the faculty role in curriculum implementation, curricular objectives to be met and evaluated, review of strategies for identified student population, and expectations of student and faculty performance.

Any registered nurse who was employed as a nurse program director for the first time prior to January 1, 1984 shall be exempt from the requirements in Subparagraph (e)(5) of this Rule.

- (6) maintain competence in the areas of assigned responsibility; and
  - (7) have knowledge of current nursing practice for the registered nurse and the licensed practical nurse.
- (f) A nursing education program shall implement, for quality improvement, a comprehensive program evaluation that shall include the following:
- (1) students' achievement of program outcomes;
  - (2) evidence of program resources, including fiscal, physical, human, clinical, and technical learning resources; student support services; and the availability of clinical sites and the viability of those sites adequate to meet the objectives of the program;
  - (3) measures of program outcomes for graduates;
  - (4) evidence that accurate program information for the public is available;
  - (5) evidence that the controlling institution and its administration support program outcomes;
  - (6) evidence that program director and program faculty meet Board qualifications and are



- sufficient in number to achieve program outcomes;
- (7) evidence that the academic institution assures security of student information;
- (8) evidence that collected evaluative data is used in implementing quality improvement activities; and
- (9) evidence of student participation in program planning, implementation, evaluation, and continuous improvement.

(g) The controlling institution and the nursing education program shall communicate information describing the nursing education program that is accurate, complete, consistent across mediums, and accessible by the public. The following shall be accessible to all applicants and students:

- (1) admission policies and practices;
- (2) policy on advanced placement and transfer of credits;
- (3) the number of credits required for completion of the program;
- (4) tuition, fees, and other program costs;
- (5) policies and procedures for withdrawal, including refund of tuition or fees;
- (6) the grievance procedure;
- (7) criteria for successful progression in the program, including graduation requirements; and
- (8) policies for clinical performance.

*History Note: Authority G.S. 90-171.23(b)(8); 90-171.38; Eff. June 1, 1992; Amended Eff. December 1, 2016; January 1, 2015; April 1, 2008; March 1, 2006; Readopted Eff. January 1, 2019.*

## **21 NCAC 36 .0318 FACULTY**

- (a) All nursing program faculty, including both full-time and part-time faculty members, shall participate in curriculum implementation and evaluation.
- (b) Policies for nursing program faculty members shall be consistent with those for other faculty of the controlling institution, with variations as needed due to the nature of the nursing curriculum.
- (c) Fifty percent or more of the nursing faculty shall hold a graduate degree.
- (d) As of January 1, 2021, 80 percent of the full-time faculty shall hold a graduate degree in nursing.
- (e) As of January 1, 2021, 50 percent of the part-time faculty shall hold a graduate degree in nursing.
- (f) All faculty shall hold an active unencumbered license or multistate licensure privilege to practice as a registered nurse in North Carolina.
- (g) Nurses licensed pursuant to this Chapter who are full-time and part-time faculty and who teach in a program leading to initial licensure as a nurse shall:
  - (1) hold either a baccalaureate in nursing or a graduate degree in nursing from an accredited institution;

- (2) have two calendar years or the equivalent of full-time clinical experience as a registered nurse;
- (3) if newly employed in a full-time faculty position on or after January 1, 2016, hold a graduate degree from an accredited institution or obtain a graduate degree in nursing from an accredited institution within five years of initial full-time employment;
- (4) prior to or within the first three years of employment, have education in teaching and learning principles for adult education, including curriculum development, implementation, and evaluation, appropriate to faculty assignment. Once completed, this preparation need not be repeated if employing organization is changed. This preparation may be demonstrated by one of the following:
  - (A) completion of 45 contact hours of Board-approved continuing education courses;
  - (B) completion of a certificate program in nursing education;
  - (C) nine semester hours of graduate course work in adult learning and learning principles;
  - (D) national certification in nursing education; or
  - (E) documentation of successful completion of structured, individualized development activities of at least 45 contact hours approved by the Board. Criteria for approval shall include content in the faculty role in the curriculum implementation, curricular objectives to be met and evaluated, review of strategies for identified student population, and expectations of student and faculty performance.

Any registered nurse who was employed as a nurse faculty member or program director prior to January 1, 1984 shall be exempt from the requirements in Subparagraph (g)(4) of this Rule.

- (5) maintain competence in the areas of assigned responsibility; and
- (6) have knowledge of current nursing practice for the registered nurse and the licensed practical nurse.
- (h) Interdisciplinary faculty who teach in nursing program courses shall have academic preparation in the content area they are teaching.
- (i) Clinical preceptors shall have competencies, assessed by the nursing program, related to the area of assigned clinical teaching responsibilities. Clinical preceptors may be used to enhance faculty-directed clinical learning experiences after a student has received basic instruction for that specific learning experience. Clinical preceptors shall hold an active unencumbered license to practice as a registered nurse in North Carolina.

(j) Nurse faculty members shall have the authority and responsibility for:

- (1) student admission, progression, and graduation requirements; and
- (2) the development, implementation, and evaluation of the curriculum.

(k) Nurse faculty members shall be academically qualified and sufficient in number to implement the curriculum as required by the course objectives, the levels of the students, the nature of the learning environment, and to provide for teaching, supervision, and evaluation.

(l) The faculty-student ratio for faculty-directed preceptor clinical experiences shall be no greater than 1:15. The faculty-student ratio for all other clinical experiences shall be no greater than 1:10.

*History Note:* Authority G.S. 90-171.23(b)(8); 90-171.38; 90-171.83;

*Eff. February 1, 1976;*

*Amended Eff. December 1, 2016; January 1, 2015; August 1, 2011; November 1, 2008; July 1, 2006; July 1, 2000; January 1, 1996; June 1, 1992; January 1, 1989; January 1, 1984;*

*Readopted Eff. January 1, 2019.*

### **21 NCAC 36 .0320 STUDENTS**

(a) Students in nursing programs shall meet requirements established by the controlling institution.

(b) Admission requirements and practices shall be stated and published in the controlling institution's publications and shall include assessment of the student's:

- (1) record of high school graduation, high school equivalent, or earned credits from a post-secondary institution;
- (2) achievement potential through the use of previous academic records and pre-entrance examination cut-off scores that are consistent with curriculum demands and scholastic expectations; and
- (3) physical and emotional health that is indicative of the applicant's ability to provide competent nursing care to the public.

(c) The number of students enrolled in nursing courses shall not exceed by more than 10 students the maximum number approved by the Board, as established pursuant to 21 NCAC 36 .0302(f) and 21 NCAC 36 .0321(k).

(d) The nursing program shall publish policies in a nursing student handbook and college catalog that provide for identification and dismissal of students who:

- (1) present physical or emotional problems that conflict with the safety essential to nursing practice and do not respond to treatment or counseling within a timeframe that enables meeting program objectives;
- (2) demonstrate behavior that conflicts with the safety essential to nursing practice; or
- (3) fail to demonstrate professional behavior, including honesty, integrity, and appropriate use of social media, while in the nursing program of study.

(e) The nursing program shall maintain a three-year average at or above 95 percent of the national pass rate for licensure level pass rate on first writing of the licensure examination for calendar years ending December 31.

(f) The controlling institution shall publish policies in a nursing student handbook and college catalog for transfer of credits or for admission to advanced placement, and the nursing program shall determine the total number of nursing courses or credits awarded for advanced placement.

*History Note:* Authority G.S. 90-171.23(b)(8); 90-171.38; 90-171.43;

*Eff. February 1, 1976;*

*Amended Eff. December 1, 2016; January 1, 2006; August 1, 1998; January 1, 1996; June 1, 1992; January 1, 1989; January 1, 1984;*

*Readopted Eff. January 1, 2019.*

### **21 NCAC 36 .0321 CURRICULUM**

(a) The nursing program curriculum shall:

- (1) be planned by nursing program faculty;
- (2) reflect the stated program philosophy, purposes, and objectives, pursuant to 21 NCAC 36 .0302(a)(2);
- (3) be consistent with Article 9A of G.S. 90 and the Rules in this Chapter governing the practice of nursing;
- (4) define the level of performance required to pass each course in the curriculum;
- (5) enable a student to develop the nursing knowledge, skills, and abilities necessary for competent practice consistent with the level of licensure and scope as set forth in 21 NCAC 36 .0221, .0224, .0225, and .0231;
- (6) include content in the biological, physical, social, and behavioral sciences to provide a foundation for competent and effective nursing practice;
- (7) provide students the opportunity to acquire and demonstrate, through didactic content and clinical experience under faculty supervision, the knowledge, skills, and abilities required for effective and competent nursing practice across the lifespan; and
- (8) be revised as necessary to reflect changes and advances in health care and its delivery.

(b) Didactic content and supervised clinical experience across the lifespan appropriate to program type shall include:

- (1) implementing safety principles and practices minimizing the risk of harm to clients and providers through both system effectiveness and individual performance;
- (2) using informatics to communicate, manage knowledge, mitigate error, and support decision making;
- (3) employing evidence-based practice to integrate the best research with clinical expertise and client values for optimal care, including skills

- to identify and apply best practices to nursing care;
  - (4) providing client-centered, culturally competent care by:
    - (A) respecting client differences, values, preferences, and expressed needs;
    - (B) involving clients in decision-making and care management;
    - (C) coordinating and managing continuous client care consistent with the level of licensure. This shall include a demonstrated ability to supervise others and provide leadership within the profession appropriate for program type; and
    - (D) promoting healthy lifestyles for clients and populations;
  - (5) working in interdisciplinary teams to cooperate, collaborate, communicate, and integrate client care and health promotion; and
  - (6) participating in quality improvement processes to measure client outcomes, identify hazards and errors, and develop changes in client care.
- (c) Clinical experience shall be comprised of sufficient hours to accomplish the curriculum, shall be supervised by qualified faculty pursuant to 21 NCAC 36 .0318, and shall ensure students' ability to practice at an entry level.
- (d) All student clinical experiences, including those with preceptors, shall be directed by nursing faculty.
- (e) A focused client care experience with a minimum of 120 hours shall be provided in the final year of curriculum implementation for programs preparing registered nurses.
- (f) A focused client care experience with a minimum of 90 hours shall be provided in the final semester of the curriculum for programs preparing practical nurses.
- (g) Learning experiences and methods of instruction, including distance education methods, shall be consistent with the written curriculum plan and shall demonstrate logical curricular progression.
- (h) Objectives for each course shall indicate the knowledge, skills, and abilities expected for competent student performance. These objectives shall:
- (1) indicate the relationship between the classroom learning and the application of this learning in the clinical experience;
  - (2) serve as criteria for the selection of the types of and settings for learning experiences; and
  - (3) serve as the basis for evaluating student performance.
- (i) Student course syllabi shall include a description and outline of:
- (1) the course content;
  - (2) the learning environments and activities;
  - (3) when the course is taken in the curriculum;
  - (4) allocation of time for didactic content, clinical experience, laboratory experience, and simulation; and
  - (5) methods of evaluation of student performance, including all evaluation tools used in the course.

- (j) Each course shall be implemented in accordance with and evaluated by reference to the student course syllabus.
- (k) Requests for approval of changes in, or expansion of, the program, accompanied by all required documentation, shall be submitted in the format provided by the Board at least 30 days prior to implementation for approval by the Board. Criteria for approval shall include the availability of classrooms, laboratories, clinical placements, equipment, and supplies and faculty sufficient to implement the curriculum to an increased number of students. Approval shall be required for any increase in enrollment that exceeds, by more than 10 students, the maximum number approved by the Board. Requests for expansion shall be considered only for programs with full approval status that demonstrate at least a three-year average licensure examination pass rate equal to or greater than the North Carolina three-year average pass rate for program type.
- (l) The nursing education program shall notify the Board at least 30 days prior to implementation of:
  - (1) alternative or additional program schedules;
  - (2) planned decrease in the Board-approved student enrollment number to accurately reflect program capacity; and
  - (3) changes that alter the currently approved curriculum.
- (m) For all programs using simulation experiences substituted for clinical experience time, the nursing education program shall:
  - (1) demonstrate that simulation faculty have been formally educated and maintain the competencies in simulation and debriefing; and
  - (2) provide a simulation environment with adequate faculty, space, equipment, and supplies that simulate realistic clinical experiences to meet the curriculum and course objectives.
- (n) Programs not holding national nursing accreditation shall limit simulation experiences to no more than 25 percent in each course, including the focused client care experience.
- (o) Programs holding national nursing accreditation shall limit simulation experiences to:
  - (1) no more than 25 percent in the focused client care experience; and
  - (2) no more than 50 percent of clinical experience time in each course.
- (p) External standardized examinations shall not be used to determine a student's progression or graduation in a nursing education program preparing students for initial nurse licensure.

*History Note: Authority G.S. 90-171.23(b)(8); 90-171.38; Eff. February 1, 1976; Amended Eff. June 1, 1992; January 1, 1989; January 1, 1984; Temporary Amendment Eff. October 11, 2001; Amended Eff. December 1, 2016; December 1, 2005; August 1, 2002; Readopted Eff. January 1, 2019.*

**21 NCAC 36 .0322 FACILITIES**

- (a) Campus facilities shall be appropriate in type, number, and accessibility for the total needs of the program.

(b) Classrooms, laboratory and simulation space, and conference rooms shall be sufficient in size, number, and types for the number of students and purposes for which the rooms are to be used. Lighting, ventilation, location, and equipment shall be suitable for the number of students and purposes for which the rooms are to be used.

(c) Office and conference space for nursing program faculty members shall be appropriate and available for uninterrupted work and privacy, including conferences with students.

(d) Learning resources, including clinical experiences, shall be comprehensive, current, developed with nursing faculty input, accessible to students and faculty and shall support the implementation of the curriculum.

*History Note: Authority G.S. 90-171.23(b)(8); 90-171.38; Eff. February 1, 1976; Amended Eff. January 1, 1996; June 1, 1992; January 1, 1989; May 1, 1988; Temporary Amendment Eff. October 11, 2001; Amended Eff. December 1, 2016; April 1, 2006; August 1, 2002; Readopted Eff. January 1, 2019.*

## **21 NCAC 36 .0323 RECORDS AND REPORTS**

(a) The controlling institution's publications describing the nursing program shall be current and accurate.

(b) The controlling institution shall maintain a system for maintaining official records. Current and permanent student records shall be stored in a secure manner that prevents physical damage and unauthorized access.

(c) Both permanent and current records shall be available for review by Board staff.

(d) The official permanent record for each graduate shall include documentation of graduation from the program and a transcript of the individual's achievement in the program.

(e) The record for each currently enrolled student shall contain up-to-date and complete information, including the following:

- (1) documentation of admission criteria met by the student;
- (2) documentation of high school graduation, high school equivalent, or earned credits from post-secondary institution approved pursuant to G.S. 90-171.38(a); and
- (3) a transcript of credit hours achieved in the classroom, laboratory, and clinical instruction for each course that reflects progression consistent with program policies.

(f) The nursing program shall file with the Board records, data, and reports in order to furnish information concerning operation of the program as prescribed in the rules in this Section, including:

- (1) an annual report to be filed with the Board by November 1 of each year;
- (2) a program description report for non-accredited programs filed with the Board at least 30 days prior to a scheduled review by the Board; and
- (3) notification by institution administration of any change of the nursing program director. This notification shall include a curriculum vitae for the new director and shall be submitted no later

than 10 business days before the effective date of the change.

(g) All communications relevant to accreditation shall be submitted to the Board at the same time that the communications are submitted to the accrediting body.

(h) The Board may require additional records and reports for review at any time to provide evidence and substantiate compliance with the rules in this Section by a program and its controlling institutions.

(i) The part of the application for licensure by examination to be submitted to the Board by the nursing program shall include a statement verifying satisfactory completion of all requirements for graduation and the date of completion. The nursing program director shall verify completion of requirements to the Board no later than one month following completion of the Board-approved nursing program.

*History Note: Authority G.S. 90-171.23(b)(8); 90-171.38; Eff. February 1, 1976; Amended Eff. December 1, 2016; January 1, 2015; December 1, 2005; January 1, 2004; June 1, 1992; January 1, 1989; January 1, 1984; Readopted Eff. January 1, 2019.*

## **21 NCAC 36 .0401 ROLES OF UNLICENSED PERSONNEL**

(a) Definitions. As used in Section .0400:

- (1) "Nursing care activities" means activities performed by unlicensed personnel that are delegated by licensed nurses in accordance with paragraphs (b) and (c) of this Rule.
- (2) "Patient care activities" means activities performed by unlicensed personnel if health care needs are incidental to the personal care required.

(b) The Board, as authorized by G.S. 90-171.23(b)(1)(2)(3), shall determine those nursing care activities that may be delegated to unlicensed personnel. The registered and licensed practical nurse, in accordance with 21 NCAC 36 .0224 and .0225 and G.S. 90-171.20(7)(8), may delegate nursing care activities to unlicensed personnel, regardless of title, that are appropriate to the level of knowledge, skill, and validated competence of the unlicensed personnel.

(c) Those nursing care activities that may be delegated to unlicensed personnel shall be determined by the following variables:

- (1) knowledge and skills of the unlicensed personnel;
- (2) verification of clinical competence of the unlicensed personnel by a registered nurse employed by the agency.
- (3) stability of the client's condition, which involves predictability, absence of risk of complication, and rate of change, and which excludes delegation of nursing care activities that do not meet the requirements defined in 21 NCAC 36 .0221(b);
- (4) the variables in each service setting, which include:

- (A) the complexity and frequency of nursing care needed by a given client population in the practice setting in which the nurse practices;
- (B) the proximity of clients to staff in the practice setting in which the nurse practices;
- (C) the number and qualifications of staff in the practice setting in which the nurse practices;
- (D) the accessible resources; and
- (E) established policies, procedures, practices, and channels of communication that lend support to the types of nursing activities being delegated, or not delegated, to unlicensed personnel in the practice setting in which the nurse practices.

*History Note: Authority G.S. 90-171.20(2)(4)(7)d.,e.,g.; 90-171.43(4); 90-171.55; 42 U.S.C.S. 1395i-3 (1987); Eff. March 1, 1989; Amended Eff. December 1, 1995; October 1, 1991; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018; Amended Eff. January 1, 2019.*

**21 NCAC 36 .0402 COORDINATION WITH DIVISION OF HEALTH SERVICE REGULATION**

- (a) The Board shall accept nurse aide Is listed on the Division of Health Service Regulation (DHSR) maintained Nurse Aide Registry as meeting the requirements of 21 NCAC 36 .0403(a).
- (b) The Board shall acquire information from DHSR regarding all qualified nurse aide Is.

*History Note: Authority G.S. 90-171.20(2)(4)(7)d.,e.,g.; 90-171.43(4); 90-171.55; 42 U.S.C.S. 1395i-3 (1987); Eff. March 1, 1989; Amended Eff. November 1, 2008; December 1, 1995; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018; Amended Eff. January 1, 2019.*

**21 NCAC 36 .0403 QUALIFICATIONS**

- (a) A nurse aide I shall perform basic nursing skills and personal care activities after successfully completing an approved nurse aide I training and competency evaluation or equivalent as approved by the Division of Health Service Regulation (DHSR). A licensed nurse shall delegate these activities only after considering the variables defined in Rule .0401(b) and (c) of this Section. Pursuant to G.S. 90-171.55, no individual may function as a nurse aide I, regardless of title, providing nursing care activities, as identified in Rule .0401(a) of this Section, to clients or residents unless:

- (1) the individual has successfully completed, in addition to an orientation program specific to the employing facility, a State-approved nurse aide I training and competency evaluation

- program or its equivalent; or a State-approved competency evaluation program and the employing facility or agency has verified listing on the Division of Health Service Regulation Nurse Aide Registry (DHSR Nurse Aide Registry); or
- (2) the employing agency or facility has assured that the individual is enrolled in a State-approved nurse aide I training and competency evaluation program that the individual will successfully complete within four months of employment date. During the four month period, the individual shall be assigned only tasks for which they have demonstrated competence and that they perform under supervision.

(b) A nurse aide II shall perform more complex nursing skills with emphasis on sterile technique in elimination, oxygenation, and nutrition after successful completion of a Board-approved nurse aide II training and competency evaluation program. A licensed nurse shall delegate these activities to the nurse aide II only after consideration of the variables described in Rule .0401(b) and (c) of this Section. Pursuant to G.S. 90-171.55, no individual may function as a nurse aide II unless:

- (1) the individual has successfully completed, in addition to an orientation program specific to the employing agency, a Board-approved nurse aide II course according to these Rules or its equivalent as identified by the Board;
- (2) the individual is listed as a nurse aide I on the DHSR Nurse Aide Registry with no substantiated findings of abuse, neglect, exploitation, mistreatment, diversion of drugs, fraud, or misappropriation of client or employing facility property listed on the DHSR Nurse Aide Registry and/or on the NC Health Care Personnel Registry; and
- (3) the employing facility or agency has inquired of the Board as to information in the Board of Nursing Nurse Aide II Registry concerning the individual and confirms with the Board that the individual is listed on the Board Nurse Aide II Registry as a nurse aide II.

(c) Listing on a Nurse Aide Registry is not required if the care is performed by clients themselves, their families or significant others, or by caretakers who provide personal care to individuals whose health care needs are incidental to the personal care required.

(d) Pursuant to G.S. 131E-114.2 and G.S. 131E-270, a medication aide shall be limited to performing technical aspects of medication administration, consistent with Rule .0401(b) and (c) of this Section, Rule .0221 of this Chapter, and only after:

- (1) successful completion of a Board-approved medication aide training program;
- (2) successful completion of a State-approved competency evaluation program; and
- (3) listing on the Medication Aide Registry.

*History Note: Authority G.S. 90-171.20(2)(4)(7)d.,e.,g.; 90-171.43(4); 90-171.55; 90-171.56; 131E-114.2; 131E-270; 42U.S.C.S. 1395i-3 (1987); Eff. March 1, 1989; Temporary Amendment Eff. October 11, 1989 For a Period of 180 Days to Expire on April 6, 1990; Amended Eff. September 1, 2006; December 1, 1995; March 1, 1990; Readopted Eff. January 1, 2019.*

**21 NCAC 36 .0404 LISTING AND RENEWAL**

(a) All nurse aide IIs, as defined in Rule .0403(b) of this Section regardless of working title, employed or assigned in a service agency or facility for the purpose of providing nursing care activities shall be listed on the Board of Nursing Nurse Aide II Registry and shall meet the following requirements:

- (1) successful completion of a Board-approved nurse aide II course or its Board-approved equivalent;
- (2) High School or High School Equivalency Diploma;
- (3) current listing as a nurse aide I on the DHSR Nurse Aide I Registry with no substantiated findings of abuse, neglect, exploitation, mistreatment, diversion of drugs, fraud, or misappropriation of client or employing facility property as recorded on the DHSR Nurse Aide I Registry or on the NC Health Care Personnel Registry; and
- (4) submission and approval of an application to the Board for placement on the Board of Nursing Nurse Aide II Registry prior to working as a nurse aide II.

The application shall be submitted with the required fee within 30 business days of completion of the nurse aide II course. Initial listing by the Board shall expire on the last day of the applicant's birth month of the following year.

(b) Nursing students currently enrolled in Board-approved nursing courses desiring listing as a nurse aide II shall submit:

- (1) an application and application fee;
- (2) current listing as a nurse aide I on the DHSR Nurse Aide I Registry with no substantiated findings of abuse, neglect, exploitation, mistreatment, diversion of drugs, fraud, or misappropriation of client or employing facility property as recorded on the DHSR Nurse Aide I Registry or on the NC Health Care Personnel Registry; and
- (3) verification completed by the nursing program director indicating successful completion of course work equivalent in content, clinical hours, and skill competency validation for that required of a nurse aide II.

(c) Registered nurses and licensed practical nurses who hold active, unencumbered licenses to practice in North Carolina may make application as a nurse aide II.

(d) An individual previously enrolled in a Board-approved nursing program leading to licensure a registered nurse or licensed practical nurse may list as a nurse aide II with no additional testing

provided the student withdrew from school in good standing within the last 24 months and completed the equivalent content, clinical hours, and skills competency validation. Such individual shall submit an application as described in Paragraph (b) of this Rule. If the student was in good standing upon withdrawal from the school and withdrew from the school in excess of 24 months, the student shall successfully complete an entire nurse aide II course prior to being listed as a nurse aide II.

(e) Individuals who have completed a training course equivalent in content, clinical hours, and skills competency validation to the nurse aide II course may submit documentation of the same to the Board for review. If training is equivalent, the individual may submit the application with required fee and be listed on the Board of Nursing Nurse Aide Registry as a nurse aide II.

(f) An employing agency or facility may choose up to four nurse aide II tasks to be performed by nurse aide I personnel without the nurse aide I completing the entire nurse aide II course. These tasks shall be individual activities that may be performed after the nurse aide I has received Board-approved training and competency evaluation using nurse aide II education modules as defined in Rule .0403(b) of this Section.

- (1) The agency or facility shall be limited to selecting and implementing a maximum of four nurse aide II tasks for use throughout each agency or facility.
- (2) A nurse aide I who is trained and evaluated as competent to perform these limited nurse aide II tasks shall perform these tasks only in the specific agency or facility where the training and competency validation were completed; performance of these tasks by the nurse aide I shall not transfer to another healthcare setting.
- (3) Documentation of the training and competency evaluation shall be maintained for each nurse aide I who is approved to perform these nurse aide II tasks within the agency or facility.

(g) Each nurse aide II shall renew listing with the Board biennially on or before the listing period expiration date. The renewal application, posted on the Board's website at [www.ncbon.com](http://www.ncbon.com), shall be accompanied by the required fee.

- (1) After the nurse aide II listing expires, it will not be renewed unless the nurse aide II successfully passes a Board-approved competency evaluation or successfully completes an entire Board-approved nurse aide II course.
- (2) To be eligible for renewal, the nurse aide II shall have worked at least eight hours for compensation during the past 24 months performing nursing care activities under the supervision of a registered nurse.
- (3) Any nurse aide II who has had a continuous period of 24 months during which no nursing care activities were performed for monetary compensation but who has performed patient care activities for monetary compensation shall successfully complete the competency evaluation portion of the nurse aide II course and submit a renewal application and fee in

- order to be renewed on the Board of Nursing Nurse Aide II Registry.
- (4) A nurse aide II who has performed no nursing care or patient care activities for monetary compensation within the past 24 months shall successfully complete a Board-approved nurse aide II course prior to submitting the application for renewal.
- (5) A nurse aide II who has substantiated findings of abuse, neglect, exploitation, mistreatment, diversion of drugs, fraud, or misappropriation of client or employing facility property as recorded on the DHSR Nurse Aide I Registry or the NC Health Care Personnel Registry shall not be eligible for renewal as a nurse aide II.

*History Note: Authority G.S. 90-171.19; 90-171.20(2)(4)(7)d,e,g; 90-171.37; 90-171.43(4); 90-171.55; 90-171.83; 42 U.S.C.S. 1395i-3 (1987); Eff. March 1, 1989; Amended Eff. July 1, 2010; November 1, 2008; August 1, 2005; August 1, 2002; July 1, 2000; December 1, 1995; April 1, 1990; Readopted Eff. January 1, 2019.*

**21 NCAC 36 .0405 APPROVAL OF NURSE AIDE EDUCATION COURSES**

- (a) The Board shall accept nurse aide I courses that are approved by DHSR.
- (b) The Board shall approve nurse aide II courses. Nurse aide II courses may be offered by a State-licensed individual, agency, or educational institution after the course is approved by the Board.
  - (1) Each entity desiring to offer a nurse aide II course shall submit a course approval application 60 days prior to offering the course. It shall include documentation of the following standards:
    - (A) the students shall be taught and supervised by qualified faculty as defined in Subparagraph (b)(3) of this Rule;
    - (B) the clinical-experience faculty to student ratio shall not exceed 1:10;
    - (C) the selection and utilization of clinical facilities shall support the course curriculum as outlined in Subparagraph (b)(2) of this Rule;
    - (D) a written contract shall exist between the course provider and clinical facility prior to student clinical experience in the facility;
    - (E) admission requirements shall include:
      - (i) successful completion of nurse aide I training course or DHSR-established equivalent and current nurse aide I listing on DHSR Registry;
      - (ii) High School or High School Equivalency diploma; and

- (iii) other admission requirements as identified by the course provider; and
- (F) a procedure for timely processing and disposition of course and student complaints shall be established.
- (2) Nurse aide II courses shall include a minimum of 80 hours of theory and 80 hours of clinical instruction, supervised by a Board-approved registered nurse faculty, consistent with the nurse aide II curriculum as defined by the Board in Rule .0403(b) of this Section. Changes made by the Board in the nurse aide II course shall be published in the Bulletin and posted on the Board's website at [www.ncbon.com](http://www.ncbon.com). A nurse aide II education course shall not use simulation as a substitute for the required 80 hours of clinical experience. Competency validation of up to three required nurse aide II skills shall be permitted in the simulated laboratory environment if validation of such skills is not available in the clinical experience site.
- (3) Minimum competency and qualifications for faculty for the nurse aide II courses shall include:
  - (A) an active unencumbered license to practice as a registered nurse in North Carolina;
  - (B) at least two years of direct patient care experiences as a registered nurse; and
  - (C) experience teaching adult learners.
- (4) Each nurse aide II course shall furnish the Board with records, data, and reports requested by the Board that provide information concerning the operation of the course and all individuals who attended the course within the past five years.
- (5) When an approved nurse aide II course closes, the Board shall be notified in writing by the course. The Board shall be informed as to the permanent storage of student records.
- (6) A Board-approved nurse aide II course that will provide nurse aide II competency evaluation shall obtain Board approval prior to offering competency evaluation.
  - (A) Board-approved nurse aide II course shall be in full approval status for at least one year prior to submitting an application to provide nurse aide II competency evaluation; and
  - (B) full approval course status shall be maintained to provide nurse aide II competency evaluation.
- (c) An annual course report shall be submitted by the course director to the Board in a Board-approved format by March 31 of each year. Failure to submit an annual report shall result in administrative action affecting approval status as described in Paragraphs (e) and (f) of this Rule.

(d) Complaints regarding nurse aide II courses shall result in an on-site survey by the Board if necessary to resolve the complaint.

(e) Approval status shall be determined by the Board using the annual course report, survey report, and other data submitted by the program, agencies, or students. The determination shall result in full approval or approval with stipulations.

(f) If stipulations have not been met as specified by the Board, a hearing shall be held by the Board regarding course approval status. A course may continue to operate while awaiting the hearing before the Board; however, in the case of summary suspension of approval as authorized by G.S. 150B-3(c), the course shall immediately cease operation.

- (1) When a hearing is scheduled, the Board shall cause notice to be served on the course and shall specify a date for the hearing, to be held not less than 20 days from the date on which notice is given.
- (2) If evidence presented at hearing shows that the course is complying with all federal and State law, including the rules in this Section, the Board shall assign the course full approval status.
- (3) If evidence presented at hearing shows that the course is not complying with all federal and State law, including the rules in this Section, the Board shall withdraw approval.
  - (A) This action shall constitute discontinuance of the course.
  - (B) The parent institution shall present a plan to the Board for transfer of students to approved courses or shall fully refund tuition paid by the student. Closure shall take place after the transfer of students to approved courses within a time frame established by the Board.
  - (C) The parent institution shall notify the Board of the arrangements for storage of permanent records.

*History Note: Authority G.S. 90-171.20(2)(4)(7)d.,e.,g.; 90-171.39; 90-171.40; 90-171.43(4); 90-171.55; 90-171.83; 42 U.S.C.S. 1395i-3 (1987); Eff. March 1, 1989; Amended Eff. November 1, 2008; April 1, 2003; August 1, 2002; July 1, 2000; December 1, 1995; March 1, 1990; Readopted Eff. January 1, 2019.*

**21 NCAC 36 .0406 MEDICATION AIDE TRAINING REQUIREMENTS**

- (a) Faculty for the medication aide training program shall:
- (1) have an active, unencumbered license to practice as a registered nurse in North Carolina;
  - (2) have had at least two years of practice experience as a registered nurse that includes medication administration;
  - (3) have successfully completed an instructor training program approved by the Board according to these Rules; and

- (4) maintain Board certification as a medication aide instructor.
- (b) A medication aide instructor certification shall be renewed every two years provided the following requirements are met:
- (1) the individual has taught at least one medication aide training program within the preceding two years; and
  - (2) the individual has reviewed program changes approved by the Board and posted on the Board's website at [www.ncbon.com](http://www.ncbon.com).
- (c) An applicant for a medication aide training program approved by the Board shall have a high school diploma or High School Equivalency.

*History Note: Authority G.S. 90-171.56; 131E-114.2; 131E-270; Eff. September 1, 2006; Amended Eff. April 1, 2008; Readopted Eff. January 1, 2019.*

**21 NCAC 36 .0502 NAME OF PROFESSIONAL CORPORATION**

In addition to the provisions of G.S. 55B, the Professional Corporation Act, the name of a professional corporation that provides nursing care and related services shall not include any adjectives or words not in accordance with ethical customs of the nursing profession as defined by the American Nurses Association code of ethics and shall not be false or misleading.

*History Note: Authority G.S. 55B-5; 55B-12; 90-171.43; Eff. March 1, 1991; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018; Amended Eff. January 1, 2019.*

**21 NCAC 36 .0503 PREREQUISITES FOR INCORPORATION**

The following requirements must be met in order to incorporate a professional corporation that will provide nursing and related services in this State:

- (1) The incorporator, whether one or more, of a professional corporation shall be licensed to practice nursing in North Carolina as a registered nurse.
- (2) Before the filing of the articles of incorporation with the Secretary of State, the incorporators shall file, with the Board, the original articles of incorporation, plus a copy, together with a registration fee in the maximum allowable amount set forth in G.S. 55B-10.
- (3) The original articles of incorporation and the copy shall be accompanied by an application to the Board, certified by all incorporators, setting forth the names, addresses, and certificate numbers of each shareholder of the corporation who will be practicing nursing for the corporation.
- (4) Included with the above shall be a statement that each shareholder of the corporation who



will be practicing nursing for the corporation is licensed to practice nursing in North Carolina as registered nurses, and stating that the corporation will be conducted in compliance with the Professional Corporation Act and these Rules.

- (5) If the articles are changed in any manner before being filed with the Secretary of State, they shall be re-submitted to the Board and shall not be filed with the Secretary of State until approved by the Board.

*History Note: Authority G.S. 55B-4; 55B-10; 55B-12; 90-171.20(6); Eff. March 1, 1991; Amended Eff. April 1, 2009; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018; Amended Eff. January 1, 2019.*

## **21 NCAC 36 .0504 CERTIFICATE OF REGISTRATION**

The Certificate of Registration shall be issued as follows:

- (1) The Board shall issue a certificate of registration for the professional corporation to become effective only after the professional corporation files the articles of incorporation with the Secretary of State and if:
  - (a) no disciplinary action is pending before the Board against any of the licensed incorporators or individuals who will be directors, officers, or shareholders of such corporation; and
  - (b) such corporation will be conducted in compliance with the Professional Corporations Act and the rules in this Subchapter.
- (2) The proposed original articles of incorporation and the certificate of registration, shall be returned to the incorporators for filing with the Secretary of State. A copy of the articles of incorporation and a copy of the certificate of registration shall be retained in the Board office. If the required findings are not made, the registration fee shall be refunded to the incorporators.
- (3) The initial certificate of registration shall remain in effect until December 31 of the year in which it was issued, unless suspended or terminated as provided by law. The certificate of registration shall be renewed annually thereafter.
- (4) At least 20 days prior to the date of expiration of the certificate of registration, the professional corporation shall submit its written application for renewal on a form provided by the Board, along with a renewal fee in the maximum allowable amount set forth in G.S. 55B-10.

*History Note: Authority G.S. 55B-12; 90-171.20(6); 90-171.23; Eff. April 1, 1991; Amended Eff. November 1, 2008; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018; Amended Eff. January 1, 2019.*

## **21 NCAC 36 .0505 GENERAL AND ADMINISTRATIVE PROVISIONS**

The following general provisions shall apply to a professional corporation that will provide nursing and related services in this State:

- (1) If the Board declines to issue a Certificate of Registration required by 21 NCAC 36 .0504, declines to renew the same after properly requested, or refuses to take any other required action, the aggrieved party may request, in writing, a review of such action by the Board, and the Board shall provide a formal hearing for such aggrieved party before a majority of the Board.
- (2) All amendments to charters of professional corporations, all merger and consolidation agreements to which a professional corporation is a party, and all dissolution proceedings and similar changes in the corporate structure of a professional corporation shall be filed with the Board for approval before being filed with the Secretary of State. A true copy of the changes filed with the Secretary of State shall be filed with the Board within 10 days after filing with the Secretary of State.
- (3) The Board is authorized to issue the certificate required by G.S. 55B-6 if stock is transferred in a professional corporation, and such certificate shall be permanently attached to the stub of the transferee's certificate in the stock book of the professional corporation.

*History Note: Authority G.S. 55B-6; 55B-12; 90-171.23; Eff. April 1, 1991; Amended Eff. November 1, 2008; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018; Amended Eff. January 1, 2019.*

## **21 NCAC 36 .0506 FORMS**

The following forms regarding professional corporations shall be posted on the Board's website at [www.ncbon.com](http://www.ncbon.com):

- (1) Certificate of Incorporator(s) and Application for a Certificate of Registration for a Professional Corporation;
- (2) Certificate of Registration of a Professional Corporation for the Purpose of Providing Nursing Related Services;
- (3) Application for Renewal of Certificate of Registration; and

- (4) Certificate Authorizing Transfer of Stock in Professional Corporation Organized to Provide Nursing Related Services.

*History Note:* Authority G.S. 55B-12; 90-171.23;  
*Eff. March 1, 1991;*  
*Amended Eff. November 1, 2008;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;*  
*Amended Eff. January 1, 2019.*

**21 NCAC 36 .0507 FEES**

The registration and renewal fees for a professional corporation shall be the maximum allowable amount under G.S. 55B-10 and G.S. 55B-11.

*History Note:* Authority G.S. 55B-10; 55B-11; 55B-12;  
*Eff. April 1, 1991;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;*  
*Amended Eff. January 1, 2019.*

**21 NCAC 36 .0601 NAME OF PROFESSIONAL LIMITED LIABILITY COMPANY**

In addition to the provisions of G.S. 57D, the North Carolina Limited Liability Compact Act, the name of a limited liability company that provides nursing and related services shall not include any adjectives or other words not in accordance with ethical customs of the nursing profession as defined by the American Nurses Association code of ethics and shall not be false or misleading.

*History Note:* Authority G.S. 55B-10; 57D-2-02;  
*Eff. August 1, 1998;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;*  
*Amended Eff. January 1, 2019.*

**21 NCAC 36 .0602 PREREQUISITES FOR ORGANIZATION**

(a) The organizing members shall submit the following requirements to the Board prior to filing the articles of organization:

- (1) a certificate, certified by those registered nurses who are organizing members, setting forth the names, addresses, and license numbers of each individual who will be employed by the professional limited liability company to practice nursing and related services as specified in G.S. 55B14(c)(2), (4)-(6), stating that all such individuals are duly licensed to practice nursing in North Carolina, and representing that the company will be conducted in compliance with North Carolina Limited Liability Company Act and the rules in this Subchapter; and
- (2) a registration fee in the maximum allowable amount set forth in G.S. 55D.

(b) A certification that each of those organizing members who may provide nursing and related services as specified in G.S. 55B-14(c)(2), (4)-(6) is licensed to practice nursing in North Carolina shall be returned to the professional limited liability company for filing with the Secretary of State.

(c) If the articles are changed in any manner before being filed with the Secretary of State, they shall be re-submitted to the Board and shall not be filed with the Secretary of State until approved by the Board.

*History Note:* Authority G.S. 55B-4; 55B-10; 55B-12; 55B-14; 57D-2-01; 57D-2-02; 90-171.23;  
*Eff. August 1, 1998;*  
*Amended Eff. November 1, 2008;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;*  
*Amended Eff. January 1, 2019.*

**21 NCAC 36 .0603 CERTIFICATE OF REGISTRATION**

(a) A certificate of registration for a Professional Limited Liability Company shall remain effective until December 31 of the year in which it was issued unless suspended or terminated as provided by law.

(b) A certificate of registration shall be renewed annually on application forms supplied by the Board. The application shall be accompanied by the maximum allowable renewal fee as set forth in G.S. 57D.

*History Note:* Authority G.S. 55B-10; 55B-11; 57D-2-01; 57D-2-02; 90-171.23;  
*Eff. August 1, 1998;*  
*Amended Eff. November 1, 2008;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;*  
*Amended Eff. January 1, 2019.*

**21 NCAC 36 .0604 GENERAL AND ADMINISTRATIVE PROVISIONS**

The Board shall issue the certificate authorizing transfer of membership if membership is transferred in the company. This transfer form shall be permanently retained by the company. The membership books of the company shall be kept at the principal office of the company and shall be subject to inspection by authorized agents of the Board.

*History Note:* Authority G.S. 55B-12; 57D;  
*Eff. August 1, 1998;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;*  
*Amended Eff. January 1, 2019.*

**21 NCAC 36 .0605 FEES**

The fee for both an initial Certificate of Registration and renewal is the maximum allowable fee as set forth in G.S. 57D.

*History Note:* Authority G.S. 55B-10; 55B-11; 57D; 90-171.23;  
*Eff. August 1, 1998;*

*Amended Eff. November 1, 2008;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;*

*Amended Eff. January 1, 2019.*

**21 NCAC 36 .0801 DEFINITIONS**

The following definitions apply to this Section:

- (1) "Approval to Practice" means authorization by the Medical Board and the Board of Nursing for a nurse practitioner to perform medical acts within her or his area of educational preparation and certification under a collaborative practice agreement (CPA) with a licensed physician in accordance with this Section.
- (2) "Back-up Supervising Physician" means the licensed physician who, by signing an agreement with the nurse practitioner and the primary supervising physician(s) shall provide supervision, collaboration, consultation and evaluation of medical acts by the nurse practitioner in accordance with the collaborative practice agreement when the Primary Supervising Physician is not available. Back-up supervision shall be in compliance with the following:
  - (a) The signed and dated agreements for each back-up supervising physician(s) shall be maintained at each practice site.
  - (b) A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a back-up supervising physician.
  - (c) A fully licensed physician in a graduate medical education program who is also practicing in a non-training situation and has a signed collaborative practice agreement with the nurse practitioner and the primary supervising physician may be a back-up supervising physician for a nurse practitioner in the non-training situation.
- (3) "Board of Nursing" means the North Carolina Board of Nursing.
- (4) "Collaborative practice agreement" means the arrangement for nurse practitioner-physician continuous availability to each other for ongoing supervision, consultation, collaboration, referral and evaluation of care provided by the nurse practitioner.
- (5) "Disaster" means a state of disaster as defined in G.S. 166A-4(1a) and proclaimed by the Governor, or by the General Assembly pursuant to G.S. 166A-6.
- (6) "Joint Subcommittee" means the subcommittee composed of members of the Board of Nursing and members of the Medical Board to whom

responsibility is given by G.S. 90-8.2 and G.S. 90-171.23(b)(14) to develop rules to govern the performance of medical acts by nurse practitioners in North Carolina.

- (7) "Medical Board" means the North Carolina Medical Board.
- (8) "National Credentialing Body" means one of the following credentialing bodies that offers certification and re-certification in the nurse practitioner's specialty area of practice:
  - (a) American Nurses Credentialing Center (ANCC);
  - (b) American Academy of Nurse Practitioners (AANP);
  - (c) American Association of Critical Care Nurses Certification Corporation (AACN);
  - (d) National Certification Corporation of the Obstetric Gynecologic and Neonatal Nursing Specialties (NCC); and
  - (e) the Pediatric Nursing Certification Board (PNCB).
- (9) "Nurse Practitioner" or "NP" means a currently licensed registered nurse approved to perform medical acts consistent with the nurse's area of nurse practitioner academic educational preparation and national certification under an agreement with a licensed physician for ongoing supervision, consultation, collaboration and evaluation of the medical acts performed. Such medical acts are in addition to those nursing acts performed by virtue of registered nurse (RN) licensure. The NP is held accountable under the RN license for those nursing acts that he or she may perform.
- (10) "Primary Supervising Physician" means the licensed physician who shall provide ongoing supervision, collaboration, consultation and evaluation of the medical acts performed by the nurse practitioner as defined in the collaborative practice agreement. Supervision shall be in compliance with the following:
  - (a) The primary supervising physician shall assure both Boards that the nurse practitioner is qualified to perform those medical acts described in the collaborative practice agreement.
  - (b) A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a primary supervising physician.
  - (c) A fully licensed physician in a graduate medical education program who is also practicing in a non-training situation may supervise a nurse practitioner in the non-training situation.

- (11) "Registration" means authorization by the Medical Board and the Board of Nursing for a registered nurse to use the title nurse practitioner in accordance with this Section.
- (12) "Supervision" means the physician's function of overseeing medical acts performed by the nurse practitioner.
- (13) "Volunteer Approval" means approval to practice consistent with this rule except without expectation of direct or indirect compensation or payment (monetary, in kind or otherwise) to the nurse practitioner.

*History Note: Authority G.S. 90-8.1; 90-8.2; 90-18(14); 90-18.2; 90-171.20(4); 90-171.20(7); 90-171.23(b); 90-171.83; Recodified from 21 NCAC 36 .0227(a) Eff. August 1, 2004; Amended Eff. September 1, 2012; December 1, 2009; December 1, 2006; August 1, 2004; Readopted Eff. January 1, 2019.*

**21 NCAC 36 .0802 SCOPE OF PRACTICE**

A nurse practitioner shall be held accountable by both Boards for the continuous and comprehensive management of a broad range of personal health services for which the nurse practitioner is educationally prepared and for which competency has been maintained, with physician supervision and collaboration as described in Rule .0810 of this Section. These services include but are not restricted to:

- (1) promotion and maintenance of health;
- (2) prevention of illness and disability;
- (3) diagnosing, treating and managing acute and chronic illnesses;
- (4) guidance and counseling for both individuals and families;
- (5) prescribing, administering and dispensing therapeutic measures, tests, procedures and drugs;
- (6) planning for situations beyond the nurse practitioner's expertise, and consulting with and referring to other health care providers as appropriate; and
- (7) evaluating health outcomes.

*History Note: Authority G.S. 90-18(14); 90-171.20(7); 90-171.23(b)(14); Recodified from 21 NCAC 36 .0227(b) Eff. August 1, 2004; Amended Eff. August 1, 2004; Readopted Eff. January 1, 2019.*

**21 NCAC 36 .0803 NURSE PRACTITIONER REGISTRATION**

- (a) The Board of Nursing shall register an applicant as a nurse practitioner who:
  - (1) has an unrestricted license to practice as a registered nurse in North Carolina and, when applicable, an unrestricted approval, registration or license as a nurse practitioner in another state, territory, or possession of the United States;

- (2) has successfully completed a nurse practitioner education program as outlined in Rule .0805 of this Section;
- (3) is certified as a nurse practitioner by a national credentialing body consistent with 21 NCAC 36 .0801(8); and
- (4) has supplied additional information necessary to evaluate the application as requested.

(b) Beginning January 1, 2005, new graduates of a nurse practitioner program, who are seeking first-time nurse practitioner registration in North Carolina shall:

- (1) hold a Master's or higher degree in Nursing or related field with primary focus on Nursing;
- (2) have successfully completed a graduate level nurse practitioner education program accredited by a national accrediting body; and
- (3) provide documentation of certification by a national credentialing body.

*History Note: Authority G.S. 90-18(c)(13); 90-18.2; 90-171.20(7); 90-171.23(b); 90-171.83; Eff. August 1, 2004; Amended Eff. September 1, 2012; November 1, 2008; December 1, 2006; Readopted Eff. January 1, 2019.*

**21 NCAC 36 .0804 PROCESS FOR APPROVAL TO PRACTICE**

(a) Prior to the performance of any medical acts, a nurse practitioner shall:

- (1) meet registration requirements as specified in 21 NCAC 36 .0803;
- (2) submit an application for approval to practice;
- (3) submit any additional information necessary to evaluate the application as requested; and
- (4) have a collaborative practice agreement with a primary supervising physician.

(b) A nurse practitioner seeking approval to practice who has not practiced as a nurse practitioner in more than two years shall complete a nurse practitioner refresher course approved by the Board of Nursing in accordance with Paragraphs (o) and (p) of 21 NCAC 36 .0220 and consisting of common conditions and their management directly related to the nurse practitioner's area of education and certification. A nurse practitioner refresher course participant shall be granted an approval to practice that is limited to clinical activities required by the refresher course.

(c) The nurse practitioner shall not practice until notification of approval to practice is received from the Board of Nursing after both Boards have approved the application.

(d) The nurse practitioner's approval to practice is terminated when the nurse practitioner discontinues working within the approved nurse practitioner collaborative practice agreement, or experiences an interruption in her or his registered nurse licensure status, and the nurse practitioner shall so notify the Board of Nursing in writing. The Boards shall extend the nurse practitioner's approval to practice in cases of emergency such as injury, sudden illness or death of the primary supervising physician.

(e) Applications for approval to practice in North Carolina shall be submitted to the Board of Nursing and then approved by both Boards as follows:

- (1) the Board of Nursing shall verify compliance with Rule .0803 and Paragraph (a) of this Rule; and
- (2) the Medical Board shall verify that the designated primary supervising physician holds a valid license to practice medicine in North Carolina and compliance with Paragraph (a) of this Rule.

(f) Applications for approval of changes in practice arrangements for a nurse practitioner currently approved to practice in North Carolina shall be submitted by the applicant as follows:

- (1) addition or change of primary supervising physician shall be submitted to the Board of Nursing and processed pursuant to protocols developed by both Boards; and
- (2) request for change(s) in the scope of practice shall be submitted to the Joint Subcommittee.

(g) A registered nurse who was previously approved to practice as a nurse practitioner in this state who reapplies for approval to practice shall:

- (1) meet the nurse practitioner approval requirements as stipulated in Rule .0808(c) of this Section; and
- (2) complete the appropriate application.

(h) Volunteer Approval to Practice. The North Carolina Board of Nursing shall grant approval to practice in a volunteer capacity to a nurse practitioner who has met the qualifications to practice as a nurse practitioner in North Carolina.

(i) The nurse practitioner shall pay the appropriate fee as outlined in Rule .0813 of this Section.

(j) A Nurse Practitioner approved under this Section shall keep proof of current licensure, registration and approval available for inspection at each practice site upon request by agents of either Board.

*History Note: Authority G.S. 90-18(13), (14); 90-18.2; 90-171.20(7); 90-171.23(b);*

*Recodified from 21 NCAC 36 .0227(c) Eff. August 1, 2004; Amended Eff. November 1, 2013; January 1, 2013; December 1, 2009; November 1, 2008; January 1, 2007; August 1, 2004; Readopted Eff. January 1, 2019.*

## **21 NCAC 36 .0805 EDUCATION AND CERTIFICATION REQUIREMENTS FOR REGISTRATION AS A NURSE PRACTITIONER**

(a) A nurse practitioner with first-time approval to practice after January 1, 2000, shall provide evidence of certification or recertification as a nurse practitioner by a national credentialing body.

(b) A nurse practitioner applicant who completed a nurse practitioner education program prior to December 31, 1999 shall provide evidence of successful completion of a course of education that contains a core curriculum including 400 contact hours of didactic education and 400 hours of preceptorship or supervised clinical experience. The core curriculum shall contain the following components:

- (1) health assessment and diagnostic reasoning including:
  - (A) historical data;
  - (B) physical examination data;
  - (C) organization of data base;
- (2) pharmacology;
- (3) pathophysiology;
- (4) clinical management of common health problems and diseases such as the following shall be evident in the nurse practitioner's academic program:
  - (A) respiratory system;
  - (B) cardiovascular system;
  - (C) gastrointestinal system;
  - (D) genitourinary system;
  - (E) integumentary system;
  - (F) hematologic and immune systems;
  - (G) endocrine system;
  - (H) musculoskeletal system;
  - (I) infectious diseases;
  - (J) nervous system;
  - (K) behavioral, mental health and substance abuse problems;
- (5) clinical preventative services including health promotion and prevention of disease;
- (6) client education related to Subparagraph (b)(4)–(5) of this Rule; and
- (7) role development including legal, ethical, economical, health policy and interdisciplinary collaboration issues.

(c) Nurse practitioner applicants exempt from components of the core curriculum requirements listed in Paragraph (b) of this Rule are:

- (1) Any nurse practitioner approved to practice in North Carolina prior to January 18, 1981, is permanently exempt from the core curriculum requirement.
- (2) A nurse practitioner certified by a national credentialing body prior to January 1, 1998, who also provides evidence of satisfying Subparagraph (b)(1)–(3) of this Rule shall be exempt from core curriculum requirements in Subparagraph (b)(4)–(7) of this Rule. Evidence of satisfying Subparagraph (b)(1)–(3) of this Rule shall include:
  - (A) a narrative of course content; and
  - (B) contact hours.

*History Note: Authority G.S. 90-18(14); 90-171.42; Recodified from 21 NCAC 36.0227(d) Eff. August 1, 2004; Amended Eff. December 1, 2009; December 1, 2006; August 1, 2004; Readopted Eff. January 1, 2019.*

## **21 NCAC 36 .0806 ANNUAL RENEWAL**

(a) Each registered nurse who is approved to practice as a nurse practitioner in this State shall annually renew each approval to practice with the Board of Nursing no later than the last day of the nurse practitioner's birth month by:

- (1) Maintaining current RN licensure;
- (2) Maintaining certification as a nurse practitioner by a national credentialing body identified in Rule .0801(8) of this Section;
- (3) Submitting the fee required in Rule .0813 of this Section; and
- (4) Completing the renewal application.

(b) If the nurse practitioner has not renewed by the last day of her or his birth month, the approval to practice as a nurse practitioner shall lapse.

*History Note: Authority G.S. 90-8.1; 90-8.2; 90-18(c)(14); 90-171.23(b)(14); 90-171.83; Recodified from 21 NCAC 36.0227(e) Eff. August 1, 2004; Amended Eff. March 1, 2017; December 1, 2009; November 1, 2008; August 1, 2004; Readopted Eff. January 1, 2019.*

### **21 NCAC 36 .0807 CONTINUING EDUCATION (CE)**

In order to maintain nurse practitioner approval to practice, the nurse practitioner shall earn 50 contact hours of continuing education each year beginning with the first renewal after initial approval to practice has been granted. At least 20 hours of the required 50 hours must be those hours for which approval has been granted by the American Nurses Credentialing Center (ANCC) or Accreditation Council on Continuing Medical Education (ACCME), other national credentialing bodies, or practice relevant courses in an institution of higher learning. Every nurse practitioner who prescribes controlled substances shall complete at least one hour of the total required continuing education (CE) hours annually consisting of CE designed specifically to address controlled substance prescribing practices, signs of the abuse or misuse of controlled substances, and controlled substance prescribing for chronic pain management. Documentation shall be maintained by the nurse practitioner for the previous five calendar years and made available upon request to either Board.

*History Note: Authority G.S. 90-5.1; 90-8.1; 90-8.2; 90-14(a)(15); 90-18(c)(14); 90-171.23(b)(14); 90-171.42; S.L. 2015-241, s 12F; Recodified from 21 NCAC 36 .0227(f) Eff. August 1, 2004; Amended Eff. March 1, 2017; December 1, 2009; April 1, 2008; August 1, 2004; Readopted Eff. January 1, 2019.*

### **21 NCAC 36 .0808 INACTIVE STATUS**

- (a) Any nurse practitioner who wishes to place her or his approval to practice on an inactive status shall notify the Board of Nursing in writing.
- (b) A nurse practitioner with an inactive approval to practice status shall not practice as a nurse practitioner.
- (c) A nurse practitioner with an inactive approval to practice status who reapplies for approval to practice shall meet the qualifications for approval to practice in Rules .0803(a)(1), .0804(a) and (b), .0807, and .0810 of this Section and receive notification from the Board of Nursing of approval prior to beginning practice after the application is approved by both Boards.

- (d) A nurse practitioner who has not practiced as a nurse practitioner in more than two years shall complete a nurse practitioner refresher course approved by the Board of Nursing in accordance with Paragraphs (o) and (p) of 21 NCAC 36 .0220 and consisting of common conditions and management of these conditions directly related to the nurse practitioner's area of education and certification. A nurse practitioner refresher course participant shall be granted an approval to practice that is limited to clinical activities required by the refresher course.

*History Note: Authority G.S. 90-18(13); 90-18.2; 90-171.36; 90-171.83; Recodified from 21 NCAC 36 .0227(g) Eff. August 1, 2004; Amended Eff. November 1, 2013; January 1, 2013; December 1, 2009; December 1, 2006; August 1, 2004; Readopted Eff. January 1, 2019.*

### **21 NCAC 36 .0809 PRESCRIBING AUTHORITY**

- (a) The prescribing stipulations contained in this Rule apply to writing prescriptions and ordering the administration of medications.

- (b) Prescribing and dispensing stipulations are as follows:

- (1) Drugs and devices that may be prescribed by the nurse practitioner in each practice site shall be included in the collaborative practice agreement as outlined in Rule .0810(2) of this Section.
- (2) Controlled Substances (Schedules II, IIN, III, IIN, IV, V) defined by the State and Federal Controlled Substances Acts may be procured, prescribed, or ordered as established in the collaborative practice agreement, providing all of the following requirements are met:
  - (A) the nurse practitioner has an assigned DEA number that is entered on each prescription for a controlled substance;
  - (B) refills may be issued consistent with Controlled Substance laws and regulations; and
  - (C) the supervising physician(s) shall possess the same schedule(s) of controlled substances as the nurse practitioner's DEA registration.
- (3) The nurse practitioner may prescribe a drug or device not included in the collaborative practice agreement only as follows:
  - (A) upon a specific written or verbal order obtained from a primary or back-up supervising physician before the prescription or order is issued by the nurse practitioner; and
  - (B) the written or verbal order as described in Part (b)(3)(A) of this Rule shall be entered into the patient record with a notation that it is issued on the specific order of a primary or back-up supervising physician and signed by

- the nurse practitioner and the physician.
- (4) Each prescription shall be noted on the patient's chart and include the following information:
- (A) medication and dosage;
  - (B) amount prescribed;
  - (C) directions for use;
  - (D) number of refills; and
  - (E) signature of nurse practitioner.
- (5) Prescription Format:
- (A) all prescriptions issued by the nurse practitioner shall contain the supervising physician(s) name, the name of the patient, and the nurse practitioner's name, telephone number, and approval number;
  - (B) the nurse practitioner's assigned DEA number shall be written on the prescription form when a controlled substance is prescribed as defined in Subparagraph (b)(2) of this Rule.
- (6) A nurse practitioner shall not prescribe controlled substances, as defined by the State and Federal Controlled Substances Acts, for the following:
- (A) nurse practitioner's own use;
  - (B) nurse practitioner's supervising physician;
  - (C) member of the nurse practitioner's immediate family, which shall mean a:
    - (i) spouse;
    - (ii) parent;
    - (iii) child;
    - (iv) sibling;
    - (v) parent-in-law;
    - (vi) son or daughter-in-law;
    - (vii) brother or sister-in-law;
    - (viii) step-parent;
    - (ix) step-child; or
    - (x) step-siblings;
  - (D) any other person living in the same residence as the licensee; or
  - (E) anyone with whom the nurse practitioner is having a sexual relationship.

(c) The nurse practitioner may obtain approval to dispense the drugs and devices other than samples included in the collaborative practice agreement for each practice site from the Board of Pharmacy, and dispense in accordance with 21 NCAC 46 .1703 that is hereby incorporated by reference including subsequent amendments.

*History Note: Authority G.S. 90-8.1; 90-8.2; 90-18.2; 90-18(c)(14); 90-171.23(b)(14); Recodified from 21 NCAC 36 .0227(h) Eff. August 1, 2004; Amended Eff. March 1, 2017; December 1, 2012; April 1, 2011; November 1, 2008; August 1, 2004; Readopted Eff. January 1, 2019.*

**21 NCAC 36 .0810 QUALITY ASSURANCE STANDARDS FOR A COLLABORATIVE PRACTICE AGREEMENT**

The following are the quality assurance standards for a collaborative practice agreement:

- (1) Availability: The primary or back-up supervising physician(s) and the nurse practitioner shall be continuously available to each other for consultation by direct communication or telecommunication.
- (2) Collaborative Practice Agreement:
  - (a) shall be agreed upon and signed by both the primary supervising physician and the nurse practitioner, and maintained in each practice site;
  - (b) shall be reviewed at least yearly. This review shall be acknowledged by a dated signature sheet, signed by both the primary supervising physician and the nurse practitioner, appended to the collaborative practice agreement and available for inspection by members or agents of either Board;
  - (c) shall include the drugs, devices, medical treatments, tests and procedures that may be prescribed, ordered and performed by the nurse practitioner consistent with Rule .0809 of this Section; and
  - (d) shall include a pre-determined plan for emergency services.
- (3) The nurse practitioner shall demonstrate the ability to perform medical acts as outlined in the collaborative practice agreement upon request by members or agents of either Board.
- (4) Quality Improvement Process.
  - (a) The primary supervising physician and the nurse practitioner shall develop a process for the ongoing review of the care provided in each practice site including a written plan for evaluating the quality of care provided for one or more frequently encountered clinical problems.
  - (b) This plan shall include a description of the clinical problem(s), an evaluation of the current treatment interventions, and if needed, a plan for improving outcomes within an identified time-frame.
  - (c) The quality improvement process shall include scheduled meetings between the primary supervising physician and the nurse practitioner at least every six months. Documentation for each meeting shall:
    - (i) identify clinical problems discussed, including progress

toward improving outcomes as stated in Sub-item (4)(b) of this Rule, and recommendations, if any, for changes in treatment plan(s);

- (ii) be signed and dated by those who attended; and
- (iii) be available for review by members or agents of either Board for the previous five calendar years and be retained by both the nurse practitioner and primary supervising physician.

(5) Nurse Practitioner-Physician Consultation. The following requirements establish the minimum standards for consultation between the nurse practitioner and primary supervising physician(s):

- (a) During the first six months of a collaborative practice agreement between a nurse practitioner and the primary supervising physician, there shall be monthly meetings for the first six months to discuss practice relevant clinical issues and quality improvement measures.
- (b) Documentation of the meetings shall:
  - (i) identify clinical issues discussed and actions taken;
  - (ii) be signed and dated by those who attended; and
  - (iii) be available for review by members or agents of either Board for the previous five calendar years and be retained by both the nurse practitioner and primary supervising physician.

*History Note: Authority G.S. 90-8.1; 90-8.2; 90-18(14); 90-18.2; 90-171.23(b)(14);*  
*Recodified from 21 NCAC 36 .0227(i) Eff. August 1, 2004;*  
*Amended Eff. December 1, 2009; August 1, 2004;*  
*Readopted Eff. January 1, 2019.*

**21 NCAC 36 .0811 METHOD OF IDENTIFICATION**

When providing care to the public, the nurse practitioner shall identify herself/himself as specified in G.S. 90-640 and 21 NCAC 36 .0231.

*History Note: Authority G.S. 90-18(14); 90-640;*  
*Recodified from 21 NCAC 36 .0227(j) Eff. August 1, 2004;*  
*Amended Eff. August 1, 2004;*  
*Readopted Eff. January 1, 2019.*

**21 NCAC 36 .0812 DISCIPLINARY ACTION**

(a) After notice and hearing in accordance with provisions of G. S. 150B, Article 3A, disciplinary action may be taken by the appropriate Board if one or more of the following is found:

- (1) violation of G.S. 90-18 and G.S. 90-18.2 or the joint rules adopted by each Board;
- (2) immoral or dishonorable conduct pursuant to and consistent with G.S. 90-14(a)(1);
- (3) any submissions to either Board pursuant to and consistent with G.S. 90-14(a)(3);
- (4) the nurse practitioner is adjudicated mentally incompetent or the nurse practitioner's mental or physical condition renders the nurse practitioner unable to safely function as a nurse practitioner pursuant to and consistent with G.S. 90-14(a)(5) and G.S. 90-171.37(3);
- (5) unprofessional conduct by reason of deliberate or negligent acts or omissions and contrary to the prevailing standards for nurse practitioners in accordance and consistent with G.S. 90-14(a)(6) and G.S. 90-171.35(5);
- (6) conviction in any court of a criminal offense in accordance and consistent with G.S. 90-14(a)(7) and G.S. 90-171.37 (2) and G.S. 90-171.48;
- (7) payments for the nurse practitioner practice pursuant to and consistent with G.S. 90-14(a)(8);
- (8) lack of professional competence as a nurse practitioner pursuant to and consistent with G.S. 90-14(a)(11);
- (9) exploiting the client pursuant to and consistent with G.S. 90-14(a)(12) including the promotion of the sale of services, appliances, or drugs for the financial gain of the practitioner or of a third party;
- (10) failure to respond to inquiries which may be part of a joint protocol between the Board of Nursing and Medical Board for investigation and discipline pursuant to and consistent with G.S. 90-14(a)(14);
- (11) the nurse practitioner has held himself or herself out or permitted another to represent the nurse practitioner as a licensed physician; or
- (12) the nurse practitioner has engaged or attempted to engage in the performance of medical acts other than according to the collaborative practice agreement.

(b) The nurse practitioner is subject to G.S. 90-171.37; 90-171.48 and 21 NCAC 36 .0217 by virtue of the license to practice as a registered nurse.

(c) After an investigation is completed, the joint subcommittee of both boards may recommend one of the following:

- (1) dismiss the case;
- (2) issue a private letter of concern;
- (3) enter into negotiation for a Consent Order; or
- (4) a disciplinary hearing in accordance with G.S. 150B, Article 3A. If a hearing is recommended, the joint subcommittee shall also recommend



whether the matter should be heard by the Board of Nursing or the Medical Board.

(d) Upon a finding of violation, each Board may utilize the range of disciplinary options as enumerated in G.S. 90-14(a) or G.S. 90-171.37.

*History Note: Authority G.S. 90-18(c)(14); 90-171.37; 90-171.44; 90-171.47; 90-171.48;  
Recodified from 21 NCAC 36 .0227(k) Eff. August 1, 2004;  
Amended Eff. April 1, 2007; August 1, 2004;  
Readopted Eff. January 1, 2019.*

**21 NCAC 36 .0813 FEES**

(a) An application fee of one hundred dollars (\$100.00) shall be paid at the time of initial application for approval to practice and each subsequent application for approval to practice. The application fee shall be twenty dollars (\$20.00) for volunteer approval.

(b) The fee for annual renewal of approval shall be fifty dollars (\$50.00).

(c) The fee for annual renewal of volunteer approval shall be ten dollars (\$10.00).

(d) No portion of any fee in this Rule is refundable.

*History Note: Authority G.S. 90-8.1; 90-8.2; 90-171.23(b)(14);  
Recodified from 21 NCAC 36 .0227(l) Eff. August 1, 2004;  
Amended Eff. November 1, 2008; August 1, 2004;  
Readopted Eff. January 1, 2019.*

**21 NCAC 36 .0814 PRACTICING DURING A DISASTER**

(a) A nurse practitioner approved to practice in this State or another state may perform medical acts, as a nurse practitioner under the supervision of a physician licensed to practice medicine in North Carolina during a disaster in a county in which a state of disaster has been declared or counties contiguous to a county in which a state of disaster has been declared.

(b) The nurse practitioner shall notify the Board of Nursing in writing of the names, practice locations and telephone numbers for the nurse practitioner and each primary supervising physician within 15 days of the first performance of medical acts, as a nurse practitioner during the disaster, and the Board of Nursing shall notify the Medical Board.

(c) Teams of physician(s) and nurse practitioner(s) practicing pursuant to this Rule shall not be required to maintain on-site documentation describing supervisory arrangements and plans for prescriptive authority as otherwise required pursuant to Rules .0809 and .0810 of this Section.

*History Note: Authority G.S. 90-18(c)(13), (14); 90-18.2; 90-171.23(b);  
Recodified from 21 NCAC 36 .0227(m) Eff. August 1, 2004;  
Amended Eff. December 1, 2009; August 1, 2004;  
Readopted Eff. January 1, 2019.*

**21 NCAC 36 .0815 REPORTING CRITERIA**

(a) The Department of Health and Human Services ("Department") may report to the North Carolina Board of Nursing ("Board") information regarding the prescribing practices of those nurse practitioners ("prescribers") whose prescribing:

- (1) falls within the top two percent of those prescribing 100 morphine milligram equivalents ("MME") per patient per day; or
- (2) falls within the top two percent of those prescribing 100 MMEs per patient per day in combination with any benzodiazepine and who are within the top one percent of all controlled substance prescribers by volume.

(b) In addition, the Department may report to the Board information regarding prescribers who have had two or more patient deaths in the preceding 12 months due to opioid poisoning where the prescribers authorized more than 30 tablets of an opioid to the decedent and the prescriptions were written within 60 days of the patient deaths.

(c) The Department may submit these reports to the Board upon request and may include the information described in G.S. 90-113.73(b).

(d) The reports and communications between the Department and the Board shall remain confidential pursuant to G.S. 90-113.74.

*History Note: Authority G.S. 90-113.74;  
Eff. April 1, 2016;  
Amended Eff. May 1, 2018;  
Readopted Eff. January 1, 2019.*

**TITLE 24 - INDEPENDENT AGENCIES**

**CHAPTER 01 – HOUSING FINANCE AGENCY**

**24 NCAC 01N .0204 FEES**

*History Note: Authority G.S. 53-269; 122A-5; 122A-5.1;  
Eff. July 1, 1992;  
Repealed Eff. January 1, 2019.*

*This Section contains information for the meeting of the Rules Review Commission February 21, 2019 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 2<sup>nd</sup> business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.*

**RULES REVIEW COMMISSION MEMBERS****Appointed by Senate**

Jeff Hyde (1<sup>st</sup> Vice Chair)  
Robert A. Bryan, Jr.  
Margaret Currin  
Jeffrey A. Poley  
Brian P. LiVecchi

**Appointed by House**

Garth Dunklin (Chair)  
Andrew P. Atkins  
Anna Baird Choi  
Paul Powell  
Jeanette Doran (2<sup>nd</sup> 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**

February 21, 2019      March 21, 2019  
April 18, 2019      May 16, 2019

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**AGENDA****RULES REVIEW COMMISSION**

**THURSDAY, FEBRUARY 21, 2019 9:00 A.M.**  
**1711 New Hope Church Rd., Raleigh, NC 27609**

- I. Ethics reminder by the chair as set out in G.S. 163A-159(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
  - A. Soil and Water Conservation Commission – 02 NCAC 59D .0101, .0102, .0103, .0104, .0105, .0106, .0107, .0108, .0109, .0110; 59H .0101, .0102, .0103, .0104, .0105, .0106, .0107, .0108 (Reeder)
  - B. Board of Elections and Ethics Enforcement - 08 NCAC 02 .0112, .0113; 03 .0101, .0102, .0103, .0104, .0105, .0106, .0201, .0202, .0301, .0302; 04 .0302, .0304, .0305, .0306, .0307; 06B .0103, .0104, .0105; 08 .0104; 09 .0106, .0107, .0108, .0109; 10B .0101, .0102, .0103, .0104, .0105, .0106, .0107 (May)
  - C. DHHS/Division of Health Benefits – 10A NCAC 22F .0301 (May)
  - D. Commission for the Blind - 10A NCAC 63C .0203, .0204, .0403, .0601 (Thomas)
  - E. Coastal Resources Commission - 15A NCAC 07H .0209, .0308, 1704, .1705 (May)
  - F. Department of Transportation – 19A NCAC 02D .0408; 02E .0412, .0418, .0419, .0420, .0421, .1006 (May)
  - G. Substance Abuse Professional Practice Board - 21 NCAC 68 .0203, .0205, .0208, .0211, .0212, .0305 (Reeder)
- IV. Review of Log of Filings (Permanent Rules) for rules filed December 21, 2018 through January 22, 2019
  - Social Services Commission 10A NCAC 10 (Thomas)
  - Commission for Mental Health/DD/SAS (Thomas)
  - Social Services Commission 10A NCAC 67A (May)
  - Industrial Commission (Thomas)
  - Department of Public Safety(Reeder)
  - Environmental Management Commission 15A NCAC 02B (May)
  - Environmental Management Commission 15A NCAC 02T (May)
  - Board of Cosmetic Art Examiners (May)
  - Medical Board (Reeder)
  - Board of Pharmacy (Reeder)
  - State Human Resources Commission (Reeder)
- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting

- VI. Existing Rules Review
- Review of Reports
    1. 04 NCAC 20 - Department of Commerce (May)
    2. 11 NCAC 01- Department of Insurance (Thomas)
    3. 21 NCAC 03 - Board of Athletic Trainer Examiners (May)
    4. 21 NCAC 10 - Board of Chiropractic Examiners (May)
    5. 21 NCAC 53 - Board of Licensed Professional Counselors (May)
    6. 21 NCAC 56 - Board of Examiners for Engineers and Surveyors (May)
- VII. Commission Business
- H. Periodic Review and Expiration of Existing Rules Readoption Schedule
- Next meeting: Thursday, March 21, 2019
- 

**Commission Review  
Log of Permanent Rule Filings  
December 21, 2018 through January 22, 2019**

**SOCIAL SERVICES COMMISSION**

The rules in Chapter 10 concern subsidized child care and include identifying and general information (.0100); requirements for the purchase of child care (.0200); requirements for child care service funds (.0300); start-up funds (.0400); requirements for contracts with private agencies (.0500); requirements for child care centers (.0600); requirements for family child care homes (.0700); requirements for nonlicensed child care homes (.0800); general policies for provision of subsidized child care services (.0900); eligibility for services (.1000); client fees for child care services (.1100); appeals (.1200).

<u>Scope</u>	10A	NCAC	10	.0101
Amend*				
<u>Definitions</u>	10A	NCAC	10	.0102
Readopt with Changes*				
<u>Applicability</u>	10A	NCAC	10	.0201
Repeal*				
<u>Payment Rates</u>	10A	NCAC	10	.0202
Readopt/Repeal*				
<u>Rates for Subsidized Child Care</u>	10A	NCAC	10	.0203
Readopt with Changes*				
<u>Definition of Fund</u>	10A	NCAC	10	.0301
Repeal*				
<u>Allocation</u>	10A	NCAC	10	.0306
Readopt/Repeal*				
<u>Payment</u>	10A	NCAC	10	.0307
Readopt with Changes*				
<u>Requirements for the Administration of the Subsidized Chi...</u>	10A	NCAC	10	.0310
Readopt with Changes*				
<u>Provider Appeal to Local Purchasing Agency</u>	10A	NCAC	10	.0311
Readopt with Changes*				
<u>Appeal to Division of Child Development and Early Educati...</u>	10A	NCAC	10	.0312
Readopt/Repeal*				
<u>Scope</u>	10A	NCAC	10	.0501
Repeal*				
<u>Approval</u>	10A	NCAC	10	.0502
Readopt/Repeal*				
<u>Length of Contract</u>	10A	NCAC	10	.0503
Readopt/Repeal*				

<u>Administration of Funds</u> Readopt/Repeal*	10A	NCAC	10	.0504
<u>Administration of Program</u> Readopt/Repeal*	10A	NCAC	10	.0505
<u>Records</u> Readopt/Repeal*	10A	NCAC	10	.0506
<u>Standards for Facilities Participating in the Subsidized ...</u> Readopt with Changes*	10A	NCAC	10	.0601
<u>Standards for Family Child Care Homes Participating in th...</u> Readopt/Repeal*	10A	NCAC	10	.0701
<u>Scope</u> Repeal*	10A	NCAC	10	.0901
<u>Methods of Service Provision</u> Readopt/Repeal*	10A	NCAC	10	.0902
<u>Definition of Service</u> Readopt/Repeal*	10A	NCAC	10	.0903
<u>Availability of Funding</u> Readopt with Changes*	10A	NCAC	10	.0904
<u>Support for Employment and Training for Employment</u> Readopt with Changes*	10A	NCAC	10	.0905
<u>Support for Child Protective and Child Welfare Services</u> Readopt with Changes*	10A	NCAC	10	.0906
<u>Support for Children with or at Risk for Developmental De...</u> Readopt with Changes*	10A	NCAC	10	.0907
<u>Limitations</u> Readopt with Changes*	10A	NCAC	10	.0908
<u>Recipient Choice</u> Readopt with Changes*	10A	NCAC	10	.0909
<u>Children with Special Needs</u> Readopt with Changes*	10A	NCAC	10	.0910
<u>Basic Eligibility Criteria</u> Readopt with Changes*	10A	NCAC	10	.1001
<u>Income Eligible Status</u> Readopt with Changes*	10A	NCAC	10	.1002
<u>Income Eligibility Levels</u> Readopt/Repeal*	10A	NCAC	10	.1003
<u>Without Regard to Income</u> Readopt with Changes*	10A	NCAC	10	.1004
<u>Responsibility for Eligibility Determination</u> Readopt/Repeal*	10A	NCAC	10	.1005
<u>Determination of Income Eligibility</u> Readopt with Changes*	10A	NCAC	10	.1006
<u>Requirements for Determination and Redetermination of Eli...</u> Readopt with Changes*	10A	NCAC	10	.1007
<u>General Fee Policy</u> Readopt with Changes*	10A	NCAC	10	.1101
<u>Amount and Collection of Recipient Fees</u> Readopt with Changes*	10A	NCAC	10	.1102
<u>Adjustment in Fees</u> Readopt with Changes*	10A	NCAC	10	.1103
<u>Definitions</u> Adopt*	10A	NCAC	10	.1201

<u>Notice</u> Adopt*	10A	NCAC	10	.1202
<u>Filing</u> Adopt*	10A	NCAC	10	.1203
<u>Appeal to the Local Purchasing Agency</u> Adopt*	10A	NCAC	10	.1204
<u>Operator Appeal to Division of Child Development and Earl...</u> Adopt*	10A	NCAC	10	.1205

## **MENTAL HEALTH, DD/SAS, COMMISSION FOR**

The rules in Subchapter 26D concern the standards for mental health and mental retardation for the department of correction including scope and definitions (.0100); organization responsibilities (.0200); required staff (.0300); organization relations (.0400); quality assurance (.0500); facilities management (.0600); client records (.0700); service eligibility (.0800); treatment and habilitation (.0900); clinical services (.1000); medication services (.1100); protections regarding certain procedures (.1200); research practices (.1300); emergency services (.1400); prevention services (.1500); and inpatient services for inmates who are mentally ill (.1600).

<u>Involuntary Administration of Psychotropic Medication</u> Readopt without Changes*	10A	NCAC	26D	.1104
<u>Psychotropic Medication Education</u> Readopt without Changes*	10A	NCAC	26D	.1105
<u>Use of Seclusion</u> Readopt without Changes*	10A	NCAC	26D	.1202
<u>Use of Restraint</u> Readopt without Changes*	10A	NCAC	26D	.1203
<u>Protective Devices</u> Readopt without Changes*	10A	NCAC	26D	.1204
<u>Involuntary Referrals and Transfers</u> Readopt without Changes*	10A	NCAC	26D	.1206

## **SOCIAL SERVICES COMMISSION**

The rules in Chapter 67 concern social services procedures.

The rules in Subchapter 67A concern general administration including administration (.0100); hearing policy (.0200); and regional social services departments (.0300).

<u>Regional Departments of Social Services Financial Obligat...</u> Adopt*	10A	NCAC	67A	.0301
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## **INDUSTRIAL COMMISSION**

The rules in Subchapter 23B concern tort claims including administration (.0100); claims procedures (.0200); appeals to full commission (.0300); appeals to the court of appeals (.0400); and rules of the commission (.0500).

<u>Location of Main Office and Hours of Business</u> Amend*	11	NCAC	23B	.0101
<u>Official Forms</u> Amend*	11	NCAC	23B	.0102
<u>Filing Fees</u> Amend*	11	NCAC	23B	.0103
<u>Electronic Filings with the Commission, How to File</u> Amend*	11	NCAC	23B	.0104

<u>Contact Information</u> Adopt*	11	NCAC	23B	.0105
<u>Medical Malpractice Claims by Unrepresented Prison Inmates</u> Amend*	11	NCAC	23B	.0202
<u>Infants and Incompetents</u> Amend*	11	NCAC	23B	.0203
<u>Motions</u> Amend*	11	NCAC	23B	.0204
<u>Mediation</u> Amend*	11	NCAC	23B	.0205
<u>Hearing Costs</u> Amend*	11	NCAC	23B	.0208
<u>Appeals to the Full Commission</u> Amend*	11	NCAC	23B	.0302
<u>Proposed Issues on Repeal</u> Repeal*	11	NCAC	23B	.0303
<u>Briefs to the Full Commission</u> Repeal*	11	NCAC	23B	.0305
<u>Motions Before the Full Commission</u> Amend*	11	NCAC	23B	.0307
<u>Stays</u> Amend*	11	NCAC	23B	.0308
<u>Oral Argument</u> Amend*	11	NCAC	23B	.0310
<u>Stays</u> Amend*	11	NCAC	23B	.0402
<u>Waiver of Rules</u> Amend*	11	NCAC	23B	.0501

The rules in Subchapter 23L concern workers' compensation forms.

<u>Form T-42 - Application for Appointment of Guardian Ad Litem</u> Adopt*	11	NCAC	23L	.0105
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## **PUBLIC SAFETY, DEPARTMENT OF**

The rules in Chapter 05 concern the Governor's Crime Commission.

The rules in Subchapter 05B grant administration including general provisions (.0100); program grants (.0200); and penalties (.0300).

<u>Purpose</u> Adopt*	14B	NCAC	05B	.0101
<u>Applications for Grants</u> Adopt*	14B	NCAC	05B	.0201
<u>Review of Proposals</u> Adopt*	14B	NCAC	05B	.0202
<u>Administration of Grants</u> Adopt*	14B	NCAC	05B	.0203
<u>Grant Termination or Suspension</u> Adopt*	14B	NCAC	05B	.0301

## **ENVIRONMENTAL MANAGEMENT COMMISSION**

The rules in Subchapter 2B pertain to surface water standards and monitoring including procedures for assignment of water quality standards (.0100); the standards used to classify the waters of the state (.0200); stream classifications (.0300); effluent limitations (.0400); monitoring and reporting requirements (.0500); and water quality management plans (.0600).

<u>Water Supply Watershed Protection Program: Purpose</u> Adopt*	15A	NCAC	02B	.0620
<u>Water Supply Watershed Protection Program: Definitions</u> Adopt*	15A	NCAC	02B	.0621
<u>Water Supply Watershed Protection Program: Applicability ...</u> Adopt*	15A	NCAC	02B	.0622
<u>Water Supply Watershed Protection Program: Program Admini...</u> Adopt*	15A	NCAC	02B	.0623
<u>Water Supply Watershed Protection Program: NonPoint Sourc...</u> Adopt*	15A	NCAC	02B	.0624

The rules in Subchapter 2T set out the requirements for the issuance of permits for waste systems that do not discharge to the surface waters of the state and include general requirements (.0100); and requirements for various systems including: wastewater pump and haul systems (.0200); sewer extensions (.0300); system-wide collection system permitting (.0400); wastewater irrigation systems (.0500); single-family residence wastewater irrigation systems (.0600); high rate infiltration systems (.0700); other non-discharge wastewater systems (.0800); reclaimed water systems (.0900); closed-loop recycle systems (.1000); residuals management (.1100); coal combustion products management (.1200); animal waste management systems (.1300); manure hauler operations (.1400); soil remediation (.1500); and groundwater remediation systems (.1600).

<u>Animal Waste Residuals Management</u> Amend*	15A	NCAC	02T	.1310
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## **COSMETIC ART EXAMINERS, BOARD OF**

The rules in Subchapter 14H are sanitation rules for both operators and facilities including sanitation (.0100); shop licensing and physical dimensions (.0200); cosmetic art shop and equipment (.0300); sanitation procedures and practices (.0400); and enforcement, maintenance of licensure (.0500).

<u>Licensees and Students</u> Amend*	21	NCAC	14H	.0401
<u>Rule Compliance and Enforcement Measures</u> Amend*	21	NCAC	14H	.0505

## **MEDICAL BOARD**

The rules in Chapter 32 include the licensing and practice standards of doctors, approval of nurse practitioners and physician assistants, regulation of professional corporations and mobile intensive care, and other aspects of medical practice and the regulatory procedures.

The rules in Subchapter 32W concern the regulations of anesthesiologist assistants.

<u>Identification Requirements</u> Amend*	21	NCAC	32W	.0112
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## **PHARMACY, BOARD OF**

The rules in Chapter 46 cover organization of the board (.1200); general definitions (.1300); hospitals and other health facilities (.1400); admission requirements and examinations (.1500); licenses and permits (.1600); drugs dispensed by nurse and physician assistants (.1700); prescriptions (.1800); forms (.1900); administrative provisions (.2000); elections

(.2100); continuing education (.2200); prescription information and records (.2300); dispensing in health departments (.2400); miscellaneous provisions (.2500); devices (.2600); nuclear pharmacy (.2700); compounding (.2800); product selection (.2900); disposal of unwanted drugs (.3000); clinical pharmacist practitioner (.3100); impaired pharmacist peer review program (.3200); and registry of pharmacist technicians (.3300).

<u>Drugs and Devices to be Dispensed</u>	21	NCAC	46	.2403
Amend*				

<u>Responsibilities of Pharmacist-Manager</u>	21	NCAC	46	.2502
Amend*				

## STATE HUMAN RESOURCES COMMISSION

The rules in Subchapter 1D are the rules dealing with compensation and include administration of the pay plan (.0100); new appointments (.0200); promotion (.0300); demotions or reassignments (.0400); separation (.0500); reallocation (.0600); salary range revision (.0700); initial classification (.0800); transfer (.0900); reinstatement (.1000); longevity pay (.1200); holiday premium pay (.1300); shift premium pay (.1400); emergency call-back pay (.1500); foreign service pay (.1600); employment of physicians for extended duty (.1800); hours of work and overtime compensation (.1900); unemployment insurance (.2000); special salary adjustments (.2100); comprehensive compensation system (.2500); and in-range salary adjustments (.2600).q

<u>Salary Rate</u>	25	NCAC	01D	.0913
Adopt*				

The rules in Subchapter 1H concern recruitment and selection including general provisions (.0600); general provision for priority consideration (.0700); promotional priority (.0800); reduction-in-force-priority reemployment (.0900); exempt priority consideration (.1000); and veteran's preference (.1100).

<u>Posting and Announcement of Vacancies</u>	25	NCAC	01H	.0631
Amend*				



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**CONTESTED CASE DECISIONS**

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*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](mailto: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
				<b><u>PUBLISHED</u></b>			
18	ABC	03865	11/15/2018	NC Alcoholic Beverage Control Commission	v.	Davidson Ventures LLC T/A Wine and Canvas	Malherbe
18	DHR	02700	11/2/2018	Myronette Alspaugh	v.	NC Department of Health and Human Services Medicaid/ NC Health Choice Program	May
18	DHR	03934	11/8/2018	Erica Fennell	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Malherbe
18	DOJ	02094	11/5/2018	Erica Nicole Selby	v.	NC Criminal Justice Education and Training Standards Commission	Ward
18	DOJ	02763	11/30/2018	Brice K Marshall	v.	NC Sheriffs Education and Training Standards Commission	Overby
18	DOJ	02967	11/29/2018	Scott D Helton Sr	v.	NC Sheriffs Education and Training Standards Commission	Overby
18	DOJ	03216	11/27/2018	Alfred Wortham	v.	NC Sheriffs Education and Training Standards Commission	Overby
18	DOJ	03842	11/27/2018	Joshua M Bunton	v.	NC Sheriffs Education and Training Standards Commission	Overby
18	DOJ	04489	11/27/2018	Emily Greer Bell	v.	NC Sheriffs Education and Training Standards Commission	Overby

**CONTESTED CASE DECISIONS**

18	EDC	02121	11/5/2018	Renita Harvey	v.	North Carolina State Board of Education	Ward
				<b><u>UNPUBLISHED</u></b>			
18	ABC	05383	11/2/2018	NC Alcoholic Beverage Control Commission	v.	Ambience Special Event Center LLC T/A Ambience Special Event Center	Jacobs
18	ABC	05594	11/28/2018	NC Alcoholic Beverage Control Commission	v.	Crazy Iguana Bar and Grill LLC T/A Crazy Iguana Bar and Grill	Jacobs
17	CSE	07635	11/9/2018	John G Currall	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Elkins
18	CSE	03833	11/14/2018	Timothy F Bourque	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
18	CSE	05358	11/15/2018	Johnathan Lee Antinori	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May
18	DHR	03955	11/15/2018	Lucia M Gonzalez	v.	NC Department of Health and Human Services	Malherbe
18	DHR	04726	11/14/2018	Patrice Michelle Harris Powell	v.	NC Healthcare Registry Department of Health & Human Svcs	Ward
18	DHR	04798	11/28/2018	Living Waters Home Care LLC	v.	NCDHHS NCDHHS Legal Counsel	Sutton
18	DHR	05158	11/27/2018	Dwayne S Williams	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Lassiter
18	DHR	05271	11/5/2018	Moyer Ideas LLC Brandon Moyer	v.	Buncombe County Health Department	Sutton
18	DHR	05522	11/8/2018	Margaret Newman	v.	Department of Health and Human Services	Malherbe
18	DHR	05716	11/21/2018	LSM Enterprizes Inc Marshall Elmore	v.	Cardinal Innovations Healthcare	May
18	DHR	05810	11/16/2018	Love and Learn Academy Regina Ross	v.	Department of Health and Human Services	Malherbe
18	DHR	05878	11/27/2018	Deborah P Reyes	v.	Department of Health and Human Services, Division of Health Service Regulation	Sutton