

# ***NORTH CAROLINA REGISTER***

**VOLUME 34 • ISSUE 10 • Pages 827 – 901**

**November 15, 2019**

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## **PUBLISHED BY**

*The Office of Administrative Hearings  
Rules Division*

*6714 Mail Service Center  
Raleigh, NC 27699-6714  
Telephone (919) 431-3000  
Fax (919) 431-3104*

*Julian Mann III, Director*

*Molly Masich, Codifier of Rules*

*Dana McGhee, Publications Coordinator*

*Lindsay Silvester, Editorial Assistant*

*Cathy Matthews-Thayer, Editorial Assistant*

## **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.**

Office of Administrative Hearings

Rules Division

1711 New Hope Church Road

Raleigh, North Carolina 27609

(919) 431-3000

(919) 431-3104 FAX

contact: Molly Masich, Codifier of Rules

[molly.masich@oah.nc.gov](mailto:molly.masich@oah.nc.gov)

(919) 431-3071

Dana McGhee, Publications Coordinator

[dana.mcgee@oah.nc.gov](mailto:dana.mcgee@oah.nc.gov)

(919) 431-3075

Lindsay Silvester, Editorial Assistant

[lindsay.silvester@oah.nc.gov](mailto:lindsay.silvester@oah.nc.gov)

(919) 431-3078

Cathy Matthews-Thayer, Editorial Assistant

[cathy.thayer@oah.nc.gov](mailto:cathy.thayer@oah.nc.gov)

(919) 431-3006

### **Rule Review and Legal Issues**

Rules Review Commission

1711 New Hope Church Road

Raleigh, North Carolina 27609

(919) 431-3000

(919) 431-3104 FAX

contact: Amber Cronk May, Commission Counsel

[amber.may@oah.nc.gov](mailto:amber.may@oah.nc.gov)

(919) 431-3074

Amanda Reeder, Commission Counsel

[amanda.reeder@oah.nc.gov](mailto:amanda.reeder@oah.nc.gov)

(919) 431-3079

Ashley Snyder, Commission Counsel

[ashley.snyder@oah.nc.gov](mailto:ashley.snyder@oah.nc.gov)

(919) 431-3081

Alexander Burgos, Paralegal

[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)

(919) 431-3080

Julie Brincefield, Administrative Assistant

[julie.brincefield@oah.nc.gov](mailto:julie.brincefield@oah.nc.gov)

(919) 431-3073

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

Office of State Budget and Management

116 West Jones Street

Raleigh, North Carolina 27603-8005

Contact: Carrie Hollis, Economic Analyst

(919) 807-4700

(919) 733-0640 FAX

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

(919) 807-4757

NC Association of County Commissioners

215 North Dawson Street

Raleigh, North Carolina 27603

contact: Amy Bason

(919) 715-2893

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

NC League of Municipalities

150 Fayetteville Street, Suite 300

Raleigh, North Carolina 27601

contact: Sarah Collins

(919) 715-4000

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

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

545 Legislative Office Building

300 North Salisbury Street

Raleigh, North Carolina 27611

(919) 733-2578

(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
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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.



# State of North Carolina

**ROY COOPER**

**GOVERNOR**

**October 17, 2019**

**EXECUTIVE ORDER NO. 109**

**DISASTER DECLARATION FOR CERTAIN NORTH CAROLINA COUNTIES**

**WHEREAS**, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes, authorizes the issuance of a disaster declaration for an emergency area as defined in N.C. Gen. Stat. § 166A-19.3(7) that has been impacted by a Type I, Type II or Type III disaster as defined in N.C. Gen. Stat. § 166A-19.21(b); and

**WHEREAS**, on September 5-6, 2019, Hurricane Dorian ("Dorian") severely impacted Carteret, Dare, Hyde and New Hanover counties in North Carolina, each of which suffered severe damages as a result of storm surge, flooding, tornadoes, and heavy winds; and

**WHEREAS**, the undersigned issued *A Declaration of a State of Emergency*, Exec. Order No. 101, 34 N.C. Reg. 533-34 (Oct. 1, 2019), declaring a state of emergency for the entire State of North Carolina; and

**WHEREAS**, pursuant to N.C. Gen. Stat. §166A-19.22, local state of emergency declarations were issued in Carteret County on September 2, 2019, Dare County on September 2, 2019, Hyde County on September 1, 2019 and New Hanover County on September 3, 2019; and

**WHEREAS**, due to the impact of Dorian, local, state, and federal emergency management officials conducted a joint preliminary damage assessment on September 26-27, 2019; and

**WHEREAS**, pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121 *et seq.* (2019) ("the Stafford Act"), the President of the United States issued a major disaster declaration for North Carolina for Public Assistance, FEMA-4465-NC, on October 4, 2019, but denied the State's request for Individual Assistance on October 8, 2019; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.21(b)(1), the criteria for a Type I disaster are met if: (a) the Secretary of the North Carolina Department of Public Safety has provided a preliminary damage assessment to the undersigned and the General Assembly; (b) local state of emergency declarations have been issued pursuant to N.C. Gen. Stat. § 166A-19.22 in the areas impacted by the Type I disaster; (c) the preliminary damage assessment met or exceeded the criteria established for the Small Business Disaster Loan Program pursuant to 13 C.F.R. Part 123; and (d) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared for Individual Assistance; and

**WHEREAS**, the undersigned has determined that a Type I disaster, as defined in N.C. Gen. Stat. §166A-19.21(b)(1), exists in Carteret, Dare, Hyde, and New Hanover counties in North Carolina and the contiguous counties of Beaufort, Brunswick, Craven, Currituck, Jones, Onslow, Pamlico, Pender, Tyrrell, and Washington; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.41, if a disaster is declared, the undersigned may make state funds available for emergency assistance in the form of individual assistance and public assistance for recovery from those disasters for which federal assistance

under the Stafford Act is either not available or does not adequately meet the needs of residents in the emergency area.

**NOW, THEREFORE**, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

**Section 1.**

For purposes of this Executive Order only, the emergency area as defined in N.C. Gen. Stat. § 166A-19.3(7) is Carteret, Dare, Hyde and New Hanover counties in North Carolina and the contiguous counties of Beaufort, Brunswick, Craven, Currituck, Jones, Onslow, Pamlico, Pender, Tyrrell, and Washington ("the Emergency Area").

**Section 2.**

Pursuant to N.C. Gen. Stat. § 166A-19.21(b)(1), a Type I disaster is hereby declared for the Emergency Area.

**Section 3.**

I authorize state emergency assistance funds in the form of grants to individuals and families located within the Emergency Area that meet the terms and conditions under N.C. Gen. Stat. § 166A-19.41(b)(1). Individual assistance grants shall include benefits comparable to those provided by the Stafford Act.

**Section 4.**

I hereby order that this declaration be (a) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) promptly filed with the Secretary of the North Carolina Department of Public Safety, the North Carolina Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) distributed to others as necessary to ensure proper implementation of this declaration.

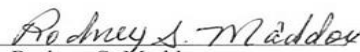
**Section 5.**

Pursuant to N.C. Gen. Stat. § 166A-19.21(c)(1), this Type I disaster declaration shall expire sixty (60) days after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of thirty (30) days each, not to exceed a total of 120 days from the date of first issuance.

**IN WITNESS WHEREOF**, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 17<sup>th</sup> day of October in the year of our Lord two thousand and nineteen.

  
\_\_\_\_\_  
Roy Cooper  
Governor

**ATTEST:**

  
\_\_\_\_\_  
Rodney S. Maddox  
Chief Deputy Secretary of State





# State of North Carolina

**ROY COOPER**  
GOVERNOR

October 17, 2019

**EXECUTIVE ORDER NO. 110**

**RENEWING THE STATE EMERGENCY RESPONSE COMMISSION AND  
AMENDING ITS MEMBERSHIP**

**WHEREAS**, Congress enacted the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001 – 11050, to provide communities with the necessary resources to prepare for, respond to, mitigate, and address public health and safety emergencies ("the Act"); and

**WHEREAS**, 42 U.S.C. § 11001(a) requires the Governor of each state to appoint a State Emergency Response Commission to supervise and coordinate the activities of local emergency planning committees and receive and process public information requests under 42 U.S.C. § 11044, including Tier II information under 42 U.S.C. § 11022; and

**WHEREAS**, on April 20, 2017, the undersigned issued Exec. Order No. 6, 31 N.C. Reg. 2204-06 (May 15, 2017) ("Executive Order 6"), which establishes the North Carolina Emergency Response Commission ("the Commission"); and

**WHEREAS**, in addition to its duties under the Act, the Commission is charged with supporting the State's Homeland Security Advisor, and coordinating stakeholder input to inform the preparation, implementation, and revision of the North Carolina Emergency Management Program; and

**WHEREAS**, the Commission is currently engaged in school safety planning efforts and would benefit from the addition of leadership from the North Carolina Center for Safer Schools ("CFSS"); and

**WHEREAS**, Executive Order 6 limits the Commission to fourteen (14) members and provides for the Commission's termination on December 31, 2019; and

**WHEREAS**, additional action is necessary to enable the Commission to benefit from CFSS leadership and continue its vital emergency readiness work.

**NOW, THEREFORE**, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

**Section 1. Membership**

Unless otherwise provided herein, the Commission shall continue to serve consistent with Executive Order 6. The Secretary of the North Carolina Department of Public Safety ("the Secretary") shall serve as the Commission's Chair and the Governor's Homeland Security Advisor. The Commission shall be comprised of at least fifteen (15) members, including the following individuals or their designees as approved by the Commission Chair:

- a. Director of Emergency Management, North Carolina Department of Public Safety, who shall serve as the Vice-Chair;
- b. Director of the State Bureau of Investigation, North Carolina Department of Public Safety;
- c. The Adjutant General of the North Carolina National Guard, North Carolina Department of Public Safety;
- d. Commander of the State Highway Patrol, North Carolina Department of Public Safety;
- e. Secretary of the North Carolina Department of Environmental Quality;
- f. Secretary of the North Carolina Department of Transportation;
- g. Chief of the Office of Emergency Medical Services, Division of Health Service Regulation, North Carolina Department of Health and Human Services;
- h. Assistant State Fire Marshal, Office of the State Fire Marshal, North Carolina Department of Insurance;
- i. State Chief Information Risk Officer, North Carolina Department of Information Technology;
- j. Director, Division of Public Health, North Carolina Department of Health and Human Services;
- k. Assistant Deputy Commissioner of Labor for Occupational Safety and Health, North Carolina Department of Labor;
- l. President of the North Carolina Community College System;
- m. Director of the Emergency Programs Division, North Carolina Department of Agriculture and Consumer Services; and
- n. The CFSS Executive Director, North Carolina Department of Public Instruction.

In addition to the foregoing, up to eight (8) members from local government, private industry, and the public may be appointed and serve two-year terms at the undersigned's pleasure. These members shall include the following:

- a. A Chief of Police;
- b. A Sheriff;
- c. A Fire Chief;
- d. A representative of emergency medical services in North Carolina;
- e. A representative of emergency managers in North Carolina;
- f. A representative of medium or large public assembly venues in North Carolina;
- g. A representative involved in the production, storage, or transportation of hazardous materials; and
- h. A private citizen of North Carolina.



**Section 2. Duties**

- a. The Commission is the State Emergency Response Commission as defined in the Act.
- b. The Commission will perform all the duties required under the Act and other advisory, administrative, regulatory, or legislative functions, which shall include the following:
  1. Designating emergency planning districts to facilitate the preparation and implementation of emergency plans as required under Section 11001(b) of the Act.
  2. Appointing local emergency planning committees as described under Section 11001(c) of the Act and supervising and coordinating their activities for each planning district.
  3. Establishing procedures for reviewing and processing public information requests under Section 11044 of the Act.
  4. Designating additional facilities that may be subject to the Act under Section 11002 of the Act.
  5. Reviewing the emergency plans submitted by the local emergency planning committees and recommending revisions to the plans that may be necessary to ensure their coordination with state plans and the emergency response plans of adjacent districts.
- c. The Commission will act in an advisory capacity to the Homeland Security Advisor to provide input regarding the activities of the North Carolina State Homeland Security Program and the Domestic Preparedness Regions. Specifically, the Commission will:
  - a. Review the State Homeland Security Strategy to ensure it is aligned with local, state, and federal priorities as required by the United States Department of Homeland Security ("DHS"), and that its goals and objectives are being met in accordance with program intent.
  - b. Review applications and subsequent allocations for state and regional homeland security projects funded by DHS grant programs.
  - c. Review plans for preventing, preparing for, responding to, and recovering from acts of terrorism and all hazards, whether man-made or natural.
- d. The Commission will act in an advisory capacity to provide coordinated stakeholder input to the Secretary and the Director of Emergency Management in the preparation, implementation, evaluation, and revision of the North Carolina Emergency Management Program. To that end, the Commission will do the following:
  - a. Increase state and local disaster and emergency response capabilities.
  - b. Coordinate training, education, technical assistance, and outreach activities.

**Section 3. Administration**

- a. The Department of Public Safety shall provide administrative support and staff to the Commission as necessary.
- b. Members of the Commission shall serve without compensation but may receive reimbursement for travel and subsistence expenses in accordance with state law and guidelines, and contingent upon the availability of funds.


**Section 4. Effect and Duration**

This Executive Order is effective immediately. It supersedes and replaces all other executive orders on this subject. It shall remain in effect until December 31, 2021, pursuant to N.C. Gen. Stat. § 147-16.2 or until rescinded.

**IN WITNESS WHEREOF**, I have hereunto signed by name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 17<sup>th</sup> day of October in the year of our Lord two thousand and nineteen.

  
\_\_\_\_\_  
Roy Cooper  
Governor

ATTEST:

  
\_\_\_\_\_  
Rodney S. Maddox  
Chief Deputy Secretary of State





# State of North Carolina

ROY COOPER  
GOVERNOR

October 22, 2019

## EXECUTIVE ORDER NO. 111

### ESTABLISHING THE GOVERNOR'S ADVISORY COUNCIL ON FILM, TELEVISION, AND DIGITAL STREAMING

**WHEREAS**, North Carolina has a lauded film industry, having been the production location of acclaimed movies and television series; and

**WHEREAS**, North Carolina's film industry contributes significantly to the state's economy by providing good paying, clean energy jobs, attracting tourists, fostering economic investment and development, and producing tax revenue for state and local government; and

**WHEREAS**, television and digital streaming are important growth areas for North Carolina's film industry; and

**WHEREAS**, with increasing film and television production in neighboring states, North Carolina's film industry should continue to explore new strategies to secure its competitive advantage; and

**WHEREAS**, North Carolina is sending a strong message across the country that we value and celebrate diversity while we abhor discrimination in all forms; and

**WHEREAS**, an advisory council can provide advice and help devise strategies to help expand the film industry; and

**WHEREAS**, to help the North Carolina film industry continue its record of success, the undersigned will establish an Advisory Council on Film, Television and Digital Streaming.

**NOW, THEREFORE**, by the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED**:

#### **Section 1.**     **Establishment and Purpose**

The Governor's Advisory Council on Film, Television, and Digital Streaming ("the Council") is hereby established. The Council is charged with advising the Office of the Governor, the North Carolina Film Office ("the Film Office"), the North Carolina Department of Commerce ("Commerce"), and the North Carolina Department of Natural and Cultural Resources ("DNCR") on strategies that enhance the North Carolina film industry and support the continued growth and competitiveness of the industry.

#### **Section 2.**     **Duties**

The Council shall have the following duties and functions:

- a. Advise the Governor on strategies that would increase the likelihood of film productions conducting business in North Carolina.
- b. Serve as a forum for film making matters affecting North Carolina. To that end, the Council shall do or provide recommendations regarding the following:
  - i. Assist in the ongoing growth and development of the North Carolina film industry;
  - ii. Identify financial incentives that help keep the North Carolina film industry competitive;
  - iii. Help strengthen North Carolina's capacity to support film projects with local financing;
  - iv. Make recommendations to assist in the development of the Film Office's marketing strategy and vision;
  - v. Help support and coordinate the work of North Carolina local and regional film commissions;
  - vi. Support efforts encouraging out-of-state film companies to conduct business in North Carolina;
  - vii. Advise the Film Office, Commerce, and DNCR on matters relating to the North Carolina film industry;
  - viii. Identify emerging markets related to the film industry and innovative opportunities for film, television, and digital streaming;
  - ix. Establish a plan to develop film industry infrastructure and support service markets;
  - x. Monitor the North Carolina film industry by measuring North Carolina film making activity and other metrics;
  - xi. Identify infrastructure investments to support future film making business;
  - xii. Make recommendations to assist in the establishment of a recruitment plan for film, television, and digital streaming support service markets; and
  - xiii. Provide advice on any other matters the Governor refers to the Council.

**Section 3. Membership, Officers, and Vacancies**

- a. The Council shall be comprised of at least fifteen (15) members appointed by the Governor. Members shall include (i) North Carolina film industry representatives in the acting, production, directing, producing, and film studio management fields; (ii) representatives from professional film industry organizations; and (iii) state or local government representatives.
- b. Council members shall serve at the Governor's pleasure. Any vacancies shall be filled by the Governor.
- c. The Council Chair and Vice Chair shall be selected by the Governor and shall serve at his pleasure. The Council may elect other officers as it deems necessary.

**Section 4. Meetings and Quorum**

The Council shall meet at least three times annually and upon the call of the Council Chair, the call of the Council Vice Chair if the Council Chair position is vacant, or upon the written request of a majority of the Council's members. A simple majority of the Council's members shall constitute a quorum to conduct official business.

**Section 5. Administration**

- a. The Council may create sub-committees.
- b. The Office of the Governor, Commerce and DNCR shall provide staff and administrative support services for the Council.
- c. Council members shall serve without compensation but may receive per diem allowance and reimbursement for travel and subsistence expenses from available state funds in accordance with state law and Office of State Budget and Management policies and regulations.

**Section 6. Effect and Duration**

This Executive Order is effective immediately and shall remain in effect until December 31, 2021, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded by subsequent Executive Order.

**IN WITNESS WHEREOF**, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 22<sup>nd</sup> day of October in the year of our Lord two thousand and nineteen.



Roy Cooper  
Governor

**ATTEST:**



Elaine F. Marshall  
Secretary of State



**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 04 – DEPARTMENT OF COMMERCE**



**No fiscal note required**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Credit Union Division intends to amend the rule cited as 04 NCAC 06C .1302.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<http://www.nccud.org>

**Proposed Effective Date:** March 1, 2020

**Instructions on How to Demand a Public Hearing:** *(must be requested in writing within 15 days of notice): A public hearing may be demanded by written request to Tony Knox, Deputy Administrator of the North Carolina Department of Commerce/Credit Union Division within 15 days of the publication of the Notice of Text.*

**Reason for Proposed Action:** 04 NCAC 06C .1302 OTHER RESERVES - proposed for amendment to be consistent with Federal Regulations.

**Comments may be submitted to:** Tony Knox, Deputy Administrator, 205 W. Millbrook Road, Ste 105, Raleigh, NC 27609; phone (919) 571-4888; fax (919) 420-7919; email [tknox@nccud.org](mailto:tknox@nccud.org)

**Comment period ends:** January 14, 2020

**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. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact ( $\geq$  \$1,000,000)
- ☐ Approved by OSBM

**CHAPTER 06 - CREDIT UNION DIVISION**

**SUBCHAPTER 06C - CREDIT UNIONS**

**SECTION .1300 - RESERVES**

**04 NCAC 06C .1302 OTHER RESERVES**

- (a) Pursuant to G.S. 54-109.86(b), transfers to regular Regular reserves shall be set at zero percent. ~~maintained as set forth in G.S. 54-109.86.~~
- (b) Special reserves for delinquent loans and reserves for line of credit shall be maintained as required in Rules .0401 and .0404(b) of this Subchapter.

Authority G.S. 54-109.12; 54-109.86.

**TITLE 08 – STATE BOARD OF ELECTIONS**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the State Board of Elections intends to adopt the rule cited as 08 NCAC 17 .0107.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<https://www.ncsbe.gov>

**Proposed Effective Date:** March 1, 2020

**Public Hearing:**

**Date:** December 12, 2019

**Time:** 1:00 p.m.

**Location:** NC State Board of Elections, Dobbs Building, Third Floor, 430 N. Salisbury Street, Raleigh, NC 27603

**Reason for Proposed Action:** Section 1.1 of Session Law 2018-144 implements the constitutional requirement requiring voters to present photo ID at the polls. It requires county boards of elections to issue voter photo identification cards, upon request and free of charge, to registered voters. The law also requires the State Board to adopt rules to ensure, at a minimum, the following: (1) A registered voter seeking to obtain a voter ID card must provide the voter's name, date of birth, and last four digits of the social security number; (2) voter ID cards must be issued at any time, except during the end of one-stop voting and the end of Election Day; (3) if a registered voter loses or defaces the voter's photo identification card, or changes his or her name, the voter can obtain a duplicate card free of charge; and (4) voter photo identification cards issued must contain the following disclaimer: "Expiration of this voter photo identification card does not automatically result in the voter's voter registration becoming

inactive." The session law also required the State Board to adopt temporary rules to implement the voter photo ID requirement no later than April 15, 2019.

The temporary rule detailing the process for requesting and issuing a voter photo identification card was adopted by the Board on April 4, 2019, and became effective on April 29, 2019. Per G.S. 150B-21.1(d)(5), a temporary rule expires 270 days from the date the temporary rule was published in the North Carolina Register, unless the permanent rule adopted to replace the temporary rule has been submitted to the Rules Review Commission. The State Board is submitting this notice to replace the temporary rule with the permanent rule.

**Comments may be submitted to:** Katelyn Love, PO Box 27255, Raleigh, NC 27611; phone (919) 814-0700; fax (919) 715-0135; email rules@ncsbe.gov

**Comment period ends:** January 14, 2020

**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. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact ( $\geq \$1,000,000$ )
- ☐ Approved by OSBM
- ☒ No fiscal note required

**CHAPTER 17 - PHOTO IDENTIFICATION**

**08 NCAC 17 .0107 VOTER PHOTO IDENTIFICATION CARD**

(a) Request. A voter may request a voter photo identification card free of charge in person at the county board of elections office, or at other locations in the county if approved by a majority of the county board of elections, in the county where the voter is registered to vote. If the board approves another location for the request and issuance of voter photo identification cards, the county board of elections must ensure that any connection to the statewide computerized voter registration system is secure and cannot be accessed by anyone other than the county board of elections staff. The county board of elections shall consult with the State Board Office if they have any concerns about whether a

proposed connection method is secure. The request shall be made on a form prescribed by the State Board of Elections Office and available on the State Board website and in the county board of elections office or another location designated by the county board of elections. The form shall include prompts for the voter's full name, voter's date of birth, the last four digits of the voter's Social Security number, the voter's signature or mark, and the date of request. If the required information provided by the voter matches the information on the voter registration on file with the county board of elections, the county board of elections shall issue the card. The county board of elections shall not refuse to issue a card because the voter registration does not contain the last four digits of the voter's Social Security number or complete date of birth. If the voter registration does not contain the last four digits of the voter's Social Security number or complete date of birth, the form shall serve as an update to the voter's voter registration record.

(b) Issuance. Once the county board of elections determines it shall issue the voter photo identification card, it shall take a photograph of the voter. If the face of the voter is covered, the county board of elections shall give the voter the opportunity to remove the covering but shall not require removal. If the voter declines to remove the covering, the county board of elections shall inform the voter that a voter photo identification card cannot be produced while the voter's face is covered and shall inform the voter of the ability to vote provisionally due to religious objection to being photographed pursuant to G.S. 163-166.16(d)(1).

(c) Simultaneous registration and request. A voter may register to vote and request a voter photo identification card simultaneously in person at the county board of elections office or at other locations in the county, including one-stop sites under G.S. 163-227.2 and 163-227.5, if approved pursuant to Paragraph (a) of this Rule. The county board of elections shall process the voter registration form as soon as it is received and, if the voter appears eligible to vote based on the voter registration form, the county board of elections shall process the voter registration, assign a voter registration number to the voter, and issue a voter photo identification card to the voter. If the county board of elections cannot process a voter registration form for a voter who registers to vote and requests a voter photo identification card simultaneously in person at a location other than the county board of elections office, the registration shall be processed at the county board of elections office, which shall mail the voter photo identification card to the voter if it makes a tentative determination that the applicant is qualified to vote pursuant to G.S. 163-82.7. If the registration deadline under G.S. 163-82.6(d) has passed, the county board of elections shall mail the photo identification card to the voter once the county board of elections is able to process the voter registration form and makes a tentative determination that the applicant is qualified to vote pursuant to G.S. 163-82.7.

(d) Timing of issuance. Voter photo identification cards shall be issued at any time, except during the time period between the end of one-stop voting for a primary or election as provided in G.S. 163-227.2 and the end of Election Day for each primary and election. A county board of elections shall process a request for voter photo identification at the time it is received and shall issue the card to the voter. If, due to equipment, software, or other issues, the county board of elections cannot produce the photo

identification card at the time the request is received, the county board of elections shall mail the photo identification card to the voter as soon as the issue is resolved.

(e) Replacement card. If a registered voter loses or defaces the voter's photo identification card, the registered voter may obtain a duplicate card without charge from his or her county board of elections upon request in person, by telephone, or by mail. Cards may not be requested by any other method, including e-mail. A request in person or by mail shall be made on a form required in Paragraph (a) of this Rule. In making the request, the voter shall provide the voter's name and the voter's date of birth or last four digits of the voter's Social Security number. If the information provided by the voter matches the information on file with the county board of elections, the county board of elections shall issue the replacement card. If the request is by telephone or mail, the county board of elections shall mail the card to the mailing address in the voter's voter registration file. A voter may request a new photo identification card in accordance with Paragraph (a) if the voter believes the photo does not reflect a change in the voter's appearance.

(f) Name change. If a registered voter has a change of name and has updated his or her voter registration to reflect the new name, the registered voter may request and obtain a replacement card from the registered voter's county board of elections by providing the registered voter's current name, date of birth, and the last four digits of the registered voter's Social Security number in person, by telephone, or by mail. Cards may not be requested by any other method, including e-mail. A request in person or by mail shall be made on a form required in Paragraph (a) of this Rule. If the information provided by the voter matches the information on file with the county board of elections, the county board of elections shall issue the replacement card. If the request is by telephone or mail, the county board of elections shall mail the card to the mailing address on the voter's voter registration file. The voter may use the form required in Paragraph (a) of this Rule to update the name on his or her voter registration record and shall include the voter's former name and current name, date of birth, the last four digits of the voter's Social Security number, and the voter's signature or mark.

(g) Content and design of card. The Executive Director of the State Board shall design the card. A voter photo identification card shall contain only the following information unique to the voter:

- (1) A photograph of the voter;
- (2) The voter's full name;
- (3) The voter's voter registration number; and
- (4) Expiration date.

The card may also contain a barcode including any of the information listed in this Paragraph. Voter photo identification cards shall contain the following disclaimer: "Expiration of this voter photo identification card does not automatically result in the voter's voter registration becoming inactive."

(h) Validity. A voter photo identification card shall be valid statewide for voting purposes. The photo identification card shall serve as proof of the voter's identity, not proof that the person is a registered voter.

(i) Assistance. A voter may receive assistance in completing the form required in this Rule but the voter shall sign or place his or her mark on the request form.

(j) Form retention. The county board of elections shall upload the form required by this Rule into the statewide computerized voter registration system, and the uploaded document shall serve as the official record of the form for records retention purposes.

*Authority G.S. 163-22; 163-82.8A; S.L. 2018-144, s. 1.1.(b).*

## **TITLE 11 – DEPARTMENT OF INSURANCE**

*Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Department of Insurance intends to readopt without substantive changes the rules cited as 11 NCAC 12 .0321, .0514, .1501-.1509, and .1803.*

*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>.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
*<https://www.ncdoi.gov/insurance-industry/rules-and-rules-review>*

**Proposed Effective Date:** *March 1, 2020*

**Public Hearing:**

**Date:** *December 9, 2019*

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

**Location:** *NCDOI, Albemarle Building, 325 North Salisbury Street, Raleigh, NC, 1st Floor Hearing Room, Room 131*

**Reason for Proposed Action:** *These rules are being proposed for readoption in accordance with G.S. 150B-21.3A(d)(2).*

**Comments may be submitted to:** *Loretta Peace-Bunch, 325 North Salisbury Street, Raleigh, NC 27603; phone (919) 807-6004; email [Loretta.Peace-Bunch@ncdoi.gov](mailto:Loretta.Peace-Bunch@ncdoi.gov)*

**Comment period ends:** *January 14, 2020*

### **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.** Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected  
☐ Local funds affected  
☐ Substantial economic impact ( $\geq$  \$1,000,000)  
☐ Approved by OSBM  
☒ No fiscal note required

**CHAPTER 12 - LIFE AND HEALTH DIVISION**

**SECTION .0300 - GENERAL PROVISIONS**

**11 NCAC 12 .0321 RATE FILING: HMO**  
**(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .0500 - ACCIDENT AND HEALTH: GENERAL NATURE**

**11 NCAC 12 .0514 COORDINATION: GROUP A/H**  
**CONTRACT BENEFITS: GROUP COVERAGES**  
**(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .1500 - UNIFORM CLAIM FORMS**

**11 NCAC 12 .1501 DEFINITIONS (READOPTION**  
**WITHOUT SUBSTANTIVE CHANGES)**

**11 NCAC 12 .1502 REQUIREMENTS FOR USE OF**  
**HCFA FORM 1450 (UB92) (READOPTION WITHOUT**  
**SUBSTANTIVE CHANGES)**

**11 NCAC 12 .1503 REQUIREMENTS FOR USE OF**  
**HCFA FORM 1500 (READOPTION WITHOUT**  
**SUBSTANTIVE CHANGES)**

**11 NCAC 12 .1504 REQUIREMENTS FOR USE OF**  
**THE CURRENT ADA DENTAL CLAIM FORM**  
**(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**11 NCAC 12 .1505 MANAGED CARE FORMS**  
**(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**11 NCAC 12 .1506 ELECTRONIC FORMAT**  
**STANDARDS (READOPTION WITHOUT SUBSTANTIVE**  
**CHANGES)**

**11 NCAC 12 .1507 ATTACHMENT FORM OR**  
**FORMAT (READOPTION WITHOUT SUBSTANTIVE**  
**CHANGES)**

**11 NCAC 12 .1508 MEDICARE SUPPLEMENT**  
**PAYORS (READOPTION WITHOUT SUBSTANTIVE**  
**CHANGES)**

**11 NCAC 12 .1509 PATIENT SUBMITTED CLAIM**  
**FORMS (READOPTION WITHOUT SUBSTANTIVE**  
**CHANGES)**

**SECTION .1800 - PPO BENEFIT PLAN PRODUCT LIMITATIONS**

**11 NCAC 12 .1803 GENERAL REQUIREMENTS**  
**(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS**

**CHAPTER 04 – AUCTIONEER LICENSING BOARD**

*Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Auctioneer Licensing Board intends to adopt the rule cited as 21 NCAC 04B .0203, readopt with substantive changes the rules cited as 21 NCAC 04B .0101-.0104, .0201, .0202, .0301-.0303, .0401-.0405, .0501-.0506, .0601-.0607, .0801-.0810, .0812-.0819, readopt without substantive changes the rule cited as 21 NCAC 04B .0701, and repeal through readoption the rule cited as 21 NCAC 04B .0811.*

*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>.*

*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>.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<https://www.ncalb.org>

**Proposed Effective Date:** March 1, 2020

**Public Hearing:**

**Date:** December 9, 2019

**Time:** 9:00 a.m.

**Location:** Board Room, North Carolina Auctioneer Licensing Board Office, 108 Ber Creek Drive, Fuquay-Varina, NC 27526

**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 21 NCAC 04B these proposed rules were determined as "Necessary With Substantive Public Interest" thus necessitating readoption.

*Upon review for the readoption process, the agency deemed the following rules to be necessary with substantive changes and are recommended for readoption: 21 NCAC 04B .0101-.0104; .0201; .0202; .0301-.0303; .0401-.0405; .0501-.0506; .0601-.0607; .0801-.0810; .0812-.0819.*

*Upon review for the readoption process, the agency deemed the following rule to be necessary without substantive changes and it is recommended for readoption: 21 NCAC 04B .0701.*

Upon review for the readoption process, the agency deemed the following rule to be unnecessary and it is recommended for repeal through readoption: 21 NCAC 04B .0811.  
21 NCAC 04B .0203 is being proposed for adoption to implement G.S. 93B-15.

**Comments may be submitted to:** Charles Diehl, 108 Ber Creek Drive, Fuquay-Varina, NC 27526; phone (919) 567-2844; fax (919) 567-2865; email Comments2019@ncalb.org

**Comment period ends:** January 14, 2020

**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. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact ( $\geq$  \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

## SUBCHAPTER 04B - AUCTIONEER LICENSING BOARD

### SECTION .0100 - ORGANIZATION AND GENERAL PROVISIONS

#### 21 NCAC 04B .0101 PURPOSE

- (a) It is the responsibility of the Board to license auctioneers, apprentice auctioneers, and auction firms and ~~to see ensure~~ that the qualifications and activities of those engaged in auctioneering activities are in accord with law and in the best interests of the public. G.S. 85B.
- (b) The Board is not a board of arbitration and has no jurisdiction to settle disputes between parties concerning ~~such matters of contract as~~ the rate of commissions, the division of commissions, or pay of ~~assistants, and similar matters.~~ assistants.

Authority G.S. 85B-1 through 85B-9.

#### 21 NCAC 04B .0102 BOARD OFFICE

- (a) The administrative offices of the Board are located at:  
602 Stellata Drive 108 Ber Creek Drive  
Fuquay-Varina, North Carolina 27526

Telephone: (919) 567-2844

Website: [www.ncalb.org](http://www.ncalb.org).

(b) Office hours are 8:30 a.m. until 5:00 p.m., Monday through Friday, ~~except holidays.~~ excluding State holidays as set forth in 25 NCAC 01E .0901, which is hereby incorporated by reference including subsequent amendments.

Authority G.S. 85B-3.1.

#### 21 NCAC 04B .0103 DEFINITIONS

Whenever used in this Chapter:

- ~~(7)~~(1) "Auction house," "auction barn," or "auction gallery" shall mean an auction business that conducts auctions at a single location and where consignments are brought to the location by either the auctioneer/auction firm or the public to be sold at auction.
- ~~(4)~~(2) "Auctioneers Law" or "licensing law" shall refer to ~~G.S. 85B;~~ G.S. 85B.
- (3) "Board" shall mean the North Carolina Auctioneers ~~Commission;~~ Commission.
- ~~(2)~~(4) "Buyer's Premium" shall mean any additional charge owed by a buyer to the auctioneer, auction firm, or ~~directly~~ to the seller above ~~and beyond~~ the highest accepted bid ~~amount;~~ amount.
- (5) "Course" shall mean the curriculum, instruction, and activities of schools of auctioneering subject to the rules of this Subchapter.
- ~~(4)~~(6) "Minimum Bid" as used in auctions shall mean minimum opening ~~bids;~~ bids.
- ~~(5)~~(7) "Principal(s)" as it pertains to auction firms shall mean director(s), ~~officer(s);~~ officer(s), owner(s), and partner(s); ~~partner(s).~~
- ~~(6)~~(8) "~~Non Auction Firm Business~~" "Sole Proprietor Auction Business" shall mean a ~~sole~~ licensed auctioneer whose business is not defined as an "Auction Firm" as set forth in ~~G.S. 85B-1(6);~~ G.S. 85B-1(6).

Authority G.S. 85B-1; 85B-3.1; 85B-4.

#### 21 NCAC 04B .0104 ADMINISTRATIVE LAW PROCEDURES

(a) Contested Cases. Administrative hearings in contested cases conducted by the Board or an administrative law judge ~~(as as~~ authorized in ~~G.S. 150B-40)~~ G.S. 150B-40(e) shall be governed by:

- (1) ~~procedures set out in~~ Article 3A of G.S. 150B;
- (2) ~~insofar as relevant,~~ the Rules of Civil Procedure as contained in G.S. 1A-1; and
- (3) ~~insofar as relevant,~~ 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.

The rules of Civil Procedure and the General Rules of Practice for the Superior and District Courts are hereby

incorporated by reference for contested cases ~~for which that~~ the Board has authority to adopt rules under G.S. 150B-38(h). Such incorporations by reference shall automatically include any later amendments and editions of the incorporated matter.

(b) Declaratory Rulings. In addition to the procedures set out in G.S. 150B-4, petitions for declaratory rulings shall be submitted to the Board and shall contain:

- (1) ~~the~~ petitioner's name, ~~address~~ address, and telephone number;
- (2) the statute, rule, or ~~both~~ order to which the request relates;
- (3) all facts and information ~~which are that the petitioner considers~~ relevant to the request;
- (4) a ~~concise~~ statement of the manner in which petitioner has been aggrieved;
- (5) ~~a draft of the declaratory ruling sought by petitioner, if a specified outcome is sought by petitioner;~~
- ~~(6)~~(5) practices likely presumed to be affected by the declaratory ruling; and
- ~~(7)~~ a list or description of persons likely to be affected by the declaratory ruling; and
- ~~(8)~~(6) a statement as to whether the petitioner desires to present oral argument, not to exceed 30 minutes, to the Board prior to its decision.

The Board shall ~~ordinarily~~ refuse to issue a declaratory ruling when:

- (A) the petition does not comply with this ~~subdivision; Rule;~~
- (B) the Board has ~~previously~~ issued a declaratory ruling on ~~substantially similar the same~~ facts;
- (C) the Board has ~~previously~~ issued a final agency decision in a contested case on ~~substantially similar the same~~ facts;
- (D) the facts underlying the request for a declaratory ruling were specifically considered at the time of the adoption of ~~the~~ a rule or order in question; or
- (E) the subject matter of the request is involved in pending litigation.

(c) Petitions For Rule-Making. In addition to the procedures set out in G.S. 150B-20, petitions for rule-making shall be submitted to the Board and shall contain:

- (1) ~~the~~ petitioner's name, ~~address~~ address, and telephone number;
- (2) a draft of the proposed rule ~~or rule change; adoption or amendment, unless the petition is for a proposed rule repeal; and~~
- ~~(3)~~ the reason for its proposal;
- ~~(4)~~(3) the effect of the proposal on existing ~~rules or decisions; rules.~~
- ~~(5)~~ data supporting the proposal;
- ~~(6)~~ practices likely to be affected by the proposal; and
- ~~(7)~~ a list or description of persons likely to be affected by the proposal.

Authority ~~G.S. 85B-3(f); 85B-8; G.S. 85B-3.1; 150B-4; 150B-14(a)(1),(c); 150B-18; 150B-20; 150B-38(h).~~

## SECTION .0200 - APPLICATION FOR LICENSE

### 21 NCAC 04B .0201 APPLICATION FORMS

(a) Auctioneer. Each applicant for an auctioneer license shall ~~complete an application form provided by the Board. make application on a form prescribed by the Board and may obtain the required form upon request to the Board. The application form calls for the applicant's name and address, the applicant's social security number, proof of the applicant's identity, places of residence, education, prior auctioneering licenses, and other information necessary to identify the applicant and determine the applicant's qualifications and fitness for licensure.~~ This form shall be submitted to the ~~Executive Director Board~~ and shall be accompanied by:

- (1) one ~~passport type~~ clear, forward facing, 2" x 2" color photograph of the applicant's head and shoulders taken within the previous six months for identification;
- ~~(2)~~ statements of the results of a local criminal history records search by the clerk of superior court (or equivalent official in other states) in each county where the applicant has resided and maintained a business within the immediate preceding 60 months (five years);
- ~~(3)~~(2) the completed fingerprint cards provided by the Board and the form signed by the applicant consenting to the check of the criminal history and to the use of fingerprints and other identifying information;
- ~~(4)~~(3) a copy of the applicant's high school diploma or proof of equivalency;
- ~~(5)~~(4) the ~~proper applicable~~ fees, as ~~required by set forth in~~ 21 NCAC 04B .0202; and
- ~~(6)~~(5) documentation of required auctioneer schooling or auctioneer experience, as follows:
  - (A) Applicants who base their application upon their successful completion of ~~an approved~~ a school of auctioneering with its curriculum and instructors approved by the Board as set forth in 21 NCAC 04B .0500 shall submit a ~~photostatic copy of their diploma or certificate of successful completion. final transcript. An applicant shall have successfully completed this school within the five years preceding the date of application or if~~ If the applicant has successfully completed this school more than the five years preceding the date of his or her application, the applicant shall submit documentation ~~verifying of~~ the applicant's active lawful participation in auctions within the two years preceding the date of application. The above referenced participation in

auctions is defined as "Auctioneering" as set forth in G.S. 85B-1(8). G.S. 85B-1(8);

- (B) Applicants who base their application upon their successful completion of an apprenticeship shall submit a log ~~which was maintained and completed during the apprenticeship period which details the exact that lists the hours and dates on which when they obtained apprenticeship experience, with each entry being verified and signed by their supervising auctioneer.~~ which details the exact that lists the hours and dates on which when they obtained apprenticeship experience, with each entry being verified and signed by their supervising auctioneer. ~~A minimum of At least 100 hours of experience during the apprenticeship two-year period shall be obtained. Not less than 25 of the total hours accumulated must shall be attributable to bid calling calling, and not Not less than 50 hours shall be attributable to working as a ring person, drafting and negotiating contracts, appraising evaluating merchandise, advertising, clerking clerking, and cashiering, with not less than five hours of accumulated experience documented for each category. activity.~~ A minimum of At least 100 hours of experience during the apprenticeship two-year period shall be obtained. Not less than 25 of the total hours accumulated must shall be attributable to bid calling calling, and not Not less than 50 hours shall be attributable to working as a ring person, drafting and negotiating contracts, appraising evaluating merchandise, advertising, clerking clerking, and cashiering, with not less than five hours of accumulated experience documented for each category. activity. An apprentice who applies for an auctioneer license under this Part shall submit his or her application and supporting documentation and obtain a passing score on the auctioneer exam prior to the expiration of his or her apprentice auctioneer license; and license.

- (7) ~~Non-resident applicants shall also submit a properly completed "Designation of Agent for Service of Process Form" with notarized signature and notarial seal affixed.~~

(b) Non-Resident Reciprocal Auctioneer. Each non-resident applicant for an auctioneer license, license who applies for a North Carolina license pursuant to G.S. 85B-5 shall complete an application form provided by the Board, make application on a form prescribed by the Board and may obtain the required form upon request to the Board. The application form calls for the applicant's name and address, the applicant's social security number, proof of the applicant's identity, places of residence, education, prior auctioneering licenses, and other information necessary to identify the applicant and determine the applicant's qualifications and fitness for licensure. This form shall be submitted to the Executive Director Board and shall be accompanied by:

- (1) one passport type clear, forward facing, 2" x 2" color photograph of the applicant's head and shoulders taken within the previous six months for identification;
- (2) statements of the results of a local criminal history records search by the clerk of superior court (or equivalent official) in each county

~~where the applicant has resided and maintained a business within the immediate preceding 60 months (five years);~~

- ~~(3)(2)~~ the completed fingerprint cards provided by the Board and the form signed by the applicant consenting to the check of the criminal history and to the use of fingerprints and other identifying information;
- ~~(4)(3)~~ a copy of the applicant's high school diploma or proof of equivalency;
- ~~(5)(4)~~ the proper applicable fees, as required by set forth in 21 NCAC 04B .0202;
- ~~(6)(5)~~ a statement of good standing from the licensing board or Commission of each jurisdiction where the applicant holds an auctioneer, apprentice ~~auctioneer~~ auctioneer, or auction firm license; and
- ~~(7)(6)~~ a properly completed "Designation of Agent for Service of Process Form" Irrevocable consent of the applicant that service to the Board shall be sufficient service of process for actions against the applicant by a resident of this State arising out of his or her auctioneering activities with notarized signature and notarial seal affixed.

(c) Apprentice Auctioneer. Each applicant for an apprentice auctioneer license shall ~~complete an application form provided by the Board, make application on a form prescribed by the Board and may obtain the required form upon request to the Board. The application form calls for the applicant's name and address, the applicant's social security number, proof of the applicant's identity, places of residence, education, prior auctioneering licenses, and other information necessary to identify the applicant and determine the applicant's qualifications and fitness for licensure.~~ This form shall be submitted to the Executive Director Board and shall be accompanied by:

- (1) one passport type clear, forward facing, 2" x 2" color photograph of the applicant's head and shoulders taken within the previous six months for identification;
- ~~(2) statements of the results of a local criminal history records search by the clerk of superior court (or equivalent official) in each county where the applicant has resided and maintained a business within the immediate preceding 60 months (five years);~~
- ~~(3)(2)~~ the completed fingerprint cards provided by the Board and the form signed by the applicant consenting to the check of the criminal history and to the use of fingerprints and other identifying information;
- ~~(4)(3)~~ a copy of the applicant's high school diploma or proof of equivalency;
- ~~(5)(4)~~ the proper applicable fees, as required by set forth in 21 NCAC 04B .0202;
- ~~(6)(5)~~ the signature, as designated on the apprentice applicant form, of the licensed auctioneer who will be supervising the apprentice auctioneer; and

~~(7)(6)~~ a written statement of the proposed supervisor's background and experience in the auction profession ~~to include~~ including the number and types of auctions conducted or participated in ~~annually; and annually, as set forth in 21 NCAC 04B .0403.~~

~~(8)~~ if applicant is a non resident, a properly completed "Designation of Agent for Service of Process Form" with notarized signature and notarial seal affixed.

(d) Auction Firms. An applicant for an auction firm shall be a principal within the firm. Each applicant for an auction firm license shall ~~complete an application form provided by the Board.~~ make application on a form prescribed by the Board and may obtain the required form upon request to the Board. The application form calls for the applicant's names and addresses, social security numbers, proof of identity, places of residence, education, prior auctioneering licenses, and other information necessary to identify the applicant, all principals of the firm, proposed designated persons for the firm, and to determine the firm's qualifications and fitness for licensure. This form shall be submitted to the Executive Director Board and shall be accompanied by:

~~(1)~~ ~~statements of the results of a local criminal history records search by the clerk of superior court (or equivalent official) in each county where any principal and designated person of the auction firm has resided and maintained a business within the immediate preceding 60 months (five years);~~

~~(2)(1)~~ each of the principal's and proposed designated person's of the auction firm completed fingerprint cards provided by the Board and the form signed by each consenting to the check of the criminal history and to the use of fingerprints and other identifying information;

~~(3)(2)~~ a copy of each principal's and proposed designated person's high school diploma or proof of equivalency;

~~(4)(3)~~ the proper applicable fees, as ~~required by set forth in~~ 21 NCAC 04B .0202;

~~(5)(4)~~ a certified copy of any applicable Articles of Incorporation or Partnership Agreement; and

~~(6)(5)~~ a statement of good standing from the licensing board or Commission of each jurisdiction where the applicant firm and any principal and proposed designated person of such firm holds an auctioneer license of any type; and type.

~~(7)~~ if applicant firm is a non resident, a properly completed "Designation of Agent for Service of Process Form" (one each for the auction firm and for each principal and designated person of the firm) with notarized signature and notarial seal affixed and, if a corporation, the corporate seal and corporate secretary's signature affixed.

## 21 NCAC 04B .0202 FILING AND FEES

(a) ~~Properly completed~~ Completed applications ~~must shall~~ be ~~filed (received, not postmarked)~~ received in the Board office at least seven days prior to ~~an established~~ a published Board meeting date, or in the case of an application for auctioneer examination, at least 10 days prior to a scheduled examination as published on the Board's website, and ~~must shall~~ be accompanied by all required documents.

(b) License fees are as follows:

(1) New auctioneer license for an applicant who did not serve an apprenticeship \$250.00  
This includes a \$150.00 annual license fee; \$50.00 application fee; and \$50.00 examination fee.

(2) New auctioneer license for an apprentice auctioneer \$200.00  
This includes a \$150.00 annual license fee; and \$50.00 examination fee.

(3) Renewal of auctioneer license \$150.00

(4) New apprentice auctioneer license \$150.00  
This includes a \$100.00 license fee and a \$50.00 application fee.

(5) Renewal of apprentice auctioneer license \$100.00

(6) New auction firm license (no examination) \$200.00  
This includes a \$150.00 annual license fee; and \$50.00 application fee.

(7) New auction firm license (examination) \$250.00  
This includes a \$150.00 annual license fee; \$50.00 application fee; and \$50.00 examination fee.

(8) Renewal of an auction firm license \$150.00

(9) Application and processing fee for conversion of non-resident reciprocal license to in-state license \$ 50.00

(10) Reinstatement of lapsed license ~~or late fee~~ \$ 50.00

~~(11)~~ Resident fingerprint card background check fee \$14.00

~~Applicants who have been continuous residents of North Carolina for the five years preceding the date of application shall be required to have only a State background check.~~

~~(12)(11)~~ Non resident fingerprint Fingerprint card background check fee \$ 38.00  
~~Applicants who have not been continuous residents of North Carolina for the five years preceding the date of application shall be required to have both a State and Federal background check.~~

(c) The renewal fee for a non-resident reciprocal licensee under G.S. 85B-5 shall be calculated in the same manner as the initial application fee pursuant to G.S. 85B-6.

(d) Fees may be paid in the form of ~~a cash or a check,~~ cashier's check, certified ~~check~~ check, or money order made payable to the

Authority G.S. 85B-1; 85B-3.1; ~~85B-4(d); 85B-5; 85B-3.2; 85B-4; 85B-5.~~

North Carolina Auctioneer Licensing Board. Checks drawn on escrow or trust accounts shall not be accepted. ~~Personal checks may be accepted for payment of renewal fees.~~ License renewal fees and reinstatement of license fees shall be paid by credit card or debit card only when a license renewal fee (and when applicable, a reinstatement of license fee) is submitted by the licensee through the Board's website.

Authority ~~G.S. 85B-3.2; G.S. 85B-3.2(g); 85B-4.1; 85B-5(i); 85B-6.~~

**21 NCAC 04B .0203 EXTENSIONS FOR MEMBERS OF THE ARMED FORCES**

The Board shall waive the license renewal fee and shall grant an extension of time for up to one year for completing and reporting continuing education credits for those licensees currently licensed and in good standing with the Board who are serving in the Armed Services of the United States, and to whom G.S. 105-249-2 grants an extension of time to file a tax return.

Authority ~~G.S. 93B-15.~~

**SECTION .0300 - EXAMINATIONS**

**21 NCAC 04B .0301 SUBJECT MATTER**

(a) The auctioneer license examination shall test the applicant's knowledge of the following ~~required~~ subjects:

- (1) a ~~practical and~~ working knowledge of the auction business including ~~fundamentals of auctioneering, conduct of auctions, auctioneering ethics,~~ contract drafting, bid calling, basic mathematical computations and percentages, advertising, settlement statements, and ~~laws, regulations, laws~~ and rules that relate to the auctioneering profession;
- (2) the provisions of the licensing law; and
- (3) the ~~Rules of the Board, rules of this Subchapter.~~

(b) The auction firm license examinations shall test the applicants knowledge of the following:

- (1) the provisions of the licensing law; and
- (2) the ~~Rules of the Board, rules of this Subchapter.~~

Authority ~~G.S. 85B-4(d)(g); G.S. 85B-4(d); 85B-4(g).~~

**21 NCAC 04B .0302 RE-EXAMINATION/REFUND OF FEES**

If the applicant does not appear at the initial examination for which he or she has been scheduled or fails to pass such examination, he will be re-scheduled for the next scheduled examination. If the applicant again does not appear or fails to pass this examination, a refund of the annual auctioneer or apprentice license fee will be made. ~~No refund of the application or examination fee is allowed.~~ The Board shall refund the licensure fee, but not the application or examination fee. A complete new application and proper appropriate fees are shall be required if the person wishes to reapply.

Authority ~~G.S. 85B-4; 85B-6.~~

**21 NCAC 04B .0303 EXAM: REVIEW: PAPERS AND CONTENTS**

(a) Any applicant who fails to obtain a passing score ~~(75 percent or better)~~ of 75 percent or higher on an examination may request ~~and receive~~ an appointment with the ~~Executive Director Board~~ staff to review ~~their~~ his or her examination.

(b) All examination papers shall remain the property of the Board. The contents thereof shall not be divulged, except by express written authorization of the Board.

Authority ~~G.S. 85B-4; 93B-8.~~

**SECTION .0400 – LICENSING**

**21 NCAC 04B .0401 LICENSE NUMBER: DISPLAY OF LICENSE AND POCKET CARD**

(a) ~~When being licensed each individual or firm shall be issued a license number which remains solely his.~~ The Board shall issue to each individual or firm a non-transferable license number. Should that If the number be is retired for any reason (such such as death, failure to continue in the auction business, or failure to renew his or her license, or any other reason) that number shall not be reissued back to the individual or the firm or to any other individual or firm. the Board shall not reissue the number.

(b) A pocket card shall be issued by the ~~Executive Director giving Board with~~ the auctioneer, apprentice ~~auctioneer~~ auctioneer, or auction firm's name, license ~~number~~ number, and date of expiration. The pocket card ~~must~~ shall be carried by the licensee, and in the case of auction firms each of the designated person(s), ~~at all times~~ when auctioneering activities are being conducted and shall be available for inspection by the Executive Director or designated agent of the Board. ~~An auction firm shall display its license in a prominent place upon its premises, so as to be visible for inspection by patrons of the firm.~~

(c) An auction firm shall display its license in its premises, so as to be visible for inspection by patrons of the firm.

Authority ~~G.S. 85B-3.1; 85B-4.~~

**21 NCAC 04B .0402 LICENSE RENEWAL**

(a) Any licensee ~~desiring seeking~~ the renewal of a license ~~which that is in good standing shall apply for same and shall submit the required fees and such records or documentation requested by the Executive Director fees, records, and documentation required to verify the licensee's compliance with G.S. 85B and the rules promulgated in this Chapter. All licenses expire on June 30 each year.~~

(b) Applications for renewal of licenses ~~will~~ shall only be processed by the Board upon receipt of the required fee and any records, documents, or information, requested pursuant to Paragraph (a) of this Rule.

(c) Any person or entity who engages in any auctioneering activities governed by the auctioneers law while the license is lapsed ~~will~~ shall be subject to the penalties pursuant to G.S. 85B-9.

(d) Licenses lapsed or suspended in excess of 24 months shall not be renewable. Persons or firms whose license has been lapsed or suspended in excess of 24 months and who desire to be licensed shall apply for a new license and shall meet all the requirements

then existing. Persons or firms whose license has been lapsed or suspended in excess of 24 months and who desire to be licensed ~~are~~ shall be exempt from the auctioneer school or the apprenticeship requirements ~~should~~ if the continuing education requirements ~~be~~ have been met for all lapsed, ~~suspended~~ suspended, and inactive years.

*Authority G.S. 85B-3.1; 85B-4.*

## **21 NCAC 04B .0403 APPRENTICE AUCTIONEER LICENSE**

(a) An apprentice auctioneer's license ~~is~~ shall be valid only while he ~~or she~~ is associated with and supervised by a licensed auctioneer ~~assigned~~ approved by the Board. In order to be ~~assigned~~ approved by the Board as a supervisor, the Board ~~must~~ shall receive a written notice, signed by the prospective supervisor and the apprentice, requesting that the licensed auctioneer be ~~assigned~~ approved as a supervisor for the apprentice. Upon receipt of such a request, the Board shall ~~evaluate~~ review the requested ~~assignment approval~~ approval. ~~and such~~ The requested ~~assignment may~~ approval shall be denied by the Board if the prospective supervisor fails to possess a minimum of five years of active experience in the auctioneering profession ~~or an equivalent combination of training and experience~~ or has committed any act ~~which constitutes grounds for~~ that resulted in license suspension or revocation under the rules of this Subchapter or under G.S. 85B. ~~Upon termination of the association between the supervisor and the apprentice, the supervisor shall immediately notify the Board in writing, showing the date and cause of termination.~~

(b) The supervising auctioneer shall be on the premises of the sale location and supervise the apprentice auctioneer at ~~any and~~ all times that an apprentice auctioneer is engaged in bid calling. Additionally, the supervising auctioneer shall supervise the apprentice ~~on a regular basis~~ and ensure that the apprentice auctioneer conforms with the auctioneer law and ~~Rules adopted by the Board~~ the rules of this Subchapter.

(c) Any licensed auctioneer who undertakes the ~~sponsorship~~ supervision of an apprentice auctioneer shall ~~ensure that~~ provide the apprentice ~~receives~~ with training, supervision, and guidance in the following:

- (1) ~~A a practical and working knowledge of the auction business including fundamentals of auctioneering, conduct of auctions, auctioneering ethics, contract drafting, bid calling, basic mathematical computations, advertising, and settlement statements;~~
- (2) ~~The the~~ provisions of the licensing law;
- (3) ~~The the Rules of the Board;~~ rules of this Subchapter; and
- (4) ~~The the~~ preparation and maintenance of written agreements, record books, and other sales records as required by ~~law~~ G.S. 85B-7.

(d) Apprentices ~~are prohibited from conducting or contracting~~ shall not conduct or contract to conduct any auction without the prior express written consent of the ~~sponsor~~ supervisor(s). No ~~sponsor~~ supervisor shall authorize an apprentice to conduct or contract to conduct an auction, to act as principal ~~auctioneer~~ auctioneer, or handle any funds related to an auction unless the ~~sponsor~~ supervisor has determined that the apprentice has

received ~~adequate~~ the training to do so. An apprentice auctioneer may work under more than one ~~Board-approved~~ Board-approved licensed auctioneer at any given time.

(e) The ~~sponsor~~ supervisor(s) shall ensure that the apprentice complies with all of the laws and Rules as they apply to any ~~auction-related~~ auction-related transaction approved by the ~~sponsor~~ supervisor.

(f) An apprentice auctioneer shall notify the Board, in writing, ~~immediately upon~~ within 10 days of termination of his ~~or her~~ association with his ~~or her~~ supervising auctioneer, at which time his ~~or her~~ license shall be ~~immediately held~~ placed in an invalid status. If an apprentice auctioneer's supervising auctioneer's license has been ~~suspended~~ suspended or revoked, ~~or placed on probation~~ the apprentice auctioneer's license shall be ~~immediately held~~ placed in an invalid status. Once in an invalid status, an apprentice auctioneer shall not conduct or contract to conduct any auction. If an apprentice's license is invalid greater than 90 days due to a lack of an approved sponsor, the apprentice upon securing an approved sponsor shall be required to submit a ~~late~~ reinstatement fee as set forth in 21 NCAC 04B .0202(b)(10). Upon termination of the association between the supervisor and the apprentice, both licensees shall notify the Board in writing within 10 days, showing the date and cause of termination. At this time the apprentice auctioneer's license shall be placed in an invalid status, unless at least one Board-approved supervisor remains in place for the apprentice.

*Authority G.S. 85B-3.1; 85B-4; 85B-7.*

## **21 NCAC 04B .0404 GROUNDS FOR LICENSE DENIAL OR DISCIPLINE**

(a) The Board may assess a civil penalty in accordance with G.S. 85B-3.1(b) or deny, suspend, or revoke a license, or issue a letter of reprimand to a licensee, upon any of the following grounds:

- (1) violation of any provision of G.S. 85B;
- (2) violation of any ~~provision of the rules under 21 NCAC, 04B;~~ rule in this Subchapter;
- (3) a check given to the Board in payment of ~~required fees which that is~~ returned unpaid;
- (4) allowing an unlicensed person (~~auctioneer~~) to call a bid at a ~~sale~~ sale, except as authorized in 21 NCAC 04B .0506.
- (5) auctioneering at an unlicensed auction firm sale;
- (6) failure to ~~properly, completely and fully~~ complete an application or making any false statement or giving any false information in connection with an application for a license, ~~renewal~~ renewal, or reinstatement of a license including:
  - (A) failure to ~~completely~~ cooperate with any investigation; or
  - (B) making any false statement or giving any false information in connection with any investigation by the Board or the Board's ~~designee~~ staff;
- (7) being adjudicated mentally incompetent by a court;

- (8) ~~committing being convicted of~~ a crime the circumstances of which ~~substantially~~ relate to the auctioneering profession;
- (9) ~~violating violation of~~ any federal or state ~~statute or rule which~~ statute, rule, or regulation that relates to the auctioneering profession;
- (10) practicing the profession for which the ~~holder has a license~~ individual is licensed while the ~~holder's~~ his or her ability to practice was impaired by alcohol or other drugs or physical or mental disability or disease;
- (11) being incompetent in practice. ~~A licensee has been~~ In this Subparagraph, "being incompetent in practice" means if the licensee ~~has~~ engaged in conduct ~~which that~~ evidences a lack of ability, fitness or knowledge to apply principles or skills of the auctioneering profession;
- (12) engaging in unprofessional conduct. In this ~~Paragraph Subparagraph~~, "unprofessional conduct" means the ~~violation of~~ licensee has violated any standard of professional behavior ~~which that~~ through professional experience has become established in the auctioneering profession;
- (13) obtaining or attempting to obtain compensation by fraud or deceit;
- (14) ~~violating violation of~~ any order of the Auctioneer Licensing Board requiring a licensee to comply with any provision of the Board's law or administrative rules;
- (15) failure to possess truth, honesty and integrity sufficient to be entitled to the high regard and confidence of the public. In this ~~paragraph Rule~~ a lack of ~~truth, honesty and integrity~~ "truth, honesty, and integrity" shall be evidenced by proof that the applicant or licensee is in violation of other provisions of the Board's law and administrative rules ~~which that~~ demonstrate that the applicant or licensee fails to meet this standard; or
- (16) failure to ~~properly~~ make the disclosures required by 21 NCAC 04B .0405.

(b) When applying the requirements of ~~Rule .0404(a)~~ Paragraph (a) of this Rule to auction firms or their applications, the requirements shall apply to the firm, all the principals, and all of the designated persons of the firm.

*Authority G.S. 85B-3.1; 85B-8(a)(1); 85B-8.*

#### **21 NCAC 04B .0405 INVOLVEMENT IN COURT ACTION OR ADMINISTRATIVE HEARING**

(a) All auctioneers, apprentice ~~auctioneers~~ auctioneers, and auction firms, including their principals and designated person(s), shall report to the Board ~~any and~~ all criminal arrests for, charges

~~of of~~, or convictions of a misdemeanor that has as an essential element dishonesty, deceit, ~~fraud fraud~~, or ~~misrepresentations, misrepresentation~~, or any arrests, ~~charges charges~~, or convictions of any felony. Convictions include findings of guilt, guilty pleas, and pleas of nolo contendere. The Board ~~must~~ shall receive written notice of any such arrest, charge or criminal conviction within 30 days of the occurrence of any or all of these events.

(b) All auctioneers, apprentice ~~auctioneers~~ auctioneers, and auction firms, including their principals and designated person(s), shall report to the Board ~~any and~~ all civil suits involving them that are based upon any allegation of gross negligence, dishonesty, fraud, ~~misrepresentation misrepresentation~~, or incompetency, or that in any way involve an auction sale or a transaction related to an auction matter or auctioneering. The Board ~~must~~ shall receive written notice of any such civil suit within 30 days of the date the complaint in the suit is served on the defendant in the action, or the date a pleading containing one or more of these allegations is served on a party.

(c) All auctioneers, apprentice ~~auctioneers~~ auctioneers, and auction firms, including their principals and designated person(s), shall report to the Board ~~any and~~ all administrative proceedings ~~which are~~ commenced against them ~~which that~~ involve any potential revocation or suspension of, or other disciplinary action against, any auction license or auctioneer license that they hold in another state. The Board ~~must~~ shall receive written notice of any such administrative proceeding within 30 days of the date the auctioneer, apprentice auctioneer or auction firm, including its principals and designated person(s), is notified of the administrative proceeding.

*Authority G.S. 85B-3.1; 85B-4.*

### **SECTION .0500 - SCHOOLS OF AUCTIONEERING**

#### **21 NCAC 04B .0501 APPLICATION FOR COURSE APPROVAL**

(a) Schools of auctioneering seeking ~~accreditation~~ approval of its curriculum and instructors by the Board shall ~~complete a Board approved application form~~ make application on a form prescribed by the Board and may obtain the required form upon request to the Board. The application form calls for the name, address, and other contact information for the school, curriculum description, a list of instructors, a description of each instructor's education and experience, and other information necessary to determine the fitness of the school's curriculum and instructors for approval. This form shall be submitted to the Board.

(b) The school shall notify the Board within 30 days of any change in the information required by the above application form. This requirement shall continue as long as the ~~school~~ school's curriculum and instructors ~~remains~~ remain approved by the Board.

*Authority G.S. 85B-3.1; 85B-4(d).*



**21 NCAC 04B .0502 REQUIREMENTS FOR APPROVAL/MINIMUM STANDARDS**

(a) ~~In order to be accepted as an approved school, and in order to remain approved, the~~ The course curriculum ~~must~~ shall contain classroom instruction in the following subjects for the minimum number of hours shown:

- (1) Essential Core Curriculum (minimum 50 hours);
  - ~~46~~ 15 Hours - Bid Calling, Voice Control, Proper Breathing Techniques, and Use and Sequence of Numbers;
  - 4 Hours - ~~Advertising;~~ Advertising and Marketing;
  - 8 Hours - Auctioneers Law and Rules and Regulations;
  - 2 Hours - Uniform Commercial Code and Bulk Transfers;
  - 2 Hours - Drafting and Negotiating Contracts;
  - 2 Hours - Closing Statements and Settlements;
  - 8 Hours - Accounting and Mathematics;
  - ~~4~~ 2 ~~Hour~~ Hours - Auctioneering Ethics;
  - 2 Hours - Handling Sale Proceeds and Escrow Accounts;
  - 2 Hours - Auction Preparation and Setup;
  - 3 Hours - Review and Testing (End of Course).

- (2) Supplemental Instruction Areas (minimum 30 hours):
 

Antiques	Heavy Equipment
Real Estate	Automobiles
Technology	Cattle and Livestock
Environmental Issues	Public Speaking
Computers	Estate Sales
Firearms	Appraising
Foreclosure and Bankruptcy Sales	Sales Tax Requirements
Art, Rugs, Jewelry	<del>Hygiene and Personal Appearance</del>
Body Language	Ring Work
Farm Machinery	Consignment Auctions

Cyber Security and Client Property Protection

~~Minimum hours are not required in individual supplemental subjects, however, all topics must~~ Each Supplemental Instruction Area shall be addressed in the school.

- (3) ~~Courses~~ Schools that include students that ~~will~~ have expressed to the school an interest to become North Carolina applicants ~~must~~ shall provide a minimum of 2 hours of instruction on the North Carolina Auctioneers Law and Rules, G.S. 85B and 21 NCAC 04B. This instruction shall be included within the minimum required 8 hours instruction of Auctioneers Law and Rules and Regulations.

(b) Students attending an approved course ~~must~~ shall attend and ~~successfully~~ complete a minimum of 80 hours of classroom instruction according to the list of subjects and minimum hours of instruction in each subject specified in Paragraph (a) of this Rule. An hour of creditable instruction is defined as 50 minutes of classroom instruction or practical exercise accompanied by a 10 minute break.

(c) ~~Each course offered must~~ school's curriculum shall include instruction by a minimum of five different instructors, at least two of whom ~~must~~ shall be professional auctioneers. Regardless of the total number of hours taught by any given instructor, no more than 20 hours of an individual's instruction may be counted to satisfy the requirements of Paragraph (a) of this Rule.

(d) The school shall establish standards for all persons who instruct in an approved school with minimum training or experience, or a combination thereof, in the particular field in which they are instructing.

(e) The instructors shall be truthful, honest, and of high integrity as defined in 21 NCAC 04B .0404(a)(15).

~~(e)(f)~~ The school shall provide or make available suitable facilities, equipment, ~~materials~~ materials, and supplies necessary for the course, ~~specifically~~ including:

- (1) ~~a comfortable, well lighted and ventilated~~ climate-controlled classroom with a seating

capacity sufficient to accommodate all students; and

- (2) audio-visual equipment and other instructional devices and aids necessary and beneficial to the delivery of ~~effective~~ training.

*Authority G.S. 85B-3.1; 85B-4(d).*

**21 NCAC 04B .0503 CERTIFICATION OF COURSE COMPLETION**

Schools shall furnish each student who ~~successfully~~ completes ~~their his or her~~ course ~~an official certification of graduation or diploma~~ a transcript containing the student's name, the date the course was ~~completed~~ completed, and the total number of hours ~~attended and successfully~~ completed by that student. ~~For successful completion of a course, students must successfully complete a written final examination administered by the school.~~

*Authority G.S. 85B-3(f); 85B-4(d).*

**21 NCAC 04B .0504 RECORDS MUST BE MAINTAINED**

Each school shall ~~maintain~~, maintain for five years, and make available upon request of the ~~Board~~, Board or its ~~designee~~, staff, records containing the following information:

- (1) the ~~the~~ dates, times of instruction, and location of every course offered;
- (2) the ~~the names~~ names, ~~and~~ and addresses, and the number of hours ~~attended and successfully completed, and grade on the final written examination completed~~ of each student;
- (3) a list of all instructors used by the school, the qualifications of each, and their addresses; and
- (4) for each course offered, the names of all instructors used, the subject(s) taught, the number of hours that each instructor devoted to each subject, and the dates and times of ~~such~~ the instruction.

*Authority G.S. 85B-3(f); 85B-4(d).*

**21 NCAC 04B .0505 GROUND~~S~~ FOR APPROVAL: APPROVAL, DENIAL, SUSPENSION SUSPENSION, OR REVOCATION**

(a) The approval of a ~~school~~ school's curriculum and instructors by the Board shall be valid for a period of two years. Each ~~approved school approval~~ approval shall be evaluated for reapproval by the Board prior to the expiration of the two year period.

(b) The Board may deny, ~~suspend~~ suspend, or revoke the approval of any ~~school~~ school's curriculum and instructors when it finds that the school has failed to meet or to ~~continuously~~ maintain any ~~requirement, standard or procedure~~ requirement of this Section. ~~Additionally, the~~ The Board may deny, ~~suspend~~ suspend, or revoke the approval of any ~~school~~ school's curriculum and instructors upon a finding that any information required under this Section was ~~knowingly~~ falsified or misrepresented.

*Authority G.S. 85B-3(f); 85B-4(d).*

**21 NCAC 04B .0506 ALLOWING UNLICENSED BID CALLERS: EXCEPTION**

~~The only exception to allowing an unlicensed bid caller in the State of North Carolina will be in the case of a person enrolled in a class at an approved school of auctioneering who, for the purpose of training and receiving instruction, may do so~~ A person enrolled in a class at a school of auctioneering with Board-approved curriculum and instructors may call bids without a license if it is done for the purpose of training and receiving instruction. The bid calling by an unlicensed individual shall be done under the direct supervision of a licensed auctioneer who is also an instructor in the school and who further assumes full and complete responsibility for the activities of the student in the matter involving bid calling.

*Authority G.S. 85B-3(f); 85B-4(d).*

**SECTION .0600 - GENERAL AUCTIONEERING**

**21 NCAC 04B .0601 CHANGE OF ADDRESS OR BUSINESS NAME OR OWNERSHIP**

(a) All licensees shall notify the Board in writing of each change or addition of residence or business ~~address~~ address, ~~(including including mailing address)~~ address, and change of trade name, assumed name, or combination of names under which the licensee conducts business related to auctions.

(b) In the case of a corporate license, ~~said the~~ the licensee shall ~~immediately~~ notify the ~~Executive Director~~ Board of any change in the directors or officers of the ~~corporation~~ corporation, ~~and such~~ The new director(s) or officer(s) shall comply with the provisions of 21 NCAC 04B .0201(d)(1), (2), (3), (5), ~~(6)(6)~~, and (7). If the new directors or officers have a 51% or greater controlling interest in the corporation, the firm license shall be retired and the firm shall apply for a new license.

(c) In the case of a partnership license, ~~said the~~ the licensee shall ~~immediately~~ notify the ~~Executive Director~~ Board of any change in partners and such new partners shall comply with the provisions of 21 NCAC 04B .0201(d)(1), (2), (3), (5), ~~(6)(6)~~, and (7).

(d) In the case of an auction firm license, the licensee shall ~~immediately~~ notify the ~~Executive Director~~ Board of any change in a designated person(s). If the designated person is a currently licensed auctioneer under G.S 85B, the designated person shall be required to comply with the provisions of 21 NCAC 04B .0201(d)(1), ~~(6)(6)~~, and (7). If the designated person is not a currently licensed auctioneer under G.S. 85B, the designated person shall be required to comply with the provisions of 21 NCAC 04B .0201(d)(1), (2), (3), ~~(6)(6)~~, and (7).

(e) Any ~~change in address, business name or ownership required by these Rules~~ changes of reported information required by this Rule shall be reported within 10 days of the occurrence of such change.

*Authority G.S. 85B-3.1.*

**21 NCAC 04B .0602 ADVERTISING**

(a) In all advertisements relating to an auction, the auctioneer's, apprentice ~~auctioneer's~~ auctioneer's or auction firm's name and license number shall be ~~conspicuously~~ given. If an auctioneer is working for or in conjunction with an auction firm, ~~such the~~ relationships relationship shall be disclosed and both license numbers shall be ~~conspicuously~~ given. A general advertisement ~~which that~~ which does not concern a specific ~~sale(s)~~ sale or specific sales and ~~which that~~ which does not list sale dates, ~~times~~ times, or locations, ~~generally~~ referred to as trolling or holding advertisements, shall not be subject to any identification requirement. A licensee may advertise under a name, assumed name, trade name, or combination of names, only if written notice has been ~~previously~~ filed with the Board.

(b) Any licensee who advertises an "Estate Sale" shall ~~specifically~~ disclose, in all advertisement materials, whether it is the estate of a living or deceased person. Before conducting an auction as an "estate sale," the majority of items in the sale shall come from the estate of the living or deceased person(s). Other items not related to or in an estate may be sold with an estate if ~~specifically~~ disclosed at or before the time of the auction.

(c) It shall be a violation of these Rules to advertise a "Bankruptcy Sale" unless the item(s) offered for sale, whether real or personal, are from an active bankruptcy action. Before conducting an

auction as a "bankruptcy sale," the majority of the items in the sale shall come from the bankruptcy of one or more parties. Other items not related to or from a bankruptcy action may be sold with items from a bankruptcy action if ~~specifically~~ disclosed at or before the time of the auction.

(d) It shall be a violation of ~~these Rules~~ this Rule to advertise an item, either real or personal, as "Absolute" or "Without Reserve" if the item is subject to confirmation, minimum bid, or any other condition of sale. Before advertising an auction as absolute or without reserve, the majority of items in the sale shall be offered for sale absolute or without reserve. Items that are not absolute may be included in the auction provided they are ~~specifically~~ designated as such in all announcements ~~or and~~ advertisements.

(e) It shall be a violation of ~~these Rules~~ this Rule to advertise any auction using such descriptive words as "Urgent," "Emergency," "Distress" or any other word ~~which that connotes~~ connotes liquidation of assets or that the buyers ~~will, for some extraordinary reason, will~~ be in a position to reap some unusual bargain without ~~specifically~~ disclosing, in the written advertisement in a print size equal to the descriptive word, the reason that the sale is "urgent," the nature of the ~~"emergency," "emergency,"~~ "emergency," or the cause of the ~~"distress," "distress," etc.~~

(f) It shall be a violation of ~~these Rules~~ this Rule to advertise any auction using such descriptive words as "Seized," "Confiscated," ~~"Forfeited," "Forfeited,"~~ or any other word ~~which that~~ connotes a governmental action whereby items are seized or taken by a government department, agency or commission and released or sold or that the buyers will, for some governmental reason, be in a position to reap some unusual bargain without ~~specifically~~ disclosing, in the written advertisement in a print size equal to the descriptive word, the exact nature of the governmental action.

(g) It shall be a violation of ~~these Rules~~ this Rule to advertise any items as being from an "estate" or a "bankruptcy," or from an "urgent," "emergency," "distress," "seized," "confiscated," ~~"forfeited," "forfeited,"~~ or similar sale, unless the consignor of the item(s) to be sold is the original owner of the item(s), the designated representative of the owner, or a federal, state or local department, ~~agency~~ agency, or commission charged with disposing of the item(s), and consigned the item(s) directly to the advertised sale.

(h) It shall be a violation of ~~these Rules~~ this Rule to:

- (1) Reference the U.C.C. or any other uniform act or federal or state law in any advertisement unless ~~such the~~ the act or law is required, by law, to be referenced;
- (2) Reference or mention any federal, state or local department, agency or commission in any advertisement unless ~~specifically~~ required by law to do so or unless prior written approval is received from such department, agency or commission; or
- (3) Otherwise connote in any advertisement that the auction is under the auspices of, at the direction ~~of~~ of, or required by federal or state law or act or a federal, state or local agency or commission and that the buyers will, for some legal or governmental reason, be in a position to reap some unusual bargain.

(i) It shall be a violation of ~~these Rules~~ this Rule to advertise for sale items ~~which that~~ the auctioneer/firm does not intend to offer for sale at the advertised auction.

(j) It shall be a violation of ~~these Rules~~ this Rule for an auctioneer or auction firm to permit its name or license number to appear on any advertisement for an auction without reviewing the contents of the advertisement prior to its publication to ascertain its compliance with ~~applicable law and Rules.~~ G.S. 85B and this Subchapter.

(k) It shall be a violation of ~~these Rules~~ this Rule to advertise any auction using such descriptive words as "Contents," "Stock," "Inventory," ~~"Liquidation," "Liquidation,"~~ or any other word which connotes that the items to be auctioned are present on the premises of a residence, business, ~~building building,~~ or establishment unless the items were physically present ~~continuously without interruption~~ for 30 days prior to the signing of the contract or written agreement. Before conducting an auction using any of the descriptive words, the majority of the items in the sale shall be from the premises. Other items not related to or from the contents of the residence or business may be included in the auction provided they are ~~specifically~~ designated as such in all advertisements previous to the sale. The 30 day requirement shall not apply to items used in direct conjunction with the residence or business and brought to the site solely for the purpose of sale at auction.

(l) At all auctions that include a buyer's premium, the amount of the buyer's premium shall be announced at the beginning of the auction and a written notice of this information shall be ~~conspicuously~~ displayed or distributed to the public at the auction site.

*Authority G.S. 85B-1; 85B-3.1; 85B-8(a)(4).*

## **21 NCAC 04B .0603 SALE PROCEEDS, ACCOUNTING AND ESCROW ACCOUNTS**

(a) Each payment made payable to the auctioneer/firm ~~in of~~ which any portion belongs to others, and ~~which are~~ not disbursed to the seller on auction day, ~~must shall~~ be deposited in an escrow account for the benefit of the owner or seller of such property within three business days after receipt of same.

(b) Any licensee who disburses any funds on auction day shall prepare a receipt or settlement statement in compliance with G.S. 85B-7.1(a) and maintain records in compliance with G.S. 85B-7.1(b).

(c) Every auctioneer/firm that does not disburse all funds to the seller on auction day shall establish and maintain a separate bank account designated as "Custodial Account for Sellers Proceeds" or some similar identifying designation, to disclose that the depositor is acting as a fiduciary and that the funds in the account are trust funds.

(d) ~~Such custodial~~ Custodial accounts for sellers proceeds ~~must shall~~ be established and maintained in ~~banks banks, credit unions,~~ or savings and loan associations located in ~~the State of North Carolina~~ whose deposits are insured by the Federal Deposit Insurance Corporation, or comparable state or federal recognized insurance agency or program.

(e) The Custodial Account for Sellers shall be drawn on only for payment of:

- (1) the net proceeds to the seller, or to any person that the auctioneer/firm knows is entitled to payment;
- (2) to pay ~~lawful~~ charges against the property ~~which that~~ the auctioneer/firm ~~shall~~ in its agency capacity ~~as agent, be~~ is required to pay; and
- (3) to obtain any sums due the auctioneer/firm as compensation for its services.

(f) In the event of a dispute between the seller and buyer of goods or property or between the licensee and any person in whose name trust or escrow funds are held, the licensee shall retain said monies in his or her trust or escrow account until he or she has obtained a written release from the parties consenting to its disposition or until disbursement is ordered by a court of competent jurisdiction.

(g) Each auctioneer/firm shall keep ~~such~~ accounts and records ~~as will disclose at all times that document~~ the handling of funds in ~~such~~ a Custodial ~~Accounts~~ Account for Sellers Proceeds. Accounts and records ~~must shall at all times~~ disclose the names of buyers and the amount of purchase and payment from each, also, the names of the sellers and the amount due and payable to each from funds in the Custodial Account for Sellers Proceeds. The names of the buyers and amount of purchase and payment from each buyer related to an individual seller shall be delivered to the seller within 14 days of a written request made within 90 days of settlement of a specific auction.

(h) All trust or escrow account records and records of disbursement shall be available for inspection by the ~~Commission or its designated agent, Board staff~~ without advance notice, and copies shall be provided to the Commission Board upon request.

*Authority G.S. 85B-3(f); 85B-7.1; G.S. 85B-7.1; 85B-8(a).*

#### **21 NCAC 04B .0604 CONTRACTS, CONSIGNMENT RECORDS, SALES RECORDS, AND BIDDER REGISTRATION RECORDS**

- (a) All written agreements for auctions and registration, sales and accounting records shall be maintained at the site during the conduct of the auction and, upon request, shall be made available to the Commission or its designated agent.
- (b) An auction house, auction barn, or auction gallery business may enter into a written agreement with regular dealers or sellers for an extended period of time, not to exceed one year.
- (c) The consignment records shall be kept by the licensee for a period of two years from the date of the auction.
- (d) At an auction house, auction barn, or auction gallery, when consignments are brought to the location by the public during that specific auction sale, the sales records and the consignment records may be the same.
- (e) The sales records shall be kept by the licensee for a period of two years from the date of the auction.
- (f) The bidder registration records shall contain the bidders' names, addresses, telephone numbers, and ~~when possible e-mail~~ email addresses. The bidder registration records shall be kept by the licensee for a period of two years from the date of the auction.
- (g) All required records shall be open for inspection by the Commission or its designated agent at reasonable times, or copies of the same shall be provided to the Commission or its designated agent upon written request.

(h) In auctions of consigned property, any buyer's premium shall be calculated, collected, and distributed according to terms authorized by the consignor in a written auction contract.

*Authority G.S. 85B-1; 85B-7; G.S. 85B-7; 85B-7.1; 85B-8.*

#### **21 NCAC 04B .0605 BIDDING**

- (a) No auctioneer/auction firm shall bid on items in a sale he or she is conducting or procure ~~such a~~ the bid without the intent to purchase the item. However, in a sale with reserve, the auctioneer/auction firm may bid on the reserve item up to, and including, the amount of the reserve price without the intent to purchase the item. In any auction where the auctioneer/auction firm bids or such auctioneer/auction firm procures such a bid, the auctioneer shall announce such bidding in advance of the auction.
- (b) A minimum opening bid shall not be required in an absolute auction. Following an opening bid, the auctioneer may set reasonable minimum bid increments. Such a policy shall be ~~stated~~ disclosed ~~and, if possible, posted or included~~ in the auctioneer's/auction firm's spoken, posted, and written terms and conditions of the sale. In this Paragraph "reasonable minimum bid increments" ~~are~~ shall be determined by the type and value of the property being offered at an auction.

*Authority G.S. 25-2-328(4); 85B-1; 85B-3.1.*

#### **21 NCAC 04B .0606 AUCTION FIRMS**

- (a) All licensed auction firms shall have at least one ~~Board approved~~ Board-approved designated person. If a licensed auction firm does not have at least one Board-approved designated ~~person~~ person, in good standing, the status of the auction firm license shall be changed to invalid. it shall not engage in auctioneering activity.
- (b) Only Board-approved designated person(s) for an auction firm shall have the authority to transact business under the firm license. This includes arranging, managing, soliciting, and contracting auctions; the supervision of the auction staff; the supervision of the acceptance of consignments of items for sale at auction; the supervision of the advertising of an auction; and the supervision of the acceptance of payment and disbursement of monies for items sold at auction.
- (c) At least one designated person shall be on the premises of an auction firm's auction sale location while the auction sale is conducted.
- (d) Any auctioneer licensed under G.S. 85B may call bids for a licensed auction firm without being a designated person.
- (e) Any apprentice auctioneer licensed under G.S. 85B and supervised by ~~the sponsor his or her~~ his or her supervising auctioneer may call bids for a licensed auction firm without being a designated person.
- (f) Individuals that hold a currently valid real estate broker license ~~are~~ shall be exempt from the auction firm ~~examination~~ examination, if their Their authority to transact business as a designated person under the auction firm license is ~~only related~~ limited to real estate sales at auction.

*Authority G.S. 85B-1; 85B-3.1; 85B-4.*

**21 NCAC 04B .0607      NON-AUCTION FIRM SOLE PROPRIETOR AUCTION BUSINESSES**

- (a) A licensed auctioneer who owns and operates a ~~non-auction firm sole proprietor auction~~ business has the sole responsibility for arranging, managing, soliciting, and contracting auctions; the supervision of the auction staff; the supervision of the acceptance of consignments of items for sale at auction; the supervision of the advertising of an auction; and the supervision of the acceptance of payment and disbursement of monies for items sold at auction.
- (b) A licensed auctioneer or an apprentice auctioneer who is employed or contracted by another licensed auctioneer who owns and operates a ~~non-auction firm sole proprietor auction~~ business shall only be responsible for calling bids and performing duties that a non-auctioneer is allowed to perform.
- (c) A licensed auctioneer who owns and operates a ~~non-auction firm sole proprietor auction~~ business shall be on the premises of his or her businesses' auction sale location while the auction sale is conducted.

*Authority G.S. 85B-1; 85B-3.1.*

**SECTION .0700 - RECOVERY FUND**

**21 NCAC 04B .0701      APPLICATIONS (READoption WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .0800 - CONTINUING EDUCATION**

**21 NCAC 04B .0801      CONTINUING EDUCATION COURSE**

- (a) To renew a license ~~on~~ in active status, an auctioneer, apprentice auctioneer, or designated person(s) in an auction firm shall complete a ~~Board-approved~~ Board-approved course(s) consisting of the hours of instruction as established as in Paragraph (d) of this Rule and shall provide documentation of completion of ~~the above Board-approved~~ Board-approved course(s) to the Board ~~within one year preceding license expiration.~~
- (1) ~~"Within one year preceding license expiration time period" shall be defined as from May 16 to the following May 15 in the year that the license expires.~~
- (2)(1) An auctioneer, apprentice auctioneer, or designated person(s) in an auction firm shall provide documentation on required continuing education courses to the Board by the May 15 deadline of the current renewal period.
- (3) ~~If the required documentation is not received by the Board by the deadline as set forth in Subparagraph (a)(2) of this Rule, the licensee shall be assessed a late fee as set forth in Rule .0202(b)(10) of this Subchapter.~~
- (4)(2) ~~The renewal shall not be processed until compliance is achieved and the required fees are received as set forth in Rule .0402(b) of this Subchapter. The Board shall not process a license renewal until the licensee has complied with this Rule.~~

- (b) The Board shall approve courses that shall be conducted by sponsors approved by the Board under this Section. The subject matter of this course shall be determined by the course sponsor subject to Paragraph (h) of this Rule. The course sponsor shall ~~produce or acquire~~ provide instructor and student materials. The course ~~must~~ shall be conducted as prescribed by the rules in this Section. ~~At the beginning of the course, sponsors must provide licensees participating in their classes a copy of the student materials developed or acquired by the sponsor.~~
- (c) The sponsor may conduct the course at any location as ~~frequently~~ often as is desired during the approval period. Approval of a sponsor to conduct a course authorizes the sponsor to conduct the course using an instructor who has been approved by the Board as a course instructor under Rule .0804 of this Section.
- (d) The minimum classroom hours of instruction for each year shall be ~~six~~ four, ~~unless the Board establishes at its April monthly Board meeting fewer hours for the upcoming year pursuant to G.S. 85B-4(e1). In determining whether fewer hours may be established, the Board shall analyze the disciplinary actions and complaints against its licensees and base its decision on whether the analysis shows that a reduction in hours is justified.~~
- (e) An auctioneer, an apprentice auctioneer, or a designated person(s) in an auction firm shall complete the continuing education requirements for each renewal period that their license was lapsed or suspended.
- (f) Credit hours applied to the current renewal of a license shall not be used for future renewals.
- (g) Excess continuing education hours may be carried forward as credits for a maximum of one renewal year.
- ~~(h) The Board may mandate the topic(s) for all or part of an approved course as a continuing education requirement pursuant to G.S. 85B-4(e1). In determining whether to mandate the topic for all or part of an approved course as a continuing education requirement, the Board shall analyze the disciplinary actions and complaints against its licensees and base its decision on whether the analysis shows that mandating the topic for all or part of a course is justified.~~
- ~~(i)(h)~~ No part of any precursing course curriculum shall count as continuing education credit hours.
- ~~(j)(i)~~ Continuing education shall not be required until the second renewal after initial licensing pursuant to G.S. 85B-4(e).

*Authority G.S. 85B-4.(e1).*

**21 NCAC 04B .0802      APPLICATION FOR ORIGINAL APPROVAL**

- (a) An entity seeking original approval to sponsor a course ~~must~~ shall make application on a form prescribed by the ~~Board~~ Board and may obtain the required form upon request to the Board. The application form calls for the name, address, and other contact information for the sponsor, a list of instructors, a description of each instructor's education and experience, and other information necessary to determine the fitness of the sponsor and instructors for approval. An applying entity that is not a ~~resident of~~ based in North Carolina shall also file with the application a consent to service of process and pleadings.
- (b) Approval to sponsor a course shall be granted to an applicant upon showing to the satisfaction of the Board that:

- (1) The applicant has submitted all information required by the ~~Board;~~ Board in the application.
- (2) The applicant satisfies all of the requirements of Rule .0805 of this Section relating to qualifications or eligibility of course sponsors;
- (3) The ~~applicant~~ continuing education coordinator required by Rule .0805(e) must shall be truthful, ~~honest~~ honest, and of high integrity as ~~referenced~~ defined in 21 NCAC 04B .0404(a)(15). ~~In this regard, the~~ The Board may shall consider the reputation and character of any owner, officer or director of any corporation, association or organization applying for sponsor approval; and
- (4) The applicant has at least one proposed instructor who has been approved by the Board as a course instructor under Rule .0804 of this Section.

*Authority G.S. 85B-4(e1).*

#### **21 NCAC 04B .0803 STUDENT FEE FOR COURSES**

Sponsors of a course may establish the amount of the fee to be charged to students taking ~~this the course; provided, however,~~ course. However, that the established fee ~~must~~ shall be an all-inclusive fee and no separate or additional fee may be charged to students for providing course materials, providing course completion certificates, reporting course completion to the Board, or for recouping ~~similar routine~~ other administrative expenses.

*Authority G.S. 85B-4(e1).*

#### **21 NCAC 04B .0804 APPROVAL OF CONTINUING EDUCATION INSTRUCTORS**

(a) Approval of course instructors shall be accomplished at the time of the approval of the course sponsor. Approval of a course instructor authorizes the instructor to teach the course only for the approved course sponsor. An approved course instructor may not ~~independently~~ conduct a course unless the instructor has also obtained approval as a course sponsor. is conducting the course under the supervision of an approved course sponsor.

(b) An entity seeking original approval as a course sponsor ~~must~~ shall provide the name, address, and qualifications of the instructors for the course as set forth in this Rule on the application form prescribed by the Board. Board and may obtain the required form upon request to the Board. The application form calls for the name, address, and other contact information for the sponsor, a list of instructors, a description of each instructor's education and experience, and other information necessary to determine the fitness of the sponsor and instructors for approval. No additional application fee is required. ~~All required information regarding the instructor's qualifications must be submitted.~~

(c) The instructor(s) ~~must~~ shall be truthful, ~~honest~~ honest, and of high integrity as ~~referenced~~ defined in 21 NCAC 04B .0404(a)(15).

(d) The instructor(s) ~~must~~ shall be qualified under one or more of the following standards:

- (1) Possession of a baccalaureate or higher degree with a major in the field of marketing, finance, or business administration;
- (2) Possession of a current North Carolina auctioneer or auction firm license, three years ~~active full-time~~ active experience in auctioneering within the previous 10 years, and 30 classroom hours of auction education, excluding prelicensing education, within the past three years, such education covering topics ~~which that are acceptable under Board rules for continuing education credit; in compliance with these Rules;~~
- (3) Possession of a current North Carolina real estate broker license, three years ~~active full-time~~ active experience in the real estate business within the previous 10 years, and experience teaching real estate prelicensing and continuing education courses;
- (4) Possession of a license to practice law in North Carolina and three years experience in law practice within the previous 10 years; or
- (5) Possession of qualifications found by the Board to be equivalent to one or more of the standards set forth in this Rule.

(e) The Board ~~may~~ shall deny or withdraw approval of any course instructor upon finding that:

- (1) The course sponsor or the instructor ~~has~~ has made any false statements or presented false information in connection with an application for approval;
- (2) The instructor ~~has~~ has failed to meet the criteria for approval described in Paragraph (d) of this Rule or has refused or failed to comply with any other provisions of this Subchapter;
- (3) The instructor ~~has~~ has failed to demonstrate, during the teaching of courses, ~~those effective~~ those effective teaching skills described in Rule .0815 of this Section; or
- (4) The instructor ~~has~~ has provided false or incorrect information in connection with any reports a course sponsor ~~is required to submit~~ submitted to the Board.

(f) If a licensee who is an approved course instructor engages in any dishonest, fraudulent or improper conduct in connection with the licensee's activities as an instructor, the licensee shall be subject to disciplinary action pursuant to G.S. 85B-8 and G.S. 85B-9.

(g) Upon the written request of the Board, an approved course instructor ~~must~~ shall submit to the Board a ~~videotape~~ video recording depicting the instructor teaching the course. The ~~videotape~~ video recording ~~must~~ shall have been made within 12 months of the date of submission, ~~must~~ shall be in VHS ~~electronic~~ format, ~~and must shall include a label which clearly identifies identify~~ identify the instructor and the date of the ~~videotaped~~ video presentation.

(h) An approved instructor who is a licensee of the Board shall receive continuing education credit hours for instruction at a rate of one hour for every one-half hour of approved course taught.

*Authority G.S. 85B-4(e1).*

**21 NCAC 04B .0805 SPONSOR REQUIREMENTS**

(a) ~~Any legal~~ An entity is eligible to seek approval as a sponsor of continuing education courses, provided that the entity seeking approval is either the owner of the proprietary rights to the course or has ~~lawfully~~ acquired from the course owner the right to seek course approval from the Board and to conduct ~~such~~ the course.

(b) The official name ~~to be~~ used by any course sponsor in connection with the offering of an approved continuing education course ~~must shall~~ clearly distinguish the sponsor from any other ~~previously~~ approved continuing education course sponsor. Unless the sponsor is an auction school with approved curriculum and instructors pursuant to G.S. 85B-4(d) that is proposing to operate continuing education courses in its own name, the official name also ~~must shall~~ clearly distinguish the sponsor from any ~~approved~~ auction school. school with approved curriculum and instructors. Sponsor applicants proposing to use a sponsor name ~~which that~~ does not comply with this ~~standard may~~ Paragraph shall be required to adopt a different name as a condition of approval.

(c) Any advertisement or promotional material utilized by an approved course sponsor ~~must shall~~ include the course sponsor's official name and shall not include any other name for the sponsor.

(d) ~~Prospective All~~ All sponsors of a course ~~must shall~~ obtain written approval from the Board ~~to conduct such course~~ prior to advertising a course or conducting the a course and shall not advertise prior to advertising or otherwise representing that the a course is or may be approved for continuing education credit in ~~North Carolina.~~ Carolina prior to Board approval. No retroactive approval to conduct a course shall be granted for any reason.

(e) A sponsor of a course ~~must shall~~ designate one person to serve as the continuing education coordinator for all Board-approved continuing education courses offered by the sponsor. The designated coordinator shall serve as the ~~official~~ contact person for the sponsor and shall be responsible for the following:

- (1) Supervising ~~the conduct of all~~ the sponsor's Board-approved continuing education courses;
- (2) Signing the course completion certificates provided by the sponsor to licensees completing courses; and
- (3) Submitting to the Board all required rosters, reports and other information.

*Authority G.S. 85B-4(e1).*

**21 NCAC 04B .0806 COURSE COMPLETION REPORTING**

(a) Course sponsors ~~must shall~~ prepare and submit to the Board reports verifying student's completion of each continuing education course conducted. Sponsors ~~must shall~~ submit these reports to the Board ~~in a manner that will assure receipt by the Board~~ within ~~thirty~~ 30 calendar days following the course, but in no case later than May 15 for courses conducted prior to that date. Reports shall include the following:

- (1) the Official official course name;
- (2) the Sponsor or sponsor and coordinator name, mailing address, and telephone number;
- (3) the Coordinator coordinator signature certifying that the information is correct;
- (4) the Name, name, address, and North Carolina license number of each licensee who

~~satisfactorily completes~~ completed the course and who desires continuing education credit for the course;

(5) the Physical physical location where the course was conducted;

(6) the Date(s), date(s), and starting and ending times of each course; and

(7) the Number number of credit hours.

~~(b) At the request of the Board, course sponsors must provide licensees enrolled in each continuing education course an opportunity to complete an evaluation of the course upon completion of the course.~~

~~(c)(b)~~ Course sponsors shall provide each licensee who ~~satisfactorily~~ completes an approved continuing education course a course completion certificate. Sponsors ~~must shall~~ provide the certificates to licensees within ~~thirty~~ 30 calendar days following the course, but in no case later than May 15 for any course completed prior to that date. ~~The certificate shall be retained by the licensee as secondary proof of having completed the course.~~

Course completion certificates shall include the following:

- (1) the Official official course name;
- (2) the Name name of licensee who ~~satisfactorily~~ completes the course;
- (3) the Date(s) date(s) of attendance;
- (4) the Number number of credit hours; and
- (5) the Coordinator coordinator signature certifying that the information is correct.

(d) When a licensee in attendance at a continuing education course does not comply with the student participation ~~standards,~~ standards of Rule .0817 of this Section, the course sponsor shall ~~advise~~ inform the Board ~~of this matter~~ in writing at the time reports verifying completion of continuing education for the course are submitted. A sponsor who determines that a licensee failed to comply with either the Board's attendance standards of Rule .0816(a) of this Section or the student participation standards of Rule .0817 of this Section shall not provide the licensee with a course completion certificate nor shall the sponsor include the licensee's name on the reports verifying completion of continuing education.

*Authority G.S. 85B-4(e1).*

**21 NCAC 04B .0807 CHANGE IN SPONSOR OWNERSHIP AND OTHER INFORMATION**

(a) The approval granted to a course sponsor may be transferred to a new or different entity only with the advance approval of the Board.

(b) Course sponsors ~~must shall~~ notify the Board in writing prior to any change in business name, continuing education coordinator, ~~address~~ address, or business telephone number.

(c) Course sponsors ~~must shall~~ obtain advance approval from the Board for any changes to be made in the content or number of hours for ~~courses;~~ courses. ~~provided that~~ However, changes in course content ~~which are solely made~~ for the purpose of assuring that information provided in a course is current and accurate do not require approval during the approval period, but shall be reported at the time the sponsor requests renewal of course approval. Requests for approval of changes shall be in writing.

*Authority G.S. 85B-4(e1).*

**21 NCAC 04B .0808 COURSE RECORDS**

All course sponsors ~~must~~ shall retain on file for two years records of student registration and attendance for each session of a continuing education course that is conducted and shall make such records available to the Board, or its ~~designee~~, staff upon request.

*Authority G.S. 85B-4(e1).*

**21 NCAC 04B .0809 RENEWAL OF COURSE AND SPONSOR APPROVAL**

Board approval of all continuing education course sponsors ~~expires~~ shall expire on the next June 30 following the date of issuance. ~~In order to assure continuous approval, a~~ A completed renewal application prescribed by the ~~Board~~, Board ~~must~~ shall be submitted to the Board annually on or before April 30. Applicants for renewal as a continuing education course sponsor may obtain the required form upon request to the Board. The application form calls for the name, address, and other contact information for the sponsor, a list of any new instructors, a description of each new instructor's education and experience, and other information necessary to determine the fitness of the sponsor and instructors for approval. Any continuing education course sponsor's renewal applications that are not received or that are not complete on or before April 30 shall not have met the guidelines requirements for renewal and ~~must meet the criteria for original approval as set forth in Rule .0802.~~ in order to conduct continuing education shall seek approval pursuant to Rule .0802 of this Section.

*Authority G.S. 85B-4(e1).*

**21 NCAC 04B .0810 DENIAL OR WITHDRAWAL OF APPROVAL**

(a) The Board may deny or withdraw approval of any course or course sponsor upon finding that:

- (1) The course sponsor has made any false statements or presented any false information in connection with an application for course or sponsor approval or renewal of ~~such~~ approval;
- (2) The course sponsor or any ~~official or~~ instructor in the employ of the course sponsor has refused or failed to comply with any of the provisions of ~~this Rule~~, Section .0800 or these Rules;
- (3) The course sponsor or any ~~official or~~ instructor in the employ of the course sponsor has provided false or incorrect information in connection with any reports the course sponsor is required to submit to the Board;
- (4) An instructor in the employ of the course sponsor fails to conduct approved courses in a ~~manner that demonstrates possession of~~ accordance with the teaching skills described in Rule .0815 of this Section; or
- (5) Any court of competent jurisdiction has found the course ~~sponsor~~ sponsor, or any ~~official or instructor~~ instructor, or any person in the employ of the course sponsor to have violated, in connection with the offering of continuing

education courses, any applicable federal or state law or regulation prohibiting discrimination on the basis of disability, requiring places of public accommodation to be in compliance with prescribed accessibility standards, or requiring that courses related to licensing or certification for professional or trade purposes be offered in a place and manner accessible to persons with disabilities.

(b) If a licensee who is an approved course sponsor or an instructor in the employ of an approved course sponsor engages in any dishonest, ~~fraudulent~~ fraudulent, or unlawful conduct in connection with the licensee's activities as a course sponsor or instructor, the licensee shall be subject to disciplinary action pursuant to G.S. 85B-8 and G.S. 85B-9.

*Authority G.S. 85B-4(e1).*

**21 NCAC 04B .0811 MINIMUM CLASS SIZE**

*Authority G.S. 85B-4(e1).*

**21 NCAC 04B .0812 SCHEDULING AND NOTICE OF SCHEDULED COURSES**

(a) An hour of creditable instruction is defined as 50 minutes of instruction or practical exercise accompanied by a ~~40-minute break.~~ break of up to 10 minutes.

(b) Sponsors ~~must~~ shall provide the Board written notice of all scheduled course offerings not later than 10 days prior to a scheduled course date. The notice shall include the name of the sponsor and, for each scheduled course, the name of the course, the scheduled date and time, specific location, and name of the instructor(s).

(c) Sponsors ~~must~~ shall notify the Board of any schedule changes or course cancellations at least five days prior to the original scheduled course date. If a ~~last-minute~~ change or cancellation is necessary five or less days before the course date due to ~~some~~ weather, staffing, or other unforeseen circumstance, then notice shall be provided to the Board as soon as ~~possible.~~ possible, and in no event more than 10 days later.

*Authority G.S. 85B-4(e1).*

**21 NCAC 04B .0813 ADVERTISING; PROVIDING COURSE INFORMATION**

(a) Course sponsors ~~must~~ shall not utilize advertising of any type that is false or ~~misleading~~ misleading. ~~in any respect. If the number of continuing education credit hours awarded by the Board for an approved course is less than the number of scheduled hours for the course, any course advertisement or promotional materials which indicate that the course is approved for mandatory auctioneer continuing education credit in North Carolina must specify the number of continuing education credit hours awarded by the Board for the course. In any advertisement for a course, the sponsor shall state the total number of hours of the course and the number of those hours that are Board-approved for continuing education credit.~~

(b) Any flyers, ~~brochures~~ brochures, or similar materials utilized to promote a continuing education course ~~must~~ shall clearly



~~describe state~~ the fee to be charged and the sponsor's cancellation and fee refund policies.

(c) Upon course approval, course sponsors ~~may~~ shall include in course descriptions and promotional materials the information contained in the following illustration: This course [seminar or program] has been approved by the ~~Auctioneer Licensing~~ Board for continuing education credit in the amount of \_\_\_ hours. This course is not sponsored by the Board.

(d) Course sponsors of any course ~~must~~, shall provide to any prospective student, upon request, ~~provide any prospective student~~ a description of the course ~~content~~ content, ~~sufficient to give the prospective student a general understanding of the instruction to be provided in the course.~~

*Authority G.S. 85B-4(e1).*

## **21 NCAC 04B .0814 CONDUCT OF CLASSES**

(a) All class sessions of approved continuing education courses must shall be open to all licensees on a first-come/first-served ~~basis; basis. provided that the~~ The sponsor of a course which has ~~a bona fide~~ an education or experience prerequisite, such as an advanced course leading to a special auctioneer designation, may refuse admission to a licensee not satisfying such prerequisite.

(b) Courses not conducted ~~electronically by electronic means~~ must shall be conducted in a facility that provides an appropriate learning environment as set forth in 21 NCAC 04B .0502(e).

*Authority G.S. 85B-4(e1).*

## **21 NCAC 04B .0815 INSTRUCTOR CONDUCT AND PERFORMANCE**

(a) ~~Instructors~~ All instructors must shall ~~assure ensure~~ that class sessions are ~~commenced in a timely manner and are~~ conducted at the scheduled time and for the full amount of time that is scheduled. ~~Instructors must also assure that each student is furnished student materials that directly support the topic matter being taught.~~

(b) Instructors ~~must shall~~ conduct themselves in a professional and courteous manner when performing their instructional duties and must shall ~~conduct classes in a manner that demonstrates demonstrate~~ a mastery of the following basic teaching skills: the ability to:

- (1) ~~The ability to communicate effectively through speech, including the ability to speak clearly using generally accepted grammar and vocabulary. and present accurate and relevant information;~~
- (2) ~~The ability to present an effective visual image images~~ to a class by appearance and physical mannerisms. mannerisms;
- (3) ~~The ability to present instruction in a thorough, accurate, logical, orderly organized and understandable manner, to utilize illustrative examples examples, and to respond to questions from students. students;~~
- (4) ~~The ability to effectively utilize varied instructional techniques in addition to straight lecture, such as class discussion, role playing or other techniques. utilize a variety of~~

instructional techniques that require students to analyze and apply course content, including teacher-centered approaches, such as lecture discussion, reading, group problem solving, case studies, and scenarios;

(5) ~~The ability to effectively utilize instructional aids to enhance learning. aids;~~

(6) ~~The ability to maintain a conducive learning environment conducive to learning and effective control of a class. class; and~~

(7) ~~The ability to interact with adult students in a positive manner that encourages students to learn, that demonstrates an understanding of varied student backgrounds, that avoids offending the sensibilities of students, and that avoids personal criticism of any other person, agency agency, or organization.~~

*Authority G.S. 85B-4(e1).*

## **21 NCAC 04B .0816 MONITORING ATTENDANCE**

(a) Sponsors and instructors ~~must shall~~ strictly monitor attendance for the duration of each class session to assure that all students reported as ~~satisfactorily~~ completing a course according to these Rules have attended at least 90 percent of the scheduled classroom hours. ~~Students Sponsors~~ shall not be admitted admit students to a class session after 10 percent of the scheduled classroom hours have been conducted. ~~Students shall not be allowed to sign a course completion card, shall not be issued a course completion certificate, and shall not be reported to the Board as having completed a course unless the student fully satisfies the attendance requirement. Unless a student satisfies the attendance requirement in this Paragraph, the sponsor shall not allow the student to sign a course completion card, issue a course completion certificate to a student, or report to the Board that the student completed the course.~~ Sponsors and instructors ~~may shall~~ not make any exceptions to the attendance requirement for any reason.

(b) Sponsors ~~must shall~~ assure that ~~provide~~ adequate personnel, in addition to the instructor, ~~are present~~ during all class sessions to assist the instructor in monitoring attendance and performing the ~~necessary~~ administrative tasks associated with conducting a course.

*Authority G.S. 85B-4(e1).*

## **21 NCAC 04B .0817 STUDENT PARTICIPATION STANDARDS**

(a) ~~In addition to requiring student compliance with the attendance requirement, sponsors and instructors shall require that students~~ Students shall comply with the following student participation standards:

- (1) A student shall direct his or her attention to the instruction being provided and refrain from engaging in activities unrelated to the instruction.
- (2) A student shall refrain from engaging in any activities ~~which that~~ are distracting disruptive to

- other students or the instructor, or ~~which that~~ otherwise disrupt the ~~orderly~~ conduct of a class.
- (3) A student shall comply with all instructions provided by the sponsor or instructor related to providing information needed to ~~properly~~ report completion of a course by the student.

(b) Instructors and sponsors may dismiss from a class ~~session~~ any student who fails to comply with the student participation standards ~~prescribed~~ in Paragraph (a) of this Rule.

(c) Sponsors shall not issue a course completion certificate to any student who fails to comply with the student participation standards set forth in Paragraph (a) of this Rule, nor shall sponsors include the name of such student on their reports verifying completion of a continuing education course. Sponsors shall submit to the Board with their reports for the class session a written statement ~~which that~~ includes the name and license number of the student for whom the sponsor does not report course credit, details concerning the student's failure to comply with the student participation standards, and names of other persons in attendance at the class who witnessed the student's conduct.

*Authority G.S. 85B-4(e1).*

#### **21 NCAC 04B .0818      ADDITIONAL SPONSOR REQUIREMENTS**

(a) Sponsors and instructors may make available for purchase by continuing education students materials that belong to the ~~sponsor, sponsor instructor, or some other party; however, instructor, class~~ Class time may not be used to promote or sell any materials or to solicit affiliation or membership in any business, organization, or association.

(b) Course sponsors ~~must~~ shall administer course cancellation and fee refund policies in a consistent and non-discriminatory manner. In the event a scheduled course is canceled, ~~reasonable efforts must be made~~ the course sponsor shall attempt to notify preregistered students of the cancellation and all prepaid fees received from such preregistered students ~~must~~ shall be refunded within 30 days of the date of cancellation or, with the student's permission, applied toward the fees for another course.

(c) Course sponsors shall admit the Board's authorized representative to monitor any continuing education class without prior notice. ~~Such~~ The representative shall not be required to register or pay any fee and shall not be reported as having completed the course.

(d) Course sponsors may deviate from ~~these Rules~~ the rules of this Section concerning the conduct of continuing education courses, such as rules addressing classroom facilities, minimum class size and instructional methods, as may be necessary in order for the sponsor to comply with the Americans with Disabilities Act or other laws requiring such sponsors to accommodate persons with disabilities. A sponsor providing a special accommodation for a licensee with a disability that requires the sponsor to deviate from these Rules shall notify the Board in writing of the accommodation at the time reports are submitted for the class session attended by the licensee.

*Authority G.S. 85-4(e1).*

#### **21 NCAC 04B .0819      ALTERNATIVE COMPLIANCE**

(a) An auctioneer, apprentice auctioneer, or designated person of an auction firm who is unable to attend a Board-approved course and obtain the requisite hours of instruction established by the Board may ~~apply to the Board for~~ submit evidence of alternative compliance.

(b) A written ~~request for~~ submission of alternative compliance shall be received by the Board by May 15 of the year ~~in which~~ when the requisite hours of instruction are to be completed.

(c) ~~If approved, the~~ The course of instruction submitted as alternative compliance shall be completed prior to license ~~renewal~~ renewal, and ~~shall be exempt from the late fee.~~

(d) Alternative compliance shall include:

- (1) Academic courses at a community college, junior college, ~~or college college~~, or university ~~located in this State and accredited by the Southern Association of Colleges and Schools accredited by an agency recognized by the United States Department of Education~~ in any of the following topics:

- (A) Accounting;
- (B) Finance;
- (C) Business Management;
- (D) Business Law;
- (E) Economics;
- (F) Marketing;
- (G) Computer Science;
- (H) Sales; or

~~(4) Enhancing Personal or Professional Skills.~~

- (2) Completion of any ~~non-real~~ real estate appraisal course ~~with evidence of successful completion; and accredited by a state real estate licensing body.~~

- (3) ~~Publication of an article in professional journal of general circulation among the membership of the profession.~~

*Authority G.S. 85B-4(e1).*

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#### **CHAPTER 16 – BOARD OF DENTAL EXAMINERS**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Dental Examiners intends to amend the rules cited as 21 NCAC 16B .0301, .0501, .0601, .0701, .0801, .1001, .1002; 16C .0301, .0501; 16D .0104; 16E .0102, .0103; 16G .0107, .0108; and 16Y .0102.*

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

**Proposed Effective Date:** *March 1, 2020*

**Public Hearing:**

**Date:** *December 12, 2019*

**Time:** *6:30 p.m.*

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

**Reason for Proposed Action:** *The following rules are proposed for amendment:*

21 NCAC 16B .0301; 21 NCAC 16B .0501; 21 NCAC 16B .0601; 21 NCAC 16B .0701; 21 NCAC 16B .0801; 21 NCAC 16B .1001; 21 NCAC 16B .1002; 21 NCAC 16C .0301; 21 NCAC 16C .0501; 21 NCAC 16D .0104; 21 NCAC 16E .0102; 21 NCAC 16E .0103; 21 NCAC 16G .0107; 21 NCAC 16G .0108; and 21 NCAC 16Y .0102.

*The above rules are proposed for amendment to ensure that all items requested on an application for licensure or permit are specifically contained in the respective rules, to eliminate redundancy and consolidate common requirements across the application rules, and to ensure that the application rules are consistent internally and with applicable statutory authority.*

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

**Comment period ends:** January 14, 2020

#### **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. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact ( $\geq \$1,000,000$ )
- ☐ Approved by OSBM
- ☒ No fiscal note required

### **SUBCHAPTER 16B - LICENSURE DENTISTS**

#### **SECTION .0300 - APPLICATION FOR LICENSURE**

##### **21 NCAC 16B .0301 APPLICATION FOR LICENSURE**

(a) All applications for licensure as a dentist shall be made on the forms furnished by the Board at [www.ncdentalboard.org](http://www.ncdentalboard.org) and no application shall be deemed complete that does not set forth all the required information. Incomplete applications will be returned to the applicant. Any applicant who changes his or her address

shall notify the Board office within 10 business days. Applicants shall ensure that official transcripts of undergraduate college and dental school are sent in a sealed envelope to the Board office. shall include the following information:

- (1) full name;
- (2) street address as of the date of the application;
- (3) permanent street address;
- (4) preferred mailing address for all information;
- (5) telephone number;
- (6) email address;
- (7) age;
- (8) date of birth;
- (9) place of birth;
- (10) citizenship or immigration status, with verifying documentation;
- (11) social security number;
- (12) marital status;
- (13) any other name by which the applicant was known in the past, accompanied by a certified copy of a court order of name change, if applicable;
- (14) all resident addresses for the 10 years preceding the date of application;
- (15) the names, addresses, and phone numbers for two individuals to whom the applicant always provides the applicant's current address;
- (16) disclosure and explanation of any bankruptcy proceedings in which the applicant was a named party;
- (17) the license number, issuing state, and expiration date for all current drivers' licenses held by the applicant, and the issuing state for all drivers' licenses held in the past by the applicant;
- (18) the date of the applicant's previous application for examination by the Board, if applicable;
- (19) the date and type of any dental permit or provisional license for which the applicant applied in the past, if applicable;
- (20) if the applicant failed an examination administered by a dental board, the date of the examination and jurisdiction of the dental board that administered the examination;
- (21) if any dental board has refused to administer an examination to applicant, the jurisdiction of the dental board that refused to administer the examination and the date of the refusal;
- (22) the dates upon which the applicant has taken the Dental National Board Examination, the location of the examination, and authorization for the Board to access the examination scores;
- (23) if the applicant failed the Dental National Board Examination, the date of the failed examination;
- (24) if the applicant has applied for a dental license in any other state or foreign country, the date of the application and whether the license was issued to the applicant;
- (25) all employment held by the applicant for the past 10 years other than dentistry;

- (26) if the applicant was terminated from employment within the past 10 years, an explanation regarding the termination;
- (27) all dental licenses from other jurisdictions ever held by the applicant, including type of licensure, license number, and dates of licensure;
- (28) if the applicant has ever been suspended or otherwise disqualified, or reprimanded, censured, or otherwise disciplined by any licensing board, professional organization, or while the applicant was holding public office, a written statement disclosing:
- (A) the facts that formed the basis for the discipline;
- (B) the date of the discipline;
- (C) whether the applicant appealed the discipline and the outcome of any appeal; and
- (D) the name and address of the authority in possession of records related to discipline;
- (29) if the applicant has ever been the subject of a complaint with any licensing board, professional organization, or while the applicant was holding public office, a written statement disclosing:
- (A) the facts that gave rise to the complaint;
- (B) the date of the complaint;
- (C) whether the organization that received the complaint instituted proceedings against the applicant; and
- (D) the name and address of the authority in possession of records related to the complaint;
- (30) if the applicant has ever been reported to the National Practitioner Data Bank or the Healthcare Integrity and Protection Data Bank, a written statement disclosing:
- (A) the facts that formed the basis for the report;
- (B) the date of the report; and
- (C) the name and address of the authority in possession of records related to the report;
- (31) if the applicant is a diplomate, board-eligible, or a declared specialist in any branch of dentistry, a statement of specialty and how he or she is qualified;
- (32) if the applicant has taken any post-graduate training or refresher courses, other than continuing education courses, since receiving his or her dental degree, a written statement of the dates, locations, and names of the training or refresher courses;
- (33) if the applicant has ever been dropped, suspended, expelled, or disciplined by any post-secondary school or college, a written statement disclosing:
- (A) the facts leading to the discipline;
- (B) the date of the discipline; and
- (C) the school or college issuing the discipline;
- (34) if the applicant has ever been denied admission to any college or post-secondary school for a reason other than academic qualifications, a written statement explaining the reason for the admission denial;
- (35) if the applicant has ever served in the armed forces of the United States or any other country, a written statement explaining:
- (A) whether the applicant has been separated from service;
- (B) the nature of the separation;
- (C) if other than honorable, the circumstances surrounding his or her release from service;
- (D) dates of service;
- (E) the facts leading to any charges or complaints made or filed against the applicant while the applicant was serving in the armed forces, and the outcome of the charges or complaints;
- (F) the facts leading to any disciplinary proceedings instituted against the applicant while serving in the armed forces, and the outcome of the proceedings; and
- (G) if the applicant was ever a defendant in any court martial, the facts giving rise to those proceedings and the outcome of the proceedings;
- (36) a statement of whether the applicant has registered under the Military Selective Service Act;
- (37) a statement of whether the applicant has ever:
- (A) been summoned to court or before a magistrate for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
- (B) been arrested for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
- (C) been taken into custody for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
- (D) been indicted for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
- (E) been convicted or tried for the violation of any law or ordinance or for the commission of any felony or misdemeanor;

- (F) been charged with the violation of any law or ordinance or for the commission of any felony or misdemeanor; or
- (G) pleaded guilty to the violation of any law or ordinance or for the commission of any felony or misdemeanor;
- (38) if the applicant has been admitted to practice dentistry in any jurisdiction, a certified statement disclosing all the dental practices at which the applicant has worked from dental school graduation to the date of the application, including:
- (A) the dates during which the applicant was employed as a dentist or engaged in practice;
- (B) the addresses of offices or places at which the applicant was employed or practicing, and the names and addresses of all employers, partners, associates, or other dentists sharing office space;
- (C) whether the applicant was practicing general dentistry or a specialty; and
- (D) the reason for the termination of each employment or period of private practice;
- (39) if the applicant has ever held any other health care license, a written statement disclosing:
- (A) the type of license held by the applicant;
- (B) the dates the applicant held the license; and
- (C) the licensing board that issued the license;
- (40) if the applicant has ever held hospital privileges and those privileges were suspended or revoked, a written statement disclosing the date, location, and reason the privileges were suspended or revoked;
- (41) if the applicant has ever held a federal Drug Enforcement Administration license or registration number and, if that license or registration number has ever been revoked, suspended, or surrendered, a written statement disclosing the date, location, and reason for the revocation, suspension, or decision to surrender the license or registration number;
- (42) the applicant's post-high school, pre-dental education, including the name and location of the schools the applicant attended and the period of attendance;
- (43) each degree conferred upon the applicant, including the date of the degree and institution;
- (44) copies of the applicant's transcripts of undergraduate college;
- (45) the name and location of each dental school that the applicant attended, the period of attendance,
- the degree conferred upon applicant, and the institution that conferred the degree;
- (46) a statement disclosing and explaining any current condition or impairment, including substance abuse, alcohol abuse, or a mental, emotional, or nervous disorder or condition, that in any way affects the ability to practice dentistry. For purposes of this Rule, "current" means recently enough that the condition or impairment may affect the applicant's ability to function as a dentist as set out in G.S. 90-41(a)(2) and (7). If the applicant contends that the condition or impairment is reduced or ameliorated because the applicant is receiving ongoing treatment or participating in a monitoring or support program, the applicant may provide information regarding the treatment or program, and may include any verification demonstrating that the applicant has complied with all provisions and terms of any drug treatment program, or impaired dentists or other impaired professionals program;
- (47) a photograph of the applicant, taken within six months prior to the date of the application;
- (48) a completed fingerprint record card and signed release of information form authorizing the Board to request a fingerprint-based criminal history record check from the North Carolina State Bureau of Investigation (SBI);
- (49) a copy of an unexpired CPR certificate; and
- (50) if the applicant holds, or has held in the past, a dental license in any other state or jurisdiction, a copy of a National Practitioner Data Bank Report concerning the applicant that was obtained within six months prior to the date the Report is submitted to the Board.
- (b) The applicant shall submit to the Board the notarized application form with all the information and materials listed in Paragraph (a) of this Rule, accompanied by the nonrefundable application fee set forth in 21 NCAC 16M.0101, shall accompany the application.
- (c) Applicants who are licensed in other states shall ensure that the Board receives verification of licensure from the board of each state in which they are licensed. In addition to the requirements of Paragraphs (a) and (b) of this Rule, the applicant shall request the applicable entity to send the following required information or documents to the Board office, with each document in an unopened envelope sealed by the entity involved:
- (1) the applicant's official transcripts from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association;
- (2) if the applicant is licensed in other states, a certificate of the applicant's licensure status from the dental regulatory authority or other occupational or professional regulatory authority, accompanied by a disclosure of any disciplinary action taken or investigation

pending, from all licensing jurisdictions where the applicant holds or has ever held a dental license or other occupational or professional license; and

- (3) examination scores required by Rule .0303(b) of this Subchapter that shall include the American Board of Dental Examiners (ADEX) dental licensure examinations.

~~(d) A photograph of the applicant, taken within six months prior to the date of the application, shall be affixed to the application. The Board shall receive all information and documentation set forth in Paragraphs (a) through (c) of this Rule and the applicant's passing scores on all examinations required by Rule .0303 of this Subchapter for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired without a refund of the application fee.~~

~~(e) All applicants shall submit to the Board a signed release form, completed Fingerprint Record Card, and such other form(s) required to perform a criminal history check at the time of the application. The form and card are available from the Board office. Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.~~

~~(f) All applicants shall arrange for and ensure the submission to the Board office the examination scores as required by Rule .0303(b) of this Subchapter, if applicable. The examination requirement does not apply to individuals who do not hold a North Carolina dental license and who are seeking volunteer licenses pursuant to G.S. 90-21.107 or licensure by endorsement pursuant to Rules .1001 or .1002 of this Subchapter. Any license obtained through fraud or by any false representation shall be revoked.~~

~~(g) All applicants shall include a statement disclosing and explaining periods within the last 10 years, of any voluntary or involuntary commitment to any hospital or treatment facility, observation, assessment, or treatment for substance abuse, with verification demonstrating that the applicant has complied with all provisions and terms of any drug treatment program, or impaired dentists or other impaired professionals program.~~

Authority G.S. 90-28; 90-30; 90-39; 90-41; 90-48.

## SECTION .0500 – LICENSURE BY CREDENTIALS

### 21 NCAC 16B .0501 DENTAL LICENSURE BY CREDENTIALS

(a) An applicant for a dental license by credentials shall submit to the Board:

- (1) a ~~completed~~, notarized application form provided by the ~~Board~~; Board at [www.ncdentalboard.org](http://www.ncdentalboard.org) that includes the information and materials required by Rule .0301(a) of this Subchapter;
- (2) the non-refundable licensure by credentials fee; fee set forth in 21 NCAC 16M .0101;
- (3) an affidavit from the applicant stating for the five years ~~immediately preceding the application~~; year period set out in G.S. 90-36(c)(1);

- (A) the dates that and locations where the applicant has practiced dentistry;
- (B) that the applicant has provided at least 5,000 hours of clinical care ~~directly~~ to patients, not including post graduate training, residency programs or an internship; and
- (C) that the applicant has ~~continuously~~ held an active, unrestricted dental license issued by another U.S. state or U.S. ~~territory~~; territory, without any period of interruption; and

- (4) a statement disclosing and explaining any investigations, malpractice claims, or state or federal agency complaints, judgments, settlements, or criminal charges; or settlements that are related to licensure and are not disclosed elsewhere in the application.

- (5) ~~a statement disclosing and explaining periods within the last 10 years of any voluntary or involuntary commitment to any hospital or treatment facility, observation, assessment, or treatment for substance abuse, with verification demonstrating that the applicant has complied with all provisions and terms of any county or state drug treatment program, or impaired dentists or other impaired professionals program;~~

- (6) a copy of a current CPR certificate; and

- (7) ~~a statement disclosing whether or not the applicant holds or has ever held a registration with the federal Drug Enforcement Administration (DEA) and whether such registration has ever been surrendered or revoked.~~

(b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for a dental license by credentials shall ~~arrange for and ensure the submission to the Board office~~ request the applicable entity to send the following required information or documents as a package, to the Board office, with each document in an unopened envelope sealed by the entity involved:

- (1) ~~the applicant's official transcripts verifying that the applicant graduated~~ from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association;
- (2) ~~if the applicant is or has ever been employed as a dentist by or under contract with a federal agency, a letter certifying the applicant's current status and disciplinary history from each federal agency where the applicant is or has been employed or under contract;~~
- (3)(2) a certificate of the applicant's licensure status from the dental regulatory authority or other occupational or professional regulatory authority and a ~~full, fair and accurate~~ disclosure of any disciplinary action taken or investigation pending, from all licensing jurisdictions where the applicant holds or has ever held a dental

- license or other occupational or professional license;
- (3) examination scores required by Rule .0303(b) of this Subchapter;
- (4) a report from the National Practitioner Databank;
- (5)(4) a report of any pending or final malpractice actions against the applicant verified by the malpractice insurance carrier covering the applicant. The applicant shall submit a letter of coverage history from all current and all previous malpractice insurance carriers covering the applicant; and
- (5) a letter of coverage history from all current and all previous malpractice insurance carriers covering the applicant.
- (6) a score certification letter from a dental professional regulatory board or regional testing agency of a passing score on a clinical licensure examination substantially equivalent to the clinical licensure examination required in North Carolina by Rule .0303 of this Subchapter. The examination shall be administered by the dental professional regulatory board or a regional testing agency. The score certification letter shall:
- (A) state that the examination included procedures performed on human subjects as part of the assessment of restorative clinical competencies and included evaluations in periodontics and at least three of the following subject areas:
- (i) endodontics, clinical abilities testing;
  - (ii) amalgam preparation and restoration;
  - (iii) anterior composite preparation and restoration;
  - (iv) posterior ceramic or composite preparation and restoration;
  - (v) prosthetics, written or clinical abilities testing;
  - (vi) oral diagnosis, written or clinical abilities testing; or
  - (vii) oral surgery, written or clinical abilities testing; and
- (B) state that licensure examinations after January 1, 1998 included:
- (i) anonymity between candidates and examination graders;
  - (ii) standardization and calibration of graders; and
  - (iii) a mechanism for post exam analysis;
- (7) the applicant's passing score on the Dental National Board Part I and Part II written

- examination administered by the Joint Commission on National Dental Examinations; and
- (8) the applicant's passing score on the licensure examination in general dentistry conducted by a regional testing agency or independent state licensure examination substantially equivalent to the clinical licensure examination required in North Carolina as set out in Subparagraph (b)(6) of this Rule.

(c) All information required shall be completed and received by the Board office as a complete package with the initial application and application fee. Incomplete applications shall be returned to the applicant. The Board must receive all information and documentation set forth in Paragraphs (a) and (b) of this Rule and the applicant's passing scores on all examinations required by Rule .0303 of this Subchapter for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired without a refund of the application fee.

(d) All applicants shall submit to the Board a signed release form, completed Fingerprint Record Card, and other form(s) required to perform a criminal history check at the time of the application. The forms are available at the Board office.

(e)(d) An applicant for dental licensure by credentials must shall pass written examinations as set out in G.S. 90-36 Rule .0303(a) of this Subchapter. and, if deemed necessary based on the applicant's history, a clinical simulation examination administered by the Board. An applicant who fails the written examination may retake it two additional times during a one year period. The applicant shall wait at least 72 hours before attempting to retake a written examination. Individuals who fail the clinical examination or do not pass the written examination after three attempts within one year may not reapply for licensure by credentials.

(e) Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.

(f) Should the applicant reapply for licensure by credentials, an additional licensure by credentials fee shall be required at the time of each reapplication.

(g)(f) Any license obtained through fraud or by any false representation shall be void ab initio and of no effect. revoked.

Authority G.S. 90-28; 90-36.

## **SECTION .0600 – LIMITED VOLUNTEER DENTAL LICENSE**

### **21 NCAC 16B .0601 LIMITED VOLUNTEER DENTAL LICENSE**

(a) An applicant for a limited volunteer dental license shall submit to the Board:

- (1) a completed, notarized application form provided by the Board; Board at [www.ncdentalboard.org](http://www.ncdentalboard.org) that includes the information and materials required by Rule .0301(a) of this Subchapter;

- (2) the non-refundable limited volunteer dental licensure fee; fee set forth in 21 NCAC 16M .0101;
  - (3) an affidavit from the applicant stating:
    - (A) for the five consecutive years ~~immediately~~ preceding the date of the application, the dates that and locations where the applicant has practiced dentistry;
    - (B) that the applicant has provided at least 1,000 hours per year of clinical care ~~directly~~ to patients for at least five years, not including post graduate training, residency programs or an internship; and
    - (C) that the applicant has provided at least 500 hours of clinical care ~~directly~~ to patients within the ~~last five years,~~ years preceding the date of the application, not including post graduate training, residency programs or an internship; and
  - (4) ~~a statement disclosing and explaining periods within the last 10 years of any voluntary or involuntary commitment to a hospital or treatment facility, of observation, assessment, or treatment for substance abuse, with verification from the applicable program demonstrating that the applicant has complied with all provisions and terms of any county or state drug treatment program, or impaired dentists or other impaired professionals program; and a statement disclosing and explaining any investigations, malpractice claims, or state or federal agency complaints, judgments, or settlements that are related to licensure and are not disclosed elsewhere in the application.~~
  - (5) ~~a copy of a current CPR certification card.~~
- (b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for a limited volunteer dental license shall ~~arrange for and ensure the submission to the Board office the following documents as a package, with each document in an unopened envelope sealed by the entity involved:~~ satisfy the requirements in Rule .0501(b) of this Subchapter.
- (1) ~~official transcripts verifying that the applicant graduated from a dental school accredited by the Commission on Dental Accreditation of the American Dental Association;~~
  - (2) ~~a certificate of the applicant's licensure status from the dental regulatory authority or other occupational or professional regulatory authority and, if applicable, of the applicant's authorization to treat veterans or personnel enlisted in the United States armed services, and information regarding all disciplinary actions taken or investigations pending, from all licensing jurisdictions where the applicant holds or has ever held a dental license or other occupational or professional license;~~
  - (3) ~~a report from the National Practitioner Databank;~~
  - (4) ~~a report of any pending or final malpractice actions against the applicant verified by the malpractice insurance carrier covering the applicant. The applicant shall submit a letter of coverage history from all current and all previous malpractice insurance carriers covering the applicant;~~
  - (5) ~~the applicant's passing score on the Dental National Board Part I and Part II written examination administered by the Joint Commission on National Dental Examinations; and~~
  - (6) ~~the applicant's passing score on a licensure examination in general dentistry substantially equivalent to the clinical licensure examination required in North Carolina as set out in Rule .0303 of this Subchapter, conducted by a regional testing agency or a state licensing board.~~
- (c) ~~All information required shall be completed and received by the Board office as a complete package with the initial application and application fee. Incomplete applications shall be returned to the applicant. The Board shall receive all information and documentation required under Paragraphs (a) and (b) of this Rule and the applicant's passing scores on all examinations required by Rule .0303 of this Subchapter for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired without a refund of the application fee.~~
- (d) ~~All applicants shall submit to the Board a signed release form, completed Fingerprint Record Card, and such other form(s) required to perform a criminal history check at the time of the application. The forms are available at the Board.~~
- (e)(d) ~~An applicant for limited volunteer dental license must shall pass written examinations as set out in G.S. 90-37.4 Rule .0303(a) of this Subchapter, and, if deemed necessary by the Board based on the applicant's history, a clinical simulation examination administered by the Board. An applicant who fails the written exam may retake it two additional times during a one year period. The applicant shall wait a minimum of 72 hours before attempting to retake a written examination. Applicants who fail the clinical examination or who do not pass the written examination after three attempts in one year may not reapply for a limited volunteer dental license.~~
- (f) ~~Should the applicant reapply for a limited volunteer dental license, an additional limited volunteer dental license fee shall be required.~~
- (e) A North Carolina licensee who holds an active dental license may request his or her active dental license be converted to a limited volunteer dental license by submitting a written request to the Board office. A North Carolina active licensee making this request is not subject to Paragraphs (a) through (d) of this Rule.
- (f) Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.



(g) Any license obtained through fraud or by any false representation shall be ~~void ab initio and of no effect. revoked.~~  
 (h) ~~The license may be renewed on an annual basis provided that the licensee provides documentation that he or she has practiced a minimum of 100 hours, completed continuing education requirements as required in Subchapter 16R of these Rules and has current CPR certification.~~

*Authority G.S. 90-28; 90-37.1.*

## SECTION .0700 – INSTRUCTOR'S LICENSE

### 21 NCAC 16B .0701 INSTRUCTOR'S LICENSE

(a) An applicant for an instructor's license shall submit to the Board:

- (1) a ~~completed~~, notarized application form provided by the Board at ~~www.ncdentalboard.org.~~ www.ncdentalboard.org that includes the information and materials required by Rule .0301(a) of this Subchapter;
- (2) the non-refundable instructor's licensure fee; fee set forth in 21 NCAC 16M .0101; and
- (3) ~~a photograph of the applicant, taken within six months prior to the date of the application, affixed to the application;~~
- (4) ~~a signed release form and completed Fingerprint Record Card, and other form(s) required to perform a criminal history check at the time of the application. The form and card are available from the Board office;~~
- (5)(3) a statement disclosing and explaining any ~~disciplinary actions, investigations, malpractice claims, or state or federal agency complaints, judgments, settlements, or criminal charges; or settlements that are related to licensure and are not disclosed elsewhere in the application.~~
- (6) ~~a statement disclosing and explaining periods within the last ten years of any voluntary or involuntary commitment to any hospital or treatment facility, observation, assessment, or treatment for substance abuse, with verification demonstrating that the applicant has complied with all provisions and terms of any county or state drug treatment program, or impaired dentists or other impaired professionals program; and~~
- (7) ~~a current CPR card.~~

(b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for an instructor's license shall ~~ensure the submission to the Board office of~~ request the applicable entity to send the following required information or documents as a package, to the Board office, with each document in an unopened envelope sealed by the entity involved:

- (1) if the applicant is or has ever been employed as a dentist by or under contract with ~~an~~ a government agency or a nonprofit or for-profit organization, a certification letter of the applicant's current status and disciplinary

history from each agency or organization where the applicant is or has been employed or under contract;

- (2) a certificate of the applicant's licensure status from the dental regulatory authority or other occupational or professional regulatory authority and information regarding all disciplinary actions taken or investigations pending, from all licensing jurisdictions where the applicant holds or has ever held a dental license or other occupational or professional license;
- (3) ~~a report from the National Practitioner Databank or its international equivalent, if applicable;~~
- (4)(3) a report of any pending or final malpractice actions against the applicant, verified by the malpractice insurance carrier covering the applicant. ~~The applicant shall submit a letter of coverage history from all current and all previous malpractice insurance carriers covering the applicant; and~~ applicant;
- (4) a letter of coverage history from all current and all previous malpractice insurance carriers covering the applicant; and
- (5) a certification letter from the dean or director that the applicant has met or been approved under the credentialing standards of a dental school or an academic medical center with which the person is to be affiliated, and certification that ~~such~~ the school or medical center is accredited by the American Dental Association's Commission on Accreditation or the Joint Commission on Accreditation of Health Care Organizations.

(c) ~~All information required shall be completed and received by the Board office as a complete package with the initial application and application fee. Incomplete applications shall be returned to the applicant. The Board shall receive all information and documentation set forth in Paragraphs (a) and (b) of this Rule for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired without a refund of the application fee.~~

(d) Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.

(e) ~~Should the applicant reapply for an instructor's license, an additional instructor's license fee shall be required.~~

(f)(e) Any license obtained through fraud or by any false representation shall be ~~void ab initio and of no effect. revoked.~~

(g) ~~The license shall be renewed on an annual basis, as set out in 21 NCAC 16R .0102.~~

*Authority G.S. 90-28; 90-29.5.*

## SECTION .0800 – SPECIAL RESTRICTED LICENSES

**21 NCAC 16B .0801      TEMPORARY VOLUNTEER  
DENTAL PERMIT**

(a) An applicant for a ~~Temporary Volunteer Dental License~~ temporary volunteer dental permit shall submit to the ~~Board~~ Board an application form provided by the Board at www.ncdentalboard.org that includes the following information:

- ~~(1) A completed, notarized application form provided by the Board, with a photograph of the applicant taken within six months of the application date attached;~~
- ~~(2) A statement from all jurisdictions in which the applicant is now or has ever been licensed, disclosing the applicant's disciplinary history and current status of the applicant's license;~~
- ~~(3) A statement signed by a N.C. licensed dentist agreeing to provide supervision or direction to the temporary volunteer dentist, stating where, during the effective period of the permit such supervision or direction will occur, and affirming that no fee or monetary compensation of any kind will be paid to the applicant for dental services performed; and~~
- ~~(4) A statement signed by the applicant stating where the applicant will practice, the type of facility where the practice will occur, the duration of the practice, the name of the supervising dentist, and affirming that no fee will be charged or accepted. The applicant shall update the information within five days of any changes in the practice location or facility.~~
- (1) full name;
- (2) street address;
- (3) employer name and address, and the applicant's position title;
- (4) work, home, and cellular telephone numbers;
- (5) fax number;
- (6) email address;
- (7) any other name by which the applicant was known in the past;
- (8) social security number;
- (9) citizenship or immigration status, with verifying documentation;
- (10) authorization to work in the United States;
- (11) dental education, including dental school name, address, and the applicant's graduation date, and any other dental post-graduate education;
- (12) all dental licenses from other states ever held by the applicant, including state, license number, date issued, and licensure status as of the application date;
- (13) if the applicant has ever been denied a license or the privilege of taking a dental licensure or competency examination by any dental licensing authority or examining body, a written statement disclosing the details, jurisdiction, and date;
- (14) if the applicant is not engaged in the practice of dentistry as of the application date, the last month and year when the applicant practiced;

- (15) if the applicant has been charged with or convicted of any crime within the 10 years preceding the application date, excluding traffic violations but including driving while impaired offenses, a written statement disclosing the details and copies of the charges and judgment;
- (16) if the applicant has any contagious or infectious disease, a written statement disclosing the details;
- (17) a statement disclosing and explaining any current condition or impairment, including substance abuse, alcohol abuse, or a mental, emotional, or nervous disorder or condition, that in any way affects the ability to practice dentistry. For purposes of this rule, "current" means recently enough that the condition may affect the applicant's ability to function as a dentist as set out in G.S. 90-41(a)(2) and (7). If the applicant contends that the condition or impairment is reduced or ameliorated because the applicant is receiving ongoing treatment or participating in a monitoring or support program, the applicant may provide information regarding the treatment or program, and may include any verification demonstrating that the applicant has complied with all provisions and terms of any drug treatment program, or impaired dentists or other impaired professionals program;
- (18) the type of facility and addresses of all facilities where the applicant will provide temporary volunteer dental services in North Carolina;
- (19) the dates on which the applicant intends to provide temporary volunteer dental services in North Carolina;
- (20) the names of all North Carolina licensed dentists who will direct or supervise the applicant at each location where the applicant will provide temporary volunteer dental services;
- (21) a copy of an unexpired CPR certificate;
- (22) a photograph of the applicant taken within six months preceding the application date;
- (23) a completed fingerprint record card and signed release of information form authorizing the Board to request a fingerprint-based criminal history record check from the North Carolina State Bureau of Investigation (SBI); and
- (24) a signed, notarized statement by the applicant affirming the applicant has not been disciplined by any dental board or agency, the information in the application is accurate, and no fee will be charged or accepted for any dental services provided.

(b) ~~All information required must be completed and received in the Board office as a complete package at least two weeks prior to the issuance of the license. Incomplete applications shall be returned to the applicant. In addition to the requirements of Paragraph (a) of this Rule, the applicant shall request the~~

applicable entity or person to send the following required information or documents to the Board office, with each document in an unopened envelope sealed by the entity involved:

- (1) a statement from all jurisdictions in which the applicant is now or has ever been licensed, disclosing the applicant's disciplinary history and current status of the applicant's license; and
- (2) a statement signed by a North Carolina licensed dentist agreeing to provide supervision or direction to the temporary volunteer dentist, stating when and where the supervision or direction will occur and affirming that no fee or monetary compensation of any kind will be paid to the applicant for dental services performed.

(c) The Board must receive all items set forth in Paragraphs (a) and (b) of this Rule for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired.

(d) The holder of a temporary volunteer dental permit shall notify the Board within five days of any changes in the practice location or facility disclosed under Paragraph (a) of this Rule.

(e)(e) To renew the Temporary Volunteer Dental License temporary volunteer dental permit, the licensee shall submit the information required in Subparagraphs (a)(2) — (4) of this Rule, along with an affidavit stating that the information on the original application is correct and requires no update or correction. to the Board:

- (1) an affidavit or notarized statement verifying the location and type of facility where the applicant will practice, the duration of the practice, the name of the supervising dentist, that no fee will be charged or accepted, and that the information in the original application submitted under Paragraph (a) of this Rule is correct and requires no update or correction; and
- (2) the information required in Paragraph (b) of this Rule.

The Board must receive all items set forth in this Paragraph for the renewal application to be complete before the deadline for renewing applications. The applicant shall report any changes to submitted information within five days of when the licensee knew or should have known of the changes.

(d) All required information shall be completed and received in the Board office as a complete package at least two weeks prior to the renewal of the license. Incomplete applications shall be returned to the applicant. The applicant shall report any changes to submitted information within five days of when the licensee knew or should have known of the changes.

(f) Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.

(g) Any license obtained through fraud or by any false representation shall be revoked.

*Authority G.S. 90-29; 90-37.2; 90-41.*

## **SECTION .1000 - LICENSURE BY MILITARY ENDORSEMENT**

## **21 NCAC 16B .1001 DENTAL LICENSURE BY ENDORSEMENT BASED ON MILITARY SERVICE**

(a) An applicant for a dental license by endorsement based on military service shall submit to the Board:

- (1) a completed, signed and notarized application form provided by the Board at [www.ncdentalboard.org](http://www.ncdentalboard.org); [www.ncdentalboard.org](http://www.ncdentalboard.org) that includes the information and materials required by Rule .0301(a) of this Subchapter; and
- (2) the application fee required by Rule 16M .0101(a)(14) of this Chapter;
- (3)(2) written evidence demonstrating that the applicant has been awarded a military occupational specialty in dentistry and that the applicant satisfied the conditions set forth in G.S. 93B-15.1(a), including engaging in the active practice of dentistry for at least 1,000 hours per year for at least two of the five years preceding the date of the application.
  - (A) has completed a military program of training substantially equivalent to or greater than that required for licensure as a dentist in North Carolina;
  - (B) has completed testing or equivalent training and experience substantially equivalent to or greater than that required for licensure as a dentist in North Carolina, as set forth in G.S. 90-30; and
  - (C) has engaged in the active practice of dentistry as defined by G.S. 90-29(b)(1) for at least 1,500 hours per year during at least two of the five years preceding the date of application; and
- (4) a statement disclosing and explaining the commission of any act set out in G.S. 90-41(a) or (b), any disciplinary actions, investigations, malpractice claims, state or federal agency complaints, judgments, settlements, or criminal charges.

(b) All information required must be completed and received by the Board office as a complete package with the initial application and application fee. Incomplete application packages shall be returned to the applicant. In addition to the requirements of Paragraph (a) of this Rule, an applicant for licensure by endorsement based on military service shall satisfy the requirements in Rule .0501(b) of this Subchapter.

(c) All applicants shall submit to the Board a signed release form and completed Fingerprint Record Card, obtained from the Board. The Board shall receive all information and documentation required under Paragraphs (a) and (b) of this Rule for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired.

(d) Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.

(e) Any license obtained through fraud or by any false representation shall be revoked.

*Authority G.S. 90-30(b); 90-41; 93B-15.1.*

**21 NCAC 16B .1002 DENTAL LICENSURE BY  
ENDORSEMENT BASED ON STATUS AS MILITARY  
SPOUSE**

(a) An applicant for a dental license by endorsement based on the applicant's status as a military spouse shall submit to the Board:

- (1) ~~a completed, signed and notarized application form provided by the Board at [www.ncdentalboard.org](http://www.ncdentalboard.org);~~  
[www.ncdentalboard.org](http://www.ncdentalboard.org) that includes the information and materials required by Rule .0301(a) of this Subchapter; and
- (2) ~~the non refundable application fee required by Rule 16M .0101(a)(14) of this Chapter;~~
- (3)(2) ~~written evidence demonstrating that the applicant is married to an active member of the U.S. military and that such applicant; the applicant satisfies the conditions set forth in G.S. 93B-15.1(b), including engaging in the active practice of dentistry for at least 1,000 hours per year for at least two of the five years preceding the date of the application.~~  
  - (A) ~~holds a current dental license from another jurisdiction whose standards for licensure are substantially equivalent to or greater than those required for licensure as a dentist in North Carolina as set forth in these Rules; and~~
  - (B) ~~has engaged in the active practice of dentistry as defined by G.S. 90-29(b)(1) for at least 1,500 hours per year during at least two of the five years preceding the date of application; and~~
- (4) ~~a statement disclosing and explaining the commission of an act set out in G.S. 90-41(a) or (b), any disciplinary actions, investigations, malpractice claims, state or federal agency complaints, judgments, settlements, or criminal charges.~~
- (5) ~~a statement disclosing and explaining periods within the last 10 years of any voluntary or involuntary commitment to any hospital or treatment facility, observation, assessment, or treatment for substance abuse, with verification demonstrating that the applicant has complied with all provisions and terms of any county or state drug treatment program, or impaired dentists or other impaired professionals program;~~
- (6) ~~a copy of a current CPR certification;~~
- (7) ~~a report from the National Practitioner Data Bank; and~~

(8) ~~the applicant's passing score on the Dental National Board Part I and Part II written examination administered by the Joint Commission on National Dental Examinations.~~

(b) ~~All information required shall be completed and received by the Board office as a complete package with the initial application and application fee. Incomplete application packages shall be returned to the applicant. In addition to the requirements of Paragraph (a) of this Rule, an applicant for licensure by endorsement based on status as a military spouse shall satisfy the requirements in Rule .0501(b) of this Subchapter.~~

(c) ~~All applicants shall submit to the Board a signed release form, completed Fingerprint Record Card and other forms required to perform a criminal history check. The form and cards may be obtained from the Board. The Board shall receive all information and documentation required under Paragraphs (a) and (b) of this Rule for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired.~~

(d) ~~Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.~~

(e) Any license obtained through fraud or by any false representation shall be revoked.

*Authority G.S. 90-30(b); 90-41; 90-36; 93B-15.1.*

**SUBCHAPTER 16C - LICENSURE DENTAL  
HYGIENISTS**

**SECTION .0300 - APPLICATION**

**21 NCAC 16C .0301 APPLICATION FOR  
LICENSURE**

(a) All applications for licensure as a dental hygienist shall be made on the forms furnished by the Board at [www.ncdentalboard.org](http://www.ncdentalboard.org) and ~~no application shall be deemed complete that does set forth all the information required relative to the applicant. Incomplete applications shall be returned to the applicant. Any applicant who changes his or her address shall notify the Board office within 10 business days. Applicants shall ensure that proof of graduation from high school or its equivalent is sent to the Board office in a sealed envelope. Applicants shall also ensure that an official final transcript from a dental hygiene program as set forth in G.S. 90-224 is sent in a sealed envelope to the Board office.~~ shall include the following information:

- (1) full name;
- (2) street address as of the date of the application;
- (3) permanent street address;
- (4) preferred mailing address for all information;
- (5) telephone number;
- (6) email address;
- (7) age;
- (8) date of birth;
- (9) place of birth;
- (10) citizenship or immigration status, with verifying documentation;
- (11) social security number;
- (12) marital status;

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| <p>(13) <u>any other name by which the applicant was known in the past, accompanied by a certified copy of a court order of name change, if applicable;</u></p> <p>(14) <u>all resident addresses for the past 10 years preceding the date of application;</u></p> <p>(15) <u>the names, addresses, and phone numbers for two individuals to whom the applicant always provides the applicant's current address;</u></p> <p>(16) <u>disclosure and explanation of any bankruptcy proceedings in which the applicant was a named party;</u></p> <p>(17) <u>the license number, issuing state, and expiration date for all current drivers' licenses held by the applicant, and the issuing state for all drivers' licenses held in the past by the applicant;</u></p> <p>(18) <u>the date of the applicant's previous application for examination by the Board, if applicable;</u></p> <p>(19) <u>the date and type of any dental hygiene license for which the applicant applied in the past, if applicable;</u></p> <p>(20) <u>if the applicant failed an examination administered by a dental board, the date of the examination and jurisdiction of the dental board that administered the examination;</u></p> <p>(21) <u>if any dental board has refused to administer an examination to applicant, the jurisdiction of the dental board that refused to administer the examination and the date of the refusal;</u></p> <p>(22) <u>the dates upon which the applicant has taken the Dental Hygiene National Board Examination, the location of each examination, and authorization for the Board to access the examination scores;</u></p> <p>(23) <u>if the applicant failed the Dental Hygiene National Board Examination, the date of the examination that he or she failed;</u></p> <p>(24) <u>if the applicant has applied for a dental hygiene license in any other state or foreign country, the date of the application and whether the license was issued to the applicant;</u></p> <p>(25) <u>all employment held by the applicant for the past 10 years;</u></p> <p>(26) <u>if the applicant was terminated from employment within the past 10 years, an explanation regarding the termination;</u></p> <p>(27) <u>all dental hygiene licenses from other jurisdictions ever held by the applicant, including type of licensure, license number, and dates of licensure;</u></p> <p>(28) <u>places of employment at which the applicant has practiced dental hygiene, including the name of the employer, the address of the employer, dates of employment, and the reason for leaving the employment;</u></p> <p>(29) <u>if the applicant has ever been suspended or otherwise disqualified, or reprimanded, censured, or otherwise disciplined by any licensing board, professional organization, or</u></p> | <p><u>while the applicant was holding public office, a written statement disclosing:</u></p> <p>(A) <u>the facts that formed the basis for the discipline;</u></p> <p>(B) <u>the date of the discipline;</u></p> <p>(C) <u>whether the applicant appealed the discipline and the outcome of any appeal; and</u></p> <p>(D) <u>the name and address of the authority in possession of records related to discipline;</u></p> <p>(30) <u>if the applicant has ever been the subject of a complaint with any licensing board, professional organization, or while the applicant was holding public office, a written statement disclosing:</u></p> <p>(A) <u>the facts that gave rise to the complaint;</u></p> <p>(B) <u>the date of the complaint;</u></p> <p>(C) <u>whether the organization that received the complaint instituted proceedings against the applicant; and</u></p> <p>(D) <u>the name and address of the authority in possession of records related to the complaint;</u></p> <p>(31) <u>if the applicant has ever been reported to the National Practitioner Data Bank or the Healthcare Integrity and Protection Data Bank, a written statement disclosing:</u></p> <p>(A) <u>the facts that formed the basis for the report;</u></p> <p>(B) <u>the date of the report; and</u></p> <p>(C) <u>the name and address of the authority in possession of records related to the report;</u></p> <p>(32) <u>if the applicant has ever been dropped, suspended, expelled, or disciplined by any post-secondary school or college for any cause, a written statement disclosing:</u></p> <p>(A) <u>the facts leading to the discipline;</u></p> <p>(B) <u>the date of the discipline; and</u></p> <p>(C) <u>the school or college issuing the discipline;</u></p> <p>(33) <u>if the applicant has ever been denied admission to any college or post-secondary school for a reason other than academic qualifications, a written statement explaining the reason for the admission denial;</u></p> <p>(34) <u>if the applicant has ever served in the armed forces of the United States or any other country, a written statement explaining:</u></p> <p>(A) <u>whether the applicant has been separated from service;</u></p> <p>(B) <u>the nature of the separation;</u></p> <p>(C) <u>if other than honorable, the circumstances surrounding his or her release from service;</u></p> <p>(D) <u>dates of service;</u></p> |
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- (E) the facts leading up to any charges or complaints made or filed against the applicant while the applicant was serving in the armed forces, and the outcome of the charges or complaints;
- (F) the facts leading to any disciplinary proceedings instituted against the applicant while the applicant was serving in the armed forces, and the outcome of the proceedings; and
- (G) if the applicant was ever a defendant in any court martial, the facts giving rise to those proceedings and the outcome of the proceedings;
- (35) a statement of whether the applicant has registered under the Military Selective Service Act;
- (36) a statement of whether the applicant has ever:
- (A) been summoned to court or before a magistrate for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
- (B) been arrested for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
- (C) been taken into custody for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
- (D) been indicted for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
- (E) been convicted or tried for the violation of any law or ordinance or for the commission of any felony or misdemeanor;
- (F) been charged with the violation of any law or ordinance or for the commission of any felony or misdemeanor; or
- (G) pleaded guilty to the violation of any law or ordinance or for the commission of any felony or misdemeanor;
- (37) the applicant's high school education including the name, location, and period of attendance for each school, and the date of graduation;
- (38) any college or university education other than dental hygiene, including the name, location, and period of attendance for each school, and the date of graduation;
- (39) the applicant's dental hygiene education including the name, location, and period of attendance for each school, and date of graduation;
- (40) a statement disclosing and explaining any current condition or impairment, including substance abuse, alcohol abuse, or a mental, emotional, or nervous disorder or condition, that in any way affects the ability to practice dental hygiene. For purposes of this Rule, "current" means recently enough that the condition or impairment may affect the applicant's ability to function as a dental hygienist as set out in G.S. 90-229(a)(4) and (13). If the applicant contends that the condition or impairment is reduced or ameliorated because the applicant is receiving ongoing treatment or participating in a monitoring or support program, the applicant may provide information regarding the treatment or program, and may include any verification demonstrating that the applicant has complied with all provisions and terms of any drug treatment program, or impaired dental hygienists or other impaired professionals program;
- (41) a photograph of the applicant, taken within six months prior to the date of the application;
- (42) a completed fingerprint record card and signed release of information form authorizing the Board to request a fingerprint-based criminal history record check from the North Carolina State Bureau of Investigation (SBI);
- (43) a copy of an unexpired CPR certificate; and
- (44) if the applicant holds, or has held in the past, a dental hygiene license in any other state or jurisdiction, a copy of a National Practitioner Data Bank Report concerning the applicant that was obtained within six months prior to the date the report is submitted to the Board.
- (b) The applicant shall submit to the Board the notarized application form with all the information and materials listed in Paragraph (a) of this Rule, accompanied by The the nonrefundable application fee set forth in 21 NCAC 16M .0102, shall accompany the application.
- (c) Applicants who are licensed in other states shall ensure that the Board receives verification of licensure from the board of each state in which they are licensed. A photograph of the applicant, taken within six months prior to the date of the application, shall be affixed to the application. In addition to the requirements of Paragraphs (a) and (b) of this Rule, the applicant shall request the applicable entity to send the following required information or documents to the Board office, with each document in an unopened envelope sealed by the entity involved:
- (1) proof of graduation from high school or its equivalent;
- (2) the applicant's official transcripts from a dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association;
- (3) if the applicant is licensed in other states, a certificate of the applicant's licensure status from the dental regulatory authority or other occupational or professional regulatory authority, accompanied by a full disclosure of

any disciplinary action taken or investigation pending, from all licensing jurisdictions where the applicant holds or has ever held a dental hygiene license or other occupational or professional license; and

- (4) examination scores required by Rule .0303(b) of this Subchapter which shall include the American Board of Dental Examiners (ADEX) dental hygiene licensure examinations.

~~(d) All applicants shall submit to the Board a signed release form and completed Fingerprint Record Card and other form(s) required to perform a criminal history check at the time of the application. The form and card are available from the Board office. The Board shall receive all information and documentation set forth in Paragraphs (a) through (c) of this Rule and the applicant's passing scores on all examinations required by Rule .0303 of this Subchapter for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired without a refund of the application fee.~~

~~(e) All applicants shall arrange for and ensure the submission to the Board office the examination scores required by Rule .0303 of this Subchapter. The examination requirement does not apply to individuals who do not hold a North Carolina dental hygiene license who are seeking volunteer licenses pursuant to G.S. 90-21.107 or licensure by endorsement pursuant to Rules 16G .0107 or 16G .0108 of this Chapter. Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.~~

~~(f) All applicants must include a statement disclosing and explaining periods within the last 10 years of any voluntary or involuntary commitment to any hospital or treatment facility, observation, assessment, or treatment for substance abuse, with verification demonstrating that the applicant has complied with all provisions and terms of any drug treatment program, or impaired dental hygienists or other impaired professionals program. Any license obtained through fraud or by any false representation shall be revoked.~~

~~(g) All applicants for dental hygiene licensure shall achieve a passing score on the Dental Hygiene National Board examination administered by the Joint Commission on National Dental Examinations.~~

Authority G.S. 90-223; 90-224; 90-229(a)(4); 90-229(a)(4) and (13).

## **SECTION .0500 – LICENSURE BY CREDENTIALS**

### **21 NCAC 16C .0501 DENTAL HYGIENE LICENSURE BY CREDENTIALS**

(a) An applicant for a dental hygiene license by credentials shall submit to the Board:

- (1) a ~~completed~~, notarized application form provided by the Board; Board at [www.ncdentalboard.org](http://www.ncdentalboard.org) that includes the information and materials required by Rule .0301(a) of this Subchapter;
- (2) the nonrefundable licensure by credentials fee; fee set forth in 21 NCAC 16M .0102;

- (3) an affidavit from the applicant stating for the two ~~years immediately preceding the application~~ year period set out in G.S. 90-224.1(c)(1);

- (A) the dates that and locations where the applicant has practiced dental hygiene;
- (B) that the applicant has provided at least ~~2000~~ 2,000 hours of clinical care directly to patients; and
- (C) that the applicant ~~has continuously held~~ holds an active, unrestricted dental hygiene license issued by another U.S. state or any U.S. territory, territory, and has done so without any period of interruption; and

- (4) a statement disclosing and explaining any ~~disciplinary actions~~, investigations, malpractice claims, or state or federal agency complaints, judgments, settlements, or criminal charges; or settlements that are related to licensure and are not disclosed elsewhere in the application.

- (5) a statement disclosing and explaining periods within the last 10 years of any voluntary or involuntary commitment to a hospital or treatment facility, observation, assessment, or treatment for substance abuse, with verification demonstrating that the applicant has complied with all provisions and terms of any county or state drug treatment program, or impaired dental hygiene or other impaired professionals program; and

- (6) a copy of a current CPR certificate.

(b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for a dental hygiene license by credentials shall request the applicable entity arrange for and ensure the submission to the Board office to send the following required information or documents as a package, documents to the Board office, with each document in an unopened envelope sealed by the entity involved:

- (1) the applicant's official transcripts certifying that the applicant graduated from a dental hygiene program accredited by the Commission on Dental Accreditation of the American Dental Association;
- (2) if the applicant is or has ever been employed as a dental hygienist by or under contract with a federal agency, a letter certifying the applicant's current status and disciplinary history from each federal agency where the applicant is or has been employed or under contract;
- (3)(2) a certificate of the applicant's licensure status from the regulatory authority or other occupational or professional regulatory authority and a full, fair and accurate disclosure of all disciplinary actions taken or investigations pending, from all licensing jurisdictions where the applicant holds or has ever held a dental hygiene license or other occupational or professional license;

- ~~(4) a report from the National Practitioner Databank;~~
- ~~(3) examination scores required by Rule .0303(b) of this Subchapter;~~
- ~~(5)(4) a report of any pending or final malpractice actions against the applicant verified by the malpractice insurance carrier covering the applicant. The applicant shall submit a letter of coverage history from all current and all previous malpractice insurance carriers covering the applicant; and~~
- ~~(5) a letter of coverage history from all current and all previous malpractice insurance carriers covering the applicant.~~
- ~~(6) the applicant's passing score on the National Board Dental Hygiene Examination administered by the Joint Commission on National Dental Examinations; and~~
- ~~(7) the applicant's passing score on the licensure examination conducted by a regional testing agency or independent state licensure examination that is substantially equivalent to the clinical licensure examination required in North Carolina as set out in Rule .0303 of this Subchapter.~~

~~(c) All information required shall be completed and received by the Board office as a complete package with the initial application and application fee. Incomplete applications shall be returned to the applicant. The Board shall receive all information and documentation set forth in Paragraphs (a) and (b) of this Rule and the applicant's passing scores on all examinations required by Rule .0303 of this Subchapter for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired without a refund of the application fee.~~

~~(d) All applicants shall submit to the Board a signed release form, completed Fingerprint Record Card, and other form(s) required to perform a criminal history check at the time of the application. The forms are available from the Board office.~~

~~(e)(d) An applicant for dental hygiene licensure by credentials shall pass written examinations as set out in Rule .0303(a) of this Subchapter. and, if deemed necessary based on the applicant's history, a clinical simulation examination administered by the Board. If the applicant fails the written examinations, the applicant may retake the examination two additional times during a one year period, as required by Rule .0311 of this Subchapter. Applicants who fail the clinical examination or who do not pass the written examination after three attempts within one year may not reapply for licensure by credentials.~~

~~(f) Should the applicant reapply for licensure by credentials, an additional licensure by credentials fee shall be required at the time of reapplication.~~

~~(e) Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.~~

~~(g)(f) Any license obtained through fraud or by any false representation shall be void ab initio and of no effect. revoked.~~

## **SUBCHAPTER 16D - PROVISIONAL LICENSURE: DENTISTS**

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

#### **21 NCAC 16D .0104 APPLICATION FOR PROVISIONAL LICENSE**

~~(a) All applications~~ An applicant for a provisional dental licensure license shall submit to the Board: ~~be made on the forms furnished by the Board at [www.ncdentalboard.org](http://www.ncdentalboard.org). No application shall be deemed complete that does not set forth all the information required relative to the applicant. Incomplete applications shall be returned to the applicant. Any applicant who changes his or her address shall notify the Board within 10 business days. Applicants shall ensure that official transcripts of undergraduate college and dental school credits are sent in a sealed envelope to the Board office.~~

- ~~(1) a notarized application form provided by the Board at [www.ncdentalboard.org](http://www.ncdentalboard.org) that includes the information and materials required by 21 NCAC 16B .0301(a);~~
- ~~(2) the nonrefundable provisional licensure fee set forth in 21 NCAC 16M .0101;~~
- ~~(3) a letter from a North Carolina licensed dentist stating he or she will supervise the applicant; and~~
- ~~(4) a statement disclosing and explaining any investigations, malpractice claims, or state or federal agency complaints, judgments, or settlements that are related to licensure and are not disclosed elsewhere in the application.~~

~~(b) The nonrefundable application fee shall accompany the application, along with a photograph of the applicant taken within six months of the date of the application. In addition to the requirements of Paragraph (a) of this Rule, an applicant for a provisional license shall satisfy the requirements in 21 NCAC 16B .0501(b).~~

~~(c) Applicants who are licensed in other states shall ensure that the Board receives verification of licensure from the board of each state in which they are licensed. The Board shall receive all items set forth in Paragraphs (a) and (b) of this Rule and the applicant's passing scores on all examinations required by 21 NCAC 16B .0303 for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired without a refund of the application fee.~~

~~(d) All applicants shall submit to the Board a signed release form and completed Fingerprint Record Card and other form(s) required to perform a criminal history check at the time of the application. The form and card are available from the Board office. An applicant for a provisional license shall pass written examinations as set out in 21 NCAC 16B .0303(a). Applicants who do not pass the written examination after three attempts within one year may not reapply for provisional licensure.~~

~~(e) All applicants shall include a statement disclosing and explaining periods, within the last 10 years, of any voluntary or involuntary commitment to any hospital or treatment facility, for observation, assessment or treatment for substance abuse, with verification demonstrating that the applicant has complied with all provisions and terms of any drug treatment program, or impaired~~

Authority G.S. 90-223; 90-224.1; 90-229.



~~dentists or other impaired professionals program.~~ Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.

(f) Any license obtained through fraud or by any false representation shall be revoked.

Authority G.S. 90-29.3; 90-41(a).

**SUBCHAPTER 16E - PROVISIONAL LICENSURE:  
DENTAL HYGIENIST**

**21 NCAC 16E .0102 RESTRICTIONS ON PRACTICE**

(a) ~~Any provisional license issued to a member of the faculty of an educational institution shall limit the practice of such provisional licensee to the confines of facilities provided by the educational institution of which he is a faculty member.~~

(b) ~~In those instances in which the Board deems such restriction appropriate, the~~ The dental hygiene practice of a provisional licensee may shall be restricted to a geographical location; the dental practice location designated in the application for provisional licensure.

Authority G.S. 90-226.

**21 NCAC 16E .0103 APPLICATION FOR  
PROVISIONAL LICENSE**

(a) ~~All applications~~ An applicant for a provisional dental hygiene licensure license shall submit to the Board; be made on the forms furnished by the Board at [www.ncdentalboard.org](http://www.ncdentalboard.org). No application shall be deemed complete that does not set forth all the information required relative to the applicant. Incomplete applications shall be returned to the applicant. Any applicant who changes his or her address shall notify the Board office within 10 business days. Applicants shall ensure that proof of a high school equivalency certificate issued by a government agency or unit or a final transcript from his or her high school is sent to the Board office in a sealed envelope. Applicants shall also ensure that official final transcripts from a dental hygiene program as set forth in G.S. 90-244 are sent in a sealed envelope to the Board office.

- (1) a notarized application form provided by the Board at [www.ncdentalboard.org](http://www.ncdentalboard.org) that includes the information and materials required by 21 NCAC 16C .0301(a);
- (2) the nonrefundable provisional licensure application fee set forth in 21 NCAC 16M .0102;
- (3) a letter from a North Carolina licensed dentist stating he or she will supervise the applicant; and
- (4) a statement disclosing and explaining any investigations, malpractice claims, or state or federal agency complaints, judgments, or settlements that are related to licensure and are not disclosed elsewhere in the application.

(b) ~~The one hundred fifty dollar (\$150.00) nonrefundable application fee shall accompany the application, along with a photograph of the applicant, taken within six months of the date of application. In addition to the requirements of Paragraph (a) of~~

this Rule, an applicant for a provisional license shall satisfy the requirements in 21 NCAC 16C .0501(b).

(c) ~~Applicants who are licensed in other states shall ensure that the Board receives verification of licensure from the board of each state in which they are licensed. The Board shall receive all items set forth in Paragraphs (a) and (b) of this Rule and the applicant's passing scores on all examinations required by 21 NCAC 16C .0303 for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired without a refund of the application fee.~~ (d) ~~All applicants shall submit to the Board a signed release form, completed Fingerprint Record Card and other form(s) required to perform a criminal history check at the time of the application. The form and card are available from the Board office. An applicant for a provisional license shall pass written examinations as set out in 21 NCAC 16C .0303(a). Applicants who do not pass the written examination after three attempts within one year may not reapply for provisional licensure.~~

(e) Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.

(f) Any license obtained through fraud or by any false representation shall be revoked.

Authority G.S. 90-226; 90-229(a); 90-232.

**SUBCHAPTER 16G - DENTAL HYGIENISTS**

**SECTION .0100 - FUNCTIONS THAT MAY BE  
DELEGATED**

**21 NCAC 16G .0107 DENTAL HYGIENE LICENSURE  
BY ENDORSEMENT BASED ON MILITARY SERVICE**

(a) An applicant for a dental hygiene license by endorsement based on ~~his or her status as a member of the U.S. military service~~ shall submit to the Board:

- (1) ~~a completed, signed and notarized application form provided by the Board; Board at [www.ncdentalboard.org](http://www.ncdentalboard.org) that includes the information and materials required by 21 NCAC 16C .0301(a); and~~
- (2) ~~an application fee in the amount of two hundred sixty five dollars (\$265.00);~~
- (3)(2) ~~written evidence demonstrating that the applicant has been awarded a military occupational specialty in dental hygiene and that the applicant satisfied the conditions set forth in G.S. 93B-15.1(a), including engaging in the active practice of dental hygiene for at least 1,000 hours per year for at least two of the five years preceding the date of application.~~
  - (A) ~~completed a military program of training substantially equivalent to or greater than the requirements for licensure as a dental hygienist in North Carolina;~~
  - (B) ~~completed testing or equivalent training and experience substantially equivalent to or greater than that required for licensure as a dental~~

- ~~hygienist in North Carolina, as set forth in G.S. 90-224; and~~
- (C) ~~engaged in the active practice of dental hygiene as defined by G.S. 90-221 for at least 1,500 hours per year during at least two of the five years preceding the date of application; and~~
- (4) ~~a statement disclosing and explaining the commission of any acts set out in G.S. 90-229, any disciplinary actions, investigations, malpractice claims, state or federal agency complaints, judgments, settlements, or criminal charges.~~

(b) All information required must be completed and received by the Board office as a complete package with the initial application and application fee. Incomplete application packages shall be returned to the applicant. In addition to the requirements of Paragraph (a) of this Rule, an applicant for licensure by endorsement based on military service shall satisfy the requirements in 21 NCAC 16C .0501(b).

(c) All applicants shall submit to the Board a signed release form and completed Fingerprint Record Card. The form and card may be obtained from the Board office. The Board shall receive all information and documentation required under Paragraphs (a) and (b) of this Rule for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired.

(d) Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.

(e) Any license obtained through fraud or by any false representation shall be revoked.

*Authority G.S. 90-223; 90-224(c); 90-229; 93B-15.1.*

## **21 NCAC 16G .0108 DENTAL HYGIENE LICENSURE BY ENDORSEMENT BASED ON STATUS AS MILITARY SPOUSE**

(a) An applicant for a dental hygiene license by endorsement based on the applicant's status as a ~~current~~ military spouse of an active member of the U.S. military shall submit to the Board:

- (1) a ~~completed, signed and notarized~~ application form provided by the Board; Board at [www.ncdentalboard.org](http://www.ncdentalboard.org) that includes the information and materials required by 21 NCAC 16C .0301(a) and
- (2) a ~~two hundred sixty five dollar (\$265.00)~~ application fee;
- (3)(2) written evidence demonstrating that the applicant is a ~~military spouse and that such applicant; married to an active member of the U.S. military and the applicant satisfies the conditions set forth in G.S. 93B-15.1(b), including engaging in the active practice of dental hygiene for at least 1,000 hours per year for at least two of the five years preceding the date of application.~~
- (A) holds a current dental hygiene license from another jurisdiction whose standards for licensure are

substantially equivalent to or greater than those required for licensure as a dental hygienist in North Carolina; and

- (B) has engaged in the active practice of dental hygiene as defined by G.S. 90-221 for at least 1,500 hours per year during at least two of the five years preceding the date of application; and

- (4) a statement disclosing and explaining the commission of any act described in G.S. 90-229, any disciplinary actions, investigations, malpractice claims, state or federal agency complaints, judgments, settlements, or criminal charges.

(b) All information required must be completed and received by the Board office as a complete package with the initial application and application fee. Incomplete application packages shall be returned to the applicant. In addition to the requirements of Paragraph (a) of this Rule, an applicant for licensure by endorsement based on status as a military spouse shall satisfy the requirements in 21 NCAC 16C .0501(b).

(c) All applicants shall submit to the Board a signed release form and completed Fingerprint Record Card. The Board shall receive all information and documentation set forth in Paragraphs (a) and (b) of this Rule for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired.

(d) Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.

(e) Any license obtained through fraud or by any false representation shall be revoked.

*Authority G.S. 90-223; 90-224(c); 90-229; 90-232; 93B-15.1.*

## **SUBCHAPTER 16Y - INTERN PERMITTING: DENTISTS**

### **21 NCAC 16Y .0102 APPLICATION FOR INTERN PERMIT**

(a) Applicants An applicant who is eligible for an intern permit who are graduates of dental schools or programs as set out in Rule .0101(4) pursuant to Rule .0101(a) of this Subchapter shall:

- (1) complete the Application for Intern Permit available on the Board's website: [www.ncdentalboard.org](http://www.ncdentalboard.org), submit to the Board a notarized application form provided by the Board at [www.ncdentalboard.org](http://www.ncdentalboard.org) that includes the information and materials required by 21 NCAC 16B .0301(a);
- (2) submit an official copy of dental school transcripts; submit the nonrefundable intern permit fee set forth in 21 NCAC 16M .0101.
- (3) forward submit a letter from a prospective employer; supervising dentist confirming he or she will supervise the intern; and
- (4) submit a signed release form, completed Fingerprint Record Card, and such other form(s) required to perform a criminal history check at the time of the application; satisfy the

examination requirements in 21 NCAC 16B .0303(a).

(5) ~~pass written examination(s) approved by the Board, as set out on its website: [www.ncdentalboard.org](http://www.ncdentalboard.org).~~ and

(6) ~~pay the nonrefundable intern permit fee referred to in 21 NCAC 16M .0101(a)(5).~~

(b) Applicants for intern permit who are graduates of a dental program as set out in Rule .0101(2) of this Subchapter shall: In addition to the requirements of Paragraph (a) of this Rule, an applicant for an intern permit pursuant to Rule .0101(a)(1) of this Subchapter shall request the information or documents as set out in 21 NCAC 16B .0301(c)(1) and (2).

(c) In addition to the requirements of Paragraph (a) of this Rule, an applicant for an intern permit pursuant to Rule .0101(a)(2) of this Subchapter shall submit written confirmation to the Board:

(1) that the applicant has graduated from a dental program other than one accredited by the Commission on Dental Accreditation (CODA) of the American Dental Association;

(1)(2) ~~submit written confirmation~~ that the applicant has qualified for and is currently enrolled as of the date of the application in a graduate, intern, fellowship, or residency program in the at a North Carolina Dental School dental school or teaching hospital offering programs in dentistry;

(2)(3) ~~submit written confirmation~~ that an ad hoc committee from the training facility in which the applicant is enrolled under Subparagraph (c)(2) of this Rule, ~~(consisting consisting~~ consisting of three associate or full professors, only one of whom represents the department in question) question, has evaluated the applicant's didactic and clinical performance with the point of observation being not less than three months from after the applicant's start of the program, and has determined that the applicant is functioning at a professional standard consistent with a dental graduate from an ADA-accredited dental school; a dental school or program accredited by CODA;

(3) ~~complete a simulated clinical offered by a Board approved provider set out on its website: [www.ncdentalboard.org](http://www.ncdentalboard.org).~~

(4) ~~submit written confirmation~~ that the applicant has completed a program of study at the training facility in in which the applicant is enrolled under Subparagraph (c)(2) of this Rule in:

(A) clinical pharmacology;  
(B) prescription writing in compliance with Federal federal and State laws; and

(C) relevant laws and administrative procedures federal regulations pertaining to the DEA; United States Drug Enforcement Administration; and

(5) ~~submit a written statement of the total time required to complete the graduate, intern, fellowship, or residency program, and the date that the applicant is scheduled to complete said program; the program.~~

(6) ~~submit a signed release form, completed Fingerprint Record Card, and such other form(s) required to perform a criminal history check at the time of the application;~~

(7) ~~complete written examination(s) administered by the Board; and~~

(8) ~~pay the non refundable intern permit fee referred to in 21 NCAC 16M .0101(a)(5).~~

(e) ~~In making application, the applicant shall authorize the Board to verify the information contained in the application or documents submitted or to seek such further information pertinent to the applicant's qualifications or character as the Board may deem necessary pursuant to G.S. 90-41.~~

(d) ~~Intern permits shall expire on an annual basis and are subject to renewal by the Board upon application and payment of the renewal fee. The Board shall receive all information and documentation required under Paragraphs (a) through (c) of this Rule for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded as expired without a refund of the application fee.~~

(e) Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.

(f) Any permit obtained through fraud or by any false representation shall be revoked.

Authority G.S. 90-28; 90-29.4.

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## **CHAPTER 48 – BOARD OF PHYSICAL THERAPY EXAMINERS**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Physical Therapy Examiners intends to adopt the rule cited as 21 NCAC 48E .0510 and amend the rules cited as 21 NCAC 48B .0102, .0103; 48D .0102; 48E .0101, .0110-.0112; 48G .0109, .0202, and .0504.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<https://www.ncptboard.org/>

**Proposed Effective Date:** May 1, 2020

### **Public Hearing:**

**Date:** December 11, 2019

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

**Location:** Offices of NC Board of Physical Therapy Examiners, 8300 Health Park, Suite 233, Raleigh, NC 27615

**Reason for Proposed Action:** *The NC Board of Physical Therapy Examiners proposes to amend rules in 21 NCAC 48B, 48D, 48E and 48G, and adopt a rule in 48E. The changes to the aforementioned rules are being requested to make the rules consistent with current practice and policy by the NCBPTE.*

**Comments may be submitted to:** *Deborah J. Ragan, PT, DPT, North Carolina Board of Physical Therapy Examiners, 8300 Health Park, Suite 233, Raleigh, NC 27615; phone (919) 490-6393; fax (919) 490-5106; email dragan@ncptboard.org*

**Comment period ends:** *January 14, 2020*

**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. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☐ **State funds affected**
- ☐ **Local funds affected**
- ☐ **Substantial economic impact ( $\geq \$1,000,000$ )**
- ☐ **Approved by OSBM**
- ☒ **No fiscal note required**

## SUBCHAPTER 48B - TYPES OF LICENSES

### 21 NCAC 48B .0102 LICENSES BY ENDORSEMENT

- (a) Endorsement. Each application for endorsement shall be considered on an individual basis.
- (b) Examination Required. Only those persons initially licensed in another state by virtue of examination shall be considered for endorsement. Only the following examinations shall be considered:

- (1) For Physical Therapists:
  - (A) Therapists licensed on the basis of a PT exam shall present total scores that meet the North Carolina passing level. If adequate scores and information are not available from the other state, the Board may ask the applicant to have the scores issued through the appropriate testing service. If the total score on the examination is unsatisfactory, the exam shall be repeated. The cost of the examination shall be paid by the applicant.
  - (B) If licensed in another state by an examination compiled by that Board, the applicant shall supply information for the Board to attempt to obtain the examination in order to determine if it

was substantially equal to the examination required by North Carolina at that time. If it cannot be determined that the examination was equal to the North Carolina examination or if the scores received on an acceptable examination did not meet the North Carolina passing requirement, the applicant shall take the PT exam. The cost of the examination shall be paid by the applicant.

- (C) A physical therapist currently licensed in another state whose license in that state was granted on the basis of the American Registry of Physical Therapists Examination shall be considered for endorsement.
- (2) For Physical Therapist Assistants. Only those physical therapist assistants licensed in another state by a PTA exam shall be considered for endorsement. The examination score shall meet the North Carolina passing level. If not, the applicant shall be required to take the PTA exam and pay the cost of the examination.
- (c) Active License. Evidence shall be presented by the licensing Board in the other state that the applicant's license in that state was in effect on the date the application for North Carolina licensure was filed with the executive director or that it has been activated since that date, if it was not in effect on the date the application was submitted. This shall be done in accordance with Rule .0105 of Subchapter E of this Chapter.
- (d) Furnish proof of completion of Jurisprudence Exercise 1.

*Authority G.S. 90-270.92; 90-270.98(b); 90-270.100.*

### 21 NCAC 48B .0103 LICENSES BY EXAMINATION

- (a) Applicants. An applicant seeking an initial license or who fails to meet the requirements in Rule .0102 of this Section for endorsement must pass a computer-based examination set forth in Subchapter 48D of this Chapter to practice in North Carolina following the acceptance of the applicant's credentials.
- (b) Timing of Examination. The applicant shall take the examination within one year following the Board's approval of his or her application. If the applicant does not do so, the applicant must submit his or her credentials to the Board for review before he or she can take the exam.
- (c) Examination Taken in Another State. Applicants not previously licensed who take a PT exam or a PTA exam in another state may be licensed in North Carolina if they provide scores that meet the North Carolina passing level set forth in Rule 48D .0105 of this Chapter and meet all other requirements for North Carolina licensure in effect at the time of application.
- (d) Furnish proof of completion of Jurisprudence Exercise 1.

*Authority G.S. 90-270.92; 90-270.95; 90-270.97.*

## SUBCHAPTER 48D - EXAMINATIONS

**21 NCAC 48D .0102 SCHEDULE AND LOCATION OF EXAMINATION**

Examinations may be scheduled by the applicant ~~throughout the year~~ at sites designated by the testing agency recognized by the Federation.

*Authority G.S. 90-270.92.*

**SUBCHAPTER 48E - APPLICATION FOR LICENSURE**

**SECTION .0100 - REQUIREMENTS**

**21 NCAC 48E .0101 FILING APPLICATION**

(a) An applicant for licensure shall ascertain that his or her credentials are filed with the executive director in accordance with the rules of this Subchapter.

(b) To be certain an applicant will be considered for the desired examination date, ~~the application shall be submitted~~ the applicant shall submit all application requirements to the executive director at least ~~30~~ 60 days prior to the examination.

(c) The Board shall not approve an application until the applicant has graduated as defined by 21 NCAC 48A .0105(6).

*Authority G.S. 90-270.92; 90-270.95; 90-270.98(b).*

**21 NCAC 48E .0110 FOREIGN-TRAINED PHYSICAL THERAPIST APPLICANT BY EXAMINATION**

(a) This Rule shall apply to a physical therapist who has graduated from a program located outside the United States that has not been accredited by the Commission of Accreditation of Physical Therapy Education (CAPTE) or its successor, in accordance with G.S. 90-270.95(2), and does not hold an active license in another state or territory of the United States.

(b) All application forms and supporting documents shall be completed in English or accompanied by an English translation.

(c) For the applicant's educational credentials background to be determined substantially equivalent to that obtained by an applicant for licensure pursuant to G.S. 90-270.95(2), the applicant shall meet the standards of the Federation's most recent Coursework Tool (CWT) for Physical Therapists at ~~[https://www.fsbpt.org/FreeResources/RegulatoryResources/CourseworkTools\(CWT\).aspx](https://www.fsbpt.org/FreeResources/RegulatoryResources/CourseworkTools(CWT).aspx)~~ [https://www.fsbpt.org/FreeResources/RegulatoryResources/CourseworkTools\(CWT\).aspx](https://www.fsbpt.org/FreeResources/RegulatoryResources/CourseworkTools(CWT).aspx), and for Physical Therapist Assistants at ~~[https://www.fsbpt.org/FreeResources/RegulatoryResources/CourseworkTools\(CWT\).aspx](https://www.fsbpt.org/FreeResources/RegulatoryResources/CourseworkTools(CWT).aspx)~~ [https://www.fsbpt.org/FreeResources/RegulatoryResources/CourseworkTools\(CWT\).aspx](https://www.fsbpt.org/FreeResources/RegulatoryResources/CourseworkTools(CWT).aspx).

These coursework tools are incorporated by reference, including subsequent amendments and editions. Individuals wishing to obtain a copy may call the Federation at 703-299-3100 or download a copy from the Federation's website at no cost. Copies of the coursework tools are on file at the Division located at 8300 Health Park Suite 233, Raleigh, NC 27615 and are available for public inspection during regular business hours.

(d) The applicant shall make arrangements to have the credentials evaluated by the Foreign Credentialing Commission on Physical Therapy or a service that has a physical therapist consultant on staff and that is authorized to use the Federation's CWTs for physical therapists referred to in Paragraph (c) of this Rule. The

Board shall review an applicant's educational program and shall consider the findings of the credentialing service.

(e) The applicant shall provide the following information to the Board:

- (1) proof that the applicant has demonstrated English language proficiency by meeting the most recent Test of English as a Foreign Language (TOEFL) score requirement as defined by the Federation. This test is incorporated by reference, including subsequent amendments and editions. Individuals wishing to register for the TOEFL shall contact Examination Testing Service (<http://www.ets.org/toefl/>). The cost of this examination is posted on the ETS website. The TOEFL is an examination that is owned by ETS and is not available for public review; or
- (2) ~~proof that coursework was taught in the English language; or~~
- (3)(2) documentation for exemption pursuant to 8 CFR 212.15 (<http://www.uscis.gov/>). 8 CFR 212.15 is incorporated by reference, including subsequent amendments and editions. Individuals wishing to obtain a copy at no cost may call the United States Citizenship and Immigration Service National Customer Service Center at 1-800-375-5283 or 1-800-767-1833 (TDD) toll free. A copy of 8 CFR 212.15 is on file at the Division located at 8300 Health Park Suite 233, Raleigh, NC 27615 and is available for public inspection during regular business hours.
- (3) An applicant for licensure shall consent to an FBI criminal history record check by furnishing a complete set of fingerprints at the applicant's expense.

*Authority G.S. 90-270.92; 90-270.95; 90-270.97; 90-270.98; 143B-964; 150B-21.6(2); .*

**21 NCAC 48E .0111 FOREIGN-TRAINED PHYSICAL THERAPIST APPLICANT BY ENDORSEMENT**

(a) This Rule shall apply to a physical therapist who has graduated from a program located outside the United States that has not been accredited by the Commission of Accreditation of Physical Therapy Education (CAPTE) or its successor, in accordance with G.S. ~~90-270.92(2)~~ 90-270.95(2), and holds an active physical therapist license in another state or territory of the United States.

(b) All application forms and supporting documents shall be completed in English or accompanied by an English translation.

(c) For the applicant's educational credentials background to be determined substantially equivalent to an educational program accredited pursuant to G.S. 90-270.95(2), the applicant shall meet the standards of the Federation's Coursework Tool (CWT) [https://www.fsbpt.org/FreeResources/RegulatoryResources/CourseworkTools\(CWT\).aspx](https://www.fsbpt.org/FreeResources/RegulatoryResources/CourseworkTools(CWT).aspx) for the applicant's year of graduation. This coursework tool is incorporated by reference, including subsequent amendments and editions. Individuals

wishing to obtain a copy may call the Federation at 703-299-3100 or download a copy from the Federation's website at no cost. A copy of the coursework tool is on file at the Division located at 8300 Health Park Suite 233, Raleigh, NC 27615 and is available for public inspection during regular business hours.

(d) The applicant shall make arrangements to have the credentials evaluated by the Foreign Credentialing Commission on Physical Therapy or a service that has a physical therapist consultant on staff and that is authorized to use the Federation's CWTs for physical therapists referred to in Paragraph (c) of this Rule. The Board shall review an applicant's educational program and shall consider the findings of the credentialing service.

(e) The applicant shall provide the following information to the Board:

- (1) ~~for examinations administered prior to August 1, 1998, proof that a score of 210 on the TSE (Test of Spoken English) or the SPEAK (Speaking Proficiency English Assessment Kit) examination was obtained ([www.ets.org/toefl/ibt/](http://www.ets.org/toefl/ibt/));~~
- (2) ~~for examinations administered on or after August 1, 1998, and prior to January 1, 2007, the following proof shall be provided:~~
  - (A) ~~minimum score of 50 on the TSE examination or the SPEAK examination;~~
  - (B) ~~minimum score on the Test of Written English (TWE) of 4.5; and~~
  - (C) ~~minimum score of 560 on the Test of English as a Foreign Language (TOEFL);~~
- (3) ~~for examinations administered on or after January 1, 2007, proof shall be provided that the applicant obtained the following minimum standard scale scores in each of the four scoring domains (Listening, Reading, Writing, and Speaking), and the total score of the iBT/Next Generation TOEFL:~~
  - (A) ~~Writing: 24;~~
  - (B) ~~Speaking: 26;~~
  - (C) ~~Reading Comprehension: 21;~~
  - (D) ~~Listening Comprehension: 18; and~~
  - (E) ~~Total Score: 89;~~
- (4) ~~proof that coursework was taught in the English language; or~~
- (1) proof that the applicant has demonstrated English language proficiency by meeting the most recent Test of English as a Foreign Language (TOEFL) score requirement as defined by the Federation. This test is incorporated by reference, including subsequent amendments and editions. Individuals wishing to register for the TOEFL shall contact Examination Testing Service (<http://www.ets.org/toefl/>). The cost of this examination is posted on the ETS website. The TOEFL is an examination that is owned by ETS and is not available for public review; or

~~(5)(2)~~ documentation for exemption pursuant to 8 CFR 212.15 (<http://www.uscis.gov/>). 8 CFR 212.15 is incorporated by reference, including subsequent amendments and editions. Individuals wishing to obtain a copy at no cost may call the United States Citizenship and Immigration Service National Customer Service Center at 1-800-375-5283 or 1-800-767-1833 (TDD) toll free. A copy of 8 CFR 212.15 is on file at the Division located at 8300 Health Park Suite 233, Raleigh, NC 27615 and is available for public inspection during regular business hours.

(3) An applicant for licensure shall consent to an FBI criminal history record check by furnishing a complete set of fingerprints at the applicant's expense.

Authority G.S. 90-270.92; 90-270.95; 90-270.95(2); 90-270.97; 90-270.98; 143B-964; 150B-21.6(2).

## **21 NCAC 48E .0112 FOREIGN-TRAINED PHYSICAL THERAPIST ASSISTANT ENDORSEMENT APPLICANT**

(a) This Rule shall apply to a physical therapist assistant who has graduated from a program located outside the United States that has not been accredited by the Commission of Accreditation of Physical Therapy Education (CAPTE) or its successor, in accordance with G.S. ~~90-270.95(3);~~ 90-270.95(3), and holds an active physical therapist assistant license in another state or territory of the United States.

(b) All application forms and supporting documents shall be completed in English or accompanied by an English translation.

(c) For the applicant's educational credentials to be determined substantially equivalent to that obtained by an applicant for licensure pursuant to G.S. 90-270.95(3), the applicant shall meet the standards of the Federation's Coursework Tool (CWT) for Physical Therapist Assistants [https://www.fsbpt.org/FreeResources/RegulatoryResources/CourseworkTools\(CWT\).aspx](https://www.fsbpt.org/FreeResources/RegulatoryResources/CourseworkTools(CWT).aspx) for the applicant's year of graduation. This coursework tool is incorporated by reference, including subsequent amendments and editions. Individuals wishing to obtain a copy may call the Federation at 703-299-3100 or download a copy from the Federation's website at no cost. A copy of the coursework tool is on file at the Division located at 8300 Health Park Suite 233, Raleigh, NC 27615 and is available for public inspection during regular business hours. If the applicant does not meet the requirements of G.S. 90-270.95(3), the Board shall examine the applicant's educational background to determine if the general and professional education is substantially equivalent to an educational program accredited pursuant to G.S. 90-270.95(2) and meets the requirements of the Federation's most recent Coursework Tool (CWT) for Physical Therapist Assistants at [https://www.fsbpt.org/FreeResources/RegulatoryResources/CourseworkTools\(CWT\).aspx](https://www.fsbpt.org/FreeResources/RegulatoryResources/CourseworkTools(CWT).aspx). This coursework tool is incorporated by reference, including subsequent amendments and editions. Individuals wishing to obtain a copy may call the Federation at 703-299-3100 or download a copy from the Federation's website at no cost. A copy of this instrument is on file at the Division

~~located at 8300 Health Park Suite 233, Raleigh, NC 27615 and is available for public inspection during regular business hours.~~

(d) The applicant shall make arrangements to have the credentials evaluated by the Foreign Credentialing Commission on Physical Therapy or a service that has a physical therapist consultant on staff and that is authorized to use the Federation's CWTs for physical therapist assistants referred to in Paragraph (c) of this Rule. The Board shall review an applicant's educational program and shall consider the findings of the credentialing service.

(e) The applicant shall provide the following information to the Board:

- (1) proof that the applicant has demonstrated English language proficiency by meeting the most recent Test of English as a Foreign Language TOEFL score requirement as defined by the Federation. This test is incorporated by reference, including subsequent amendments and editions. Individuals wishing to register for the TOEFL shall contact Examination Testing Service (<http://www.ets.org/toefl/>). The cost of this examination is posted on the ETS website. The TOEFL is an examination that is owned by ETS and is not available for public review; or
- ~~(2) proof that coursework was taught in the English language; or~~
- ~~(3)~~(2) documentation for exemption pursuant to 8 CFR 212.15 (<http://www.uscis.gov/>). 8 CFR 212.15 is incorporated by reference, including subsequent amendments and editions. Individuals wishing to obtain a copy at no cost may call the United States Citizenship and Immigration Service National Customer Service Center at 1-800-375-5283 or 1-800-767-1833 (TDD) toll free. A copy of 8 CFR 212.15 is on file at the 8300 Health Park Suite 233, Raleigh, NC 27615 and is available for public inspection during regular business hours.
- (3) An applicant for licensure shall consent to an FBI criminal history record check by furnishing a complete set of fingerprints at the applicant's expense.

*Authority G.S. 90-270.92; ~~90-270.92(2);~~ 90-270.95; 90-270.97; 90-270.98; 143B-964; 150B-21.6(2).*

## **SECTION .0500 - PHYSICAL THERAPIST ASSISTANT LICENSURE BY EQUIVALENCY**

### **21 NCAC 48E .0510 FOREIGN-TRAINED PHYSICAL THERAPIST ASSISTANT EXAM APPLICANT**

(a) This Rule shall apply to a physical therapist assistant who has graduated from a program located outside the United States that has not been accredited by the Commission of Accreditation of Physical Therapy Education (CAPTE) or its successor, in accordance with G.S. 90-270.95(3).

(b) All application forms and supporting documents shall be completed in English or accompanied by an English translation.

(c) For the applicant's educational credentials to be determined substantially equivalent to that obtained by an applicant for

licensure pursuant to G.S. 90-270.95(3), the applicant shall meet the standards of the most recent Federation's Coursework Tool (CWT) for Physical Therapist Assistants [https://www.fsbpt.org/FreeResources/RegulatoryResources/CourseworkTools\(CWT\).aspx](https://www.fsbpt.org/FreeResources/RegulatoryResources/CourseworkTools(CWT).aspx). This coursework tool is incorporated by reference, including subsequent amendments and editions. Individuals wishing to obtain a copy may call the Federation at 703-299-3100 or download a copy from the Federation's website at no cost. A copy of the coursework tool is on file at the Division located at 8300 Health Park Suite 233, Raleigh, NC 27615 and is available for public inspection during regular business hours.

(d) The applicant shall make arrangements to have the credentials evaluated by the Foreign Credentialing Commission on Physical Therapy or a service that has a physical therapist consultant on staff and that is authorized to use the Federation's CWTs for physical therapist assistants referred to in Paragraph (c) of this Rule. The Board shall review an applicant's educational program and shall consider the findings of the credentialing service.

(e) The applicant shall provide the following information to the Board:

- (1) proof that the applicant has demonstrated English language proficiency by meeting the most recent Test of English as a Foreign Language TOEFL score requirement as defined by the Federation. This test is incorporated by reference, including subsequent amendments and editions. Individuals wishing to register for the TOEFL shall contact Examination Testing Service (<http://www.ets.org/toefl/>). The cost of this examination is posted on the ETS website. The TOEFL is an examination that is owned by ETS and is not available for public review; or
- (2) documentation for exemption pursuant to 8 CFR 212.15 (<http://www.uscis.gov/>). 8 CFR 212.15 is incorporated by reference, including subsequent amendments and editions. Individuals wishing to obtain a copy at no cost may call the United States Citizenship and Immigration Service National Customer Service Center at 1-800-375-5283 or 1-800-767-1833 (TDD) toll free. A copy of 8 CFR 212.15 is on file at the 8300 Health Park Suite 233, Raleigh, NC 27615 and is available for public inspection during regular business hours.
- (3) An applicant for licensure shall consent to an FBI criminal history record check by furnishing a complete set of fingerprints at the applicant's expense.

*Authority G.S. 90-270.92; 90-270.95; 90-270.97; 90-270.98; 143B-964; 150B-21.6(2).*

## **SUBCHAPTER 48G - RETENTION OF LICENSE**

### **SECTION .0100 - LICENSURE RENEWAL**

**21 NCAC 48G .0109 CONTINUING COMPETENCE  
ACTIVITIES**

(a) Continuing Education activities are eligible for points as follows:

- (1) A registered attendee at courses or conferences offered live in real time by approved providers earns one point for each contact hour. The maximum number of points allowed during any reporting period shall be 29. The maximum number of points allowed during any reporting period for an interactive course offered through electronic media shall be 15. Credit shall not be given for the same course or conference more than once during any reporting period. The licensee shall retain ~~submit~~ the Certificate of Attendance issued by the approved provider.
- (2) For registered participation in an academic course related to physical therapy offered for credit in a post-baccalaureate program unless the course is required for licensure, one semester hour earns 15 points, and the maximum number of points allowed during any reporting period shall be 29. The licensee shall obtain a letter grade of "C" or better, or "P" if offered on a pass/fail basis. Credit shall not be given for the same course more than one time. The licensee shall retain ~~submit~~ a transcript published by the approved provider or furnished by the academic institution.
- (3) For attendance or participation in an activity related to physical therapy for which no assessment is received, two contact hours earns one point. The maximum number of points allowed during any reporting period shall be five. Credit shall not be given for the same activity more than one time. The licensee shall retain ~~submit~~ a certificate of completion, or if that is not available, a summary of the objectives of the activity and the time spent in the activity.
- (4) For registered participation in a non-interactive course offered by an approved provider by videotape, satellite transmission, webcast, DVD, or other electronic media, one hour of participation earns one point. The maximum number of points allowed during any reporting period shall be 10. Credit shall not be given for the same course more than once during a reporting period. The licensee shall retain ~~submit~~ a certificate of completion provided by the course provider.
- (5) For participation in a study group consisting of at least three licensees conducted either live or in real time through electronic media, whose purpose is to advance the knowledge and skills of the participants related to the practice of physical therapy, two hours of participation in the study group earns one point. The maximum number of points allowed during any reporting

period shall be 10. The licensee shall retain ~~submit~~ a biography of each participant, a statement of the goals of the study group, attendance records for each participant, assignments for each participant and an analysis by each participant specifying the knowledge and skills enhanced by participating in the study group.

- (6) For participation in a self-designed home study program for the purpose of advancing the knowledge and skill of the participant related to the practice of physical therapy, three hours of home study earns one point. The maximum number of points allowed for home study during any reporting period shall be five. The licensee shall retain ~~submit~~ a description of the plans and objectives of the me study, an analysis of the manner in which the plans and objectives were met, and a certification of the time spent on the project.
- (7) For participation in continuing education required by credentialed residencies and fellowships, one point shall be granted for each contact hour. The maximum number of points for each reporting period shall be 29. The licensee shall retain ~~submit~~ the certificate of attendance issued by the American Physical Therapy Association ("APTA") credentialed residency or fellowship.
- (8) For completion of a home study physical therapy program furnished by an approved provider, one hour of home study earns one point. The maximum number of points during any one reporting period allowed shall be 10. The licensee shall retain ~~submit~~ a certificate of completion issued by the approved provider.

(b) Points are awarded for advanced training as follows:

- (1) For fellowships conferred by organizations credentialed by the APTA in a specialty area of the practice of physical therapy, 10 points shall be awarded for each full year of clinical participation, up to a maximum of 20 points per reporting period for this activity. The licensee shall retain ~~submit~~ the certificate conferred on the licensee or evidence that all requirements of the fellowship program have been met.
- (2) For completion of a residency program in physical therapy offered by an APTA credentialed organization, 10 points shall be awarded for each full year of clinical participation, up to a maximum of 20 points per reporting period for this activity. The licensee shall retain ~~submit~~ the certificate conferred on the licensee or evidence that all requirements of the residency program have been met.
- (3) For specialty certification or specialty recertification by the American Board of Physical Therapy Specialization ("ABPTS"), 20 points shall be awarded upon receipt of such



certification or recertification during any reporting period. The licensee shall retain ~~submit~~ evidence from ABPTS that the certification or recertification has been granted.

- (4) For a physical therapist assistant, Advanced Proficiency designation by the APTA for the PTA earns 19 points per reporting period. The licensee shall retain ~~submit~~ evidence from APTA that the designation has been awarded.

(c) Achieving a passing score on the Federation's Practice Review Tool ("PRT") earns 10 points. Taking the PRT without achieving a passing score earns five points. The licensee shall retain ~~submit~~ the certificate of completion and performance report. Points shall be awarded only one time for any specific practice area.

(d) Clinical Education activities are eligible for points as follows:

- (1) For completion of a course offered by an approved provider for a licensee to become a Credentialed Clinical Instructor recognized by APTA, one course hour earns one point, and the maximum number of points awarded during any reporting period shall be 29. The licensee shall retain ~~submit~~ a credential certificate issued by the approved provider. Credit for completing the same course shall be given only once.
- (2) For enrollment in a course offered by APTA for a licensee to become a Credentialed Clinical Instructor Trainer, one course hour earns one point, and the maximum number of points awarded during any reporting period shall be 29. The licensee shall retain ~~submit~~ a Trainer certificate issued by APTA. Credit for completing the same course shall be given only once.
- (3) For serving as a Clinical Instructor for a physical therapist or physical therapist assistant student, resident, or fellow for a period of at least 80 hours, 40 hours of direct on-site supervision earns one point, and the maximum number of points awarded during any reporting period shall be eight. The licensee shall retain ~~submit~~ verification of the clinical affiliation agreement with the accredited educational program for the student supervised and a log showing the number of hours spent supervising the student.

(e) Presenting or teaching for an accredited physical therapy educational program; a transitional Doctor of Physical Therapy ("DPT") program; an accredited program for health care practitioners licensed under the provisions of Chapter 90 of the North Carolina General Statutes; or a state, national, or international workshop, seminar or professional health care conference earns two points for each hour of presentation or teaching. The licensee shall retain ~~submit~~ written materials advertising the presentation or teaching, or other evidence of the date, subject, goals and objectives of the presentation, and any written materials prepared by the licensee. A maximum of six points shall be allowed during any reporting period, and credit shall not be given for teaching or presenting the same subject matter more than one time during any reporting period.

(f) Research and published books or articles shall be eligible to accumulate up to a maximum of 15 points as follows:

- (1) Submission of a request to a funding agency for a research grant as a Principal or Co-Principal Investigator earns 10 points. The licensee shall retain ~~submit~~ a copy of the research grant that shall include the title, an abstract, the funding agency, and the grant period. Points shall be awarded only one time during any reporting period.
- (2) Having a research grant funded as a Principal Investigator or Co-Principal Investigator earns 10 points. The licensee shall retain ~~submit~~ a copy of the research grant that shall include the title, an abstract, the funding agency, the grant period and documentation of the funding received in a given period. Points shall be awarded only one time during a reporting period.
- (3) Service as a Grants Reviewer earns one point for each two hours of grant review and a maximum of five points shall be allowed. The licensee shall retain ~~submit~~ a description of all grants reviewed and any reports generated in connection with the reviews, including the dates of service, the agency for whom the review was performed, and the hours spent on the grant review. Points shall be awarded only once for each grant reviewed during the reporting period.
- (4) The author or editor of a book published by a third party entity dealing with a subject related to the practice of physical therapy earns 10 points. The licensee shall retain ~~submit~~ a copy of the published book and a list of consulted resources. Points shall be awarded only one time during any reporting period.
- (5) The author or editor of a chapter in a book published by a third party entity dealing with a subject related to the practice of physical therapy earns five points. The licensee shall retain ~~submit~~ a copy of the published book and a list of consulted resources. Points shall be awarded only one time during any reporting period.
- (6) The author of a published peer-reviewed article relating to the practice of physical therapy earns 10 points. The licensee shall retain ~~submit~~ the article, names and employers of the reviewers, and a list of consulted resources. Points shall be awarded only one time during any reporting period.
- (7) The author of a published non peer-reviewed article or book-review or abstract relating to the practice of physical therapy earns four points. The licensee shall retain ~~submit~~ the article and a list of consulted resources. Each article, book-review, or abstract shall count one time only. A

maximum of four points shall be awarded during any reporting period.

- (8) The author of a published peer-reviewed abstract, book review, or peer-reviewed abstract for a poster or presentation related to the practice of physical therapy to a professional health care group earns five points for a presentation, up to a maximum of 15 points during any reporting period, and credit for the same poster or presentation shall not be awarded more than one time. The licensee shall retain ~~submit~~ a copy of the poster or presentation and a list of consulted resources.

(g) Clinical practice shall be eligible for points as follows:

- (1) For each year during the reporting period that a licensee is engaged in clinical practice for 1,750 hours or more, three points shall be awarded. The licensee shall retain ~~submit~~ certification from the employer(s) for whom the services were performed including year and hours worked or document practice hours as the owner of a practice.
- (2) For each year during the reporting period that a licensee is engaged in clinical practice for at least 1,000 hours but less than 1,750 hours, two points shall be awarded. The licensee shall retain ~~submit~~ a certification from the employer(s) for whom the services were performed including year and hours worked or document practice hours as the owner of a practice.
- (3) For each year during the reporting period that a licensee is engaged in clinical practice for at least 200 hours but less than 1,000 hours, one point shall be awarded. The licensee shall retain ~~submit~~ a certification from the employer(s) for whom the services were performed including year and hours worked or document practice hours as the owner of a practice.

(h) Professional Self-Assessment earns five points for completion of an approved Reflective Practice Exercise. This exercise shall be approved if it is a process for a licensee to evaluate current professional practice abilities, to establish goals to improve those abilities, to develop a plan to meet those goals, and to document that the objectives are being accomplished. The licensee shall retain ~~submit~~ evidence of completion of all elements of the Reflective Practice Exercise. Points shall be awarded only one time during any reporting period.

(i) Workplace Education shall be eligible for points as follows:

- (1) Presentation or attendance at an in-service session related to the practice of physical therapy, including health care issues related to the practice of physical therapy, shall be allowed. The licensee shall retain ~~submit~~ a roster or certificate of attendance signed by a representative of the employer. Two hours of attendance earns one point. One hour of presentation earns one point. A maximum of five points may be earned during any one

reporting period. Credit for the same in-service shall not be granted more than one time.

- (2) Presentation or attendance at an in-service session devoted to general patient safety, emergency procedures, or governmental regulatory requirements shall be allowed. The licensee shall retain ~~submit~~ a roster or certificate of attendance signed by a representative of the employer. Two contact hours of in-service are equivalent to one point, which shall be the maximum credit granted during any reporting period. Credit for the same in-service shall not be granted more than one time during any reporting period.

(j) Professional Service shall be eligible for points as follows:

- (1) Participation in a national physical therapy or interdisciplinary (including physical therapy) organization as an officer or chair of a physical therapy services committee, physical therapy services task force member, or delegate to a national assembly earns five points for each full year of participation, up to a maximum of 10 points during any reporting period. The licensee shall retain ~~submit~~ organizational materials listing the licensee's participation, a statement of the responsibilities of the position, and a summary of the activities of the licensee.
- (2) Participation in a state physical therapy or interdisciplinary (including physical therapy) organization as an officer or chair of a physical therapy services committee earns four points for each full year of participation, up to a maximum of eight points during any reporting period. The licensee shall retain ~~submit~~ organizational materials listing the licensee's participation, a statement of the responsibilities of the position, and a summary of the activities of the licensee.
- (3) Participation in a local or regional physical therapy or interdisciplinary (including physical therapy) organization as an officer or chair of a physical therapy service committee earns two points for each full year of participation, up to a maximum of four points during any reporting period. The licensee shall retain ~~submit~~ organizational materials listing the licensee's participation, a statement of the responsibilities of the position, and a summary of the activities of the licensee.
- (4) Participation as a member of a physical therapy professional organization committee involved with physical therapy services earns one point for each full year of participation, up to a maximum of two points during any reporting period. The licensee shall retain ~~submit~~ organizational materials listing the licensee's participation, a statement of the responsibilities of the committee, and a summary of the work of the committee.

- (5) Participation in unpaid volunteer service to the general public and healthcare professionals related to physical therapy earns one point for at least 20 hours spent on service activities during each year, up to a maximum of two points during any reporting period. The licensee shall retain ~~submit~~ published materials describing the service activity.
- (6) Membership in the APTA for one year earns one point. A point may be earned for each year of membership during the reporting period. The licensee shall retain ~~submit~~ proof of membership in the APTA.
- (7) Membership in an APTA Section for one year earns one-half point. The licensee shall retain ~~submit~~ proof of membership in the APTA Section. Points shall not be awarded for membership in more than one Section.
- (8) Selection by the Federation for participation as an item writer of exam questions for the National Physical Therapy Examination (NPTE) or by the American Board of Physical Therapy Specialties (ABPTS) earns five points for each year of participation. The licensee shall retain ~~submit~~ documentation of participation by the Federation or ABPTS.
- (9) Participation in clinical research, clinical trials, or research projects related to the practice of physical therapy earns 1 point for each hour of participation, up to a maximum of 10 hours per reporting period. The licensee shall retain ~~submit~~ a log of hours of participation including date, activity performed, location of the research, and primary investigator.

(k) During each reporting period, every licensee shall complete a jurisprudence exercise provided by the Board. The jurisprudence exercise shall be available online at the Board's website, at <http://www.ncptboard.org> and a certificate of completion shall be issued to a licensee at the conclusion of the exercise, at which time one point shall be awarded to the licensee. The maximum number of points allowed during a reporting period is three.

*Authority G.S. 90-270.92.*

## **SECTION .0200 - LAPSED LICENSES**

### **21 NCAC 48G .0202 NOTIFICATION**

A person who has not renewed the license by February 1 shall be advised that the license has lapsed by written communication to the last known mailing address or email address on record with the Board. Unless the person has advised the Board that he or she does not intend to renew the license, then a similar notification shall be sent to the person's last known employer in North Carolina. If the person continues to work in North Carolina, his or her employer shall be notified of the lapsed license.

*Authority G.S. 90-270.92; 90-270.99.*

## **SECTION .0500 - CONTESTED CASE HEARINGS**

### **21 NCAC 48G .0504 COMPLAINTS AND INVESTIGATIONS**

(a) In order to file a complaint with the Board, the following information shall be submitted to the Board in ~~writing~~ writing, or by filing a complaint online at the Board's website [www.ncptboard.org](http://www.ncptboard.org):

- (1) the name and address of person alleged to have violated the Physical Therapy Practice Act;
- (2) a statement of conduct that is the basis of the complaint; and
- (3) the name, address, and telephone number of complainant.

(b) Upon receipt of a written complaint alleging misconduct that may subject a licensee to disciplinary action, or upon the receipt of the information that a violation of the Physical Therapy Practice Act may have occurred, the Board shall investigate the matter to determine whether probable cause exists to institute disciplinary proceedings.

(c) The Executive Director of the Board and a member appointed by the Chair shall serve as an investigative committee. This investigative committee may be assisted by:

- (1) the Board's attorney;
- (2) an investigator; or
- ~~(3) a former member of the Board; or~~
- ~~(4)~~ (3) a consultant consultant, who is not a NC PT/PTA licensee, retained by the investigative committee who possesses expertise that will assist the investigative committee in its investigation.

(d) The investigative committee shall investigate the complaint or information set forth in Paragraphs (a) and (b) of this Rule. In conducting its investigation, the Board Chair (or Executive Director, if designated by the Chair) may issue subpoenas in the investigative committee's name for the production of documents pursuant to the provisions of Rule .0512 of this Section. The investigative committee shall determine whether there is probable cause to believe that the licensee has violated any statute or Board rule that justifies a disciplinary hearing. If the investigative committee determines probable cause does not exist, the complaint shall be dismissed, and the complainant shall be notified of the investigative committee's action and its reasons. If the investigative committee determines that probable cause exists, the investigative committee shall offer to confer with the licensee in an attempt to settle the matter through informal means. If the investigative committee and the licensee reach an agreement on the disposition of the matter under investigation, the investigative committee shall cause to be drafted a proposed settlement agreement that shall include findings of fact, conclusions of law, and a consent order for presentation to and consideration by the Board. The settlement agreement shall be presented to and approved by the licensee before it is presented to the Board for consideration and approval.

(e) Prior to a decision rendered by the Board, any materials generated or obtained by the Board in conducting an investigation shall be considered confidential investigation records not subject to the Public Records Act, G.S. 132. However, copies of the materials may be provided to a licensee subject to disciplinary action, or to the licensee's attorney, so long as identifying information concerning the treatment or delivery of professional

services to a patient who has not consented to its public disclosure shall be redacted.

(f) If the investigative committee and the licensee are not able to settle the matter under investigation by informal means, the licensee may request a contested case hearing pursuant to Rule .0502 of this Section or the Board shall give notice of a disciplinary or contested case hearing.

(g) If probable cause is found, but it is determined that license suspension or revocation is not warranted, the investigative committee shall recommend that the Board place the licensee on probation, or issue a warning to the licensee. In making this determination, the investigative committee shall consider such factors as harm to the public; nature of the conduct; and prior record of discipline. The investigative committee shall mail or email a copy of its recommendation to the ~~licensee~~ licensee or the licensee's attorney.

(h) Within 20 days after receipt of the recommendation, the licensee may refuse the probation or warning and request a contested case hearing pursuant to this Rule. The refusal and request shall be filed with the Board. The legal counsel for the Board shall thereafter prepare, file, and serve a Notice of Hearing.

(i) In the alternative, within 20 days after receipt of the recommendation, the licensee may request an informal meeting with the Board to discuss the basis of the investigative committee's recommendation and present reasons why the Board

should not follow the investigative committee's recommendation. There shall be no sworn testimony presented, nor shall there be a formal record of the proceedings.

(j) If the licensee does not request a contested case hearing or an informal meeting with the Board, the Board shall still determine whether to accept the investigative committee's recommendation.

(k) Participation by a current Board member in the investigation of a complaint shall disqualify that Board member from participating in the decision making process of a contested case hearing.

(l) Subsequent to the issuance of a notice of hearing, the attorney prosecuting the contested case for the Board may not communicate, directly or indirectly, in connection with any issue of fact or question of law, with any party, including the members of the Board assigned to make a decision or to make findings of fact and conclusions of law in the contested case, except on notice and opportunity for all parties to participate. However, the attorney prosecuting the matter for the Board may continue to communicate concerning the contested case with the members of the investigative committee who investigated the matter, with persons not parties to the contested case who may be called as witnesses including the person who filed the complaint, and with the Board members about other matters.

*Authority G.S. 90-270.92; 150B-38; 150B-39; 150B-40.*

**Note from the Codifier:** The rules published in this Section of the NC Register are temporary rules reviewed and approved by the Rules Review Commission (RRC) and have been delivered to the Codifier of Rules for entry into the North Carolina Administrative Code. A temporary rule expires on the 270<sup>th</sup> day from publication in the Register unless the agency submits the permanent rule to the Rules Review Commission by the 270<sup>th</sup> day.  
This section of the Register may also include, from time to time, a listing of temporary rules that have expired. See G.S. 150B-21.1 and 26 NCAC 02C .0500 for adoption and filing requirements.

## **TITLE 16 – STATE BOARD OF EDUCATION**

**Rule-making Agency:** State Board of Education

**Rule Citation:** 16 NCAC 06C .0314 and .0315

**Effective Date:** October 25, 2019

**Date Approved by the Rules Review Commission:** October 17, 2019

**Reason for Action:** The effective date of a recent act of the General Assembly or of the U.S. Congress, S.L 2019-71, Effective date July 1, 2019.

Session Law 2019-71 explicitly directs the State Board to adopt emergency rules for the implementation of the act in accordance with G.S. 150B-21.1A. These rules were adopted as emergency rules on July 11, 2019 by the State Board of Education and were submitted to OAH on July 15, 2019 as proposed temporary rules. In order to prevent these emergency rules from expiring under G.S. 150B-21.1A(d), they must be adopted as temporary rules and submitted to the Rules Review Commission on or prior to October 14, 2019.

### **CHAPTER 06 - ELEMENTARY AND SECONDARY EDUCATION**

#### **SUBCHAPTER 06C - PERSONNEL**

#### **SECTION .0300 - CERTIFICATION**

##### **16 NCAC 06C .0314 INITIAL PROFESSIONAL LICENSE: NOTIFICATION OF NON-COMPLIANCE AND SUBMISSION OF EXAMINATION REQUIREMENTS**

(a) When the holder of an initial professional license is not in compliance with the requirements of G.S. 115C-270.15, the Department of Public Instruction ~~satisfies its statutory duty to~~ shall notify the teacher of ~~such~~ deficiencies by transmitting at least one communication to the teacher through either:

- (1) electronic mail to the applicant's last known email address as reported to the Department's Licensure Office; or
- (2) regular mail to the applicant's last known physical address as reported to the Department's Licensure Office.

(b) The Department shall provide notification to the teacher of noncompliance with first-year licensure examination requirements by July 31 each year. A teacher's failure to receive actual notice of noncompliance shall not constitute grounds for an extension of time to complete licensure examination requirements.

~~(b)(c)~~ Teachers seeking to convert an initial professional license to a continuing professional license shall submit to the Department all documentation required to show compliance with the examination requirements.

*History Note:* Authority G.S. 115C-270.15(d); 115C-270.15(e); ~~N.C. Constitution, Article IX, Sec. 5;~~

*Emergency Adoption Eff. July 23, 2019, pursuant to S.L. 2019-71;*

*Temporary Adoption Eff. October 25, 2019.*

##### **16 NCAC 06C .0315 EVIDENCE OF TEACHER EFFECTIVENESS TO BE SUBMITTED BY LICENSED OUT-OF-STATE TEACHERS SEEKING A CONTINUING PROFESSIONAL LICENSE**

~~(a)~~ A teacher who possesses three or more years of teaching experience and ~~currently~~ holds an initial professional license or its equivalent in a state other than North Carolina shall be eligible for a continuing professional license, provided that he or she submits to the Department of Public Instruction evidence of his or her effectiveness, which shall include ~~at least~~ the following:

- (1) a copy of a current, valid out-of-state teaching license in good standing;
- (2) information identifying all of the schools and school systems in which the educator is teaching or has taught;
- (3) documentation of effective instructional practice in the form of a written classroom observation evaluation; and
- (4) ~~the following:~~ documentation of teacher effectiveness:
  - (a) documentation of teacher effectiveness as measured by the evaluation system used in that applicant's state of current licensure at the time of application, including any growth measures included in that state or school district's evaluation ~~system~~ system, along with relevant ~~documentation~~ documentation corresponding to each submitted item of evidence indicating the scale by which effectiveness is measured; or
  - (b) an official letter from the State Education Agency (SEA) affirming that the teacher was deemed effective according to that state's educator effectiveness model.

*History Note:* Authority G.S. 115C-270.25; ~~N.C. Constitution, Article IX, Sec. 5;~~

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**TEMPORARY RULES**

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*Emergency Adoption Eff. July 23, 2019, pursuant to S.L. 2019-71;*

*Temporary Adoption Eff. October 25, 2019.*

*This Section contains information for the meeting of the Rules Review Commission October 17, 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 (Chair)  
Robert A. Bryan, Jr.  
Margaret Currin  
Brian P. LiVecchi  
W. Tommy Tucker, Sr.

**Appointed by House**

Jeanette Doran (1<sup>st</sup> Vice Chair)  
Andrew P. Atkins  
Anna Baird Choi (2<sup>nd</sup> Vice Chair)  
Paul Powell  
Garth Dunklin

**COMMISSION COUNSEL**

Amber Cronk May (919) 431-3074  
Amanda Reeder (919) 431-3079  
Ashley Snyder (919) 431-3081

**RULES REVIEW COMMISSION MEETING DATES**

November 21, 2019      December 19, 2019  
January 16, 2020      February 20, 2020

**RULES REVIEW COMMISSION MEETING****MINUTES****October 17, 2019**

The Rules Review Commission met on Thursday, October 17, 2019, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were Andrew Atkins, Anna Baird Choi, Jeanette Doran, Garth Dunklin, Jeff Hyde, Paul Powell, and Tommy Tucker.

Staff members present were Commission Counsel Amber Cronk May, Ashley Snyder, and Amanda Reeder; and Julie Brincefield, Alex Burgos, and Dana McGhee.

The meeting was called to order at 9:00 a.m. with Chairman Hyde presiding.

Chairman Hyde read the notice required by G.S. 138A-15(e) and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts of interest.

**APPROVAL OF MINUTES**

Chairman Hyde asked for any discussion, comments, or corrections concerning the minutes of the September 19, 2019 meeting. There were none and the minutes were approved as distributed.

**FOLLOW UP MATTERS****Department of Administration**

The agency is addressing the objection for 01 NCAC 05B .1520. No action was required by the Commission.

**Board of Elections**

The agency is addressing the objection for 08 NCAC 10B .0103. No action was required by the Commission.

**Social Services Commission**

10A NCAC 06S .0101, .0102, .0203, .0204, .0301, .0302, .0402, .0403, .0404, .0405, .0501, .0508; and 06T .0201 – All rules were unanimously approved.

**Commission for the Blind**

The agency is addressing the objections for 10A NCAC 63C .0203, .0204, .0403, and .0601. No action was required by the Commission.

**Department of Justice**

At the June meeting, the RRC voted pursuant to G.S. 150B-21.9 to ask the Office of State Budget and Management to determine if the adoption of 12 NCAC 02I .0306 has a substantial economic impact and therefore requires a fiscal note. The RRC is awaiting a response from the Office of State Budget and Management. No action was required by the Commission.

**Private Protective Services Board**

14B NCAC 16 .0110, .0805, .0806, .0807, .0808, .0809, .0901, .0904, .0906, and .0909 - All rules were unanimously approved.

The agency is addressing the objection to 14B NCAC 16 .0804. No action was required by the Commission.

Commissioner Tucker joined the meeting during the discussion of the rules from the Private Protective Services Board.

**Environmental Management Commission**

15A NCAC 02B .0101, .0103, .0104, .0106, .0108, .0110, .0201, .0202, .0203, .0204, .0205, .0206, .0208, .0211, .0212, .0214, .0215, .0216, .0218, .0219, .0220, .0221, .0222, .0223, .0224, .0225, .0226, .0227, .0228, .0230, .0231, .0301, .0302, .0303, .0304, .0305, .0306, .0307, .0308, .0309, .0310, .0311, .0312, .0313, .0314, .0315, .0316, and .0317 - All rules were unanimously approved.

**Environmental Management Commission**

15A NCAC 02B .0402, .0403, .0404, .0406, .0407, .0408, .0501, .0502, .0503, .0504, .0505, .0506, .0508, .0511; 02H .0101, .0102, .0103, .0105, .0106, .0107, .0108, .0109, .0111, .0112, .0113, .0114, .0115, .0116, .0117, .0118, .0120, .0121, .0124, .0125, .0127, .0138, .0139, .0140, .0141, .0142, .0143, .0401, .0402, .0403, .0404, .0405, .0406, .0407, .1201, .1202, .1203, .1204, .1205, .1206 - The agency is addressing the objections from the July meeting. No action was required by the Commission.

**Board of Cosmetic Art Examiners**

21 NCAC 14H .0101 and .0102 - The agency responded in accordance with the provisions of G.S. 150B-21.12(a)(2) indicating that it decided not to change the rules in response to the September objections and requested that the rules be returned to them in accordance with 150B-21.12(d). Because the objections were to language currently existing in the NCAC, these Rules will be removed from the Code. No further action was required by the Commission.

**Board of Dental Examiners**

21 NCAC 16V .0101 and .0102 – All rules were unanimously approved.

**Board of Dietetics/Nutrition**

The agency is addressing the objections for 21 NCAC 17 .0101 and .0303. No action was required by the Commission.

**State Board of Opticians**

21 NCAC 40 .0104, .0109, .0209, .0314, .0319, .0321, .0323, and .0325 - The agency is addressing the objections and requests for technical changes from the September meeting. No action was required by the Commission.

Prior to the review of the rules from the State Board of Opticians, Commissioner Choi recused herself and did not participate in any discussion or vote concerning the rules because her law firm represents the Board and assists the Board with rulemaking.

**LOG OF FILINGS (PERMANENT RULES)****Department of Administration**

All rules were unanimously approved.

**DHHS – Division of Health Service Regulation**

All rules were unanimously approved.

**Sheriffs' Education and Training Standards**

All rules were withdrawn at the request of the agency. No action was required by the Commission.



**Environmental Management Commission 15A NCAC 02B**

The Commission extended the period of review for these Rules in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period in order to allow the agency to address technical changes and submit the rewritten rules at a later meeting.

**Environmental Management Commission 15A NCAC 02D**

All rules were unanimously approved, with the exception that Rule 15A NCAC 02D .0615 was withdrawn at the request of the agency.

**Wildlife Resources Commission**

All rules were unanimously approved.

**Environmental Management Commission 15A NCAC 13B**

All rules were unanimously approved.

**Board of Funeral Service**

The Commission objected to 21 NCAC 34A .0201 in accordance with G.S. 150B-21.10 for failure to comply with the Administrative Procedure Act and ambiguity. Specifically, the Commission found that the agency erroneously published in the NC Register an incorrect version of the rule that would increase fees without giving adequate notice of the change. Further, as the agency filed two different versions of the rule for review, it is unclear what changes were intended within this Rule.

The Commission extended the period of review for 21 NCAC 34B .0310; 34C .0305; and 34D .0105, .0203, and .0303 in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period in order to allow the agency to address the Requests for Technical Changes and submit the rewritten rules at a later meeting.

Prior to the review of the rules from the Board of Funeral Service, Commissioner Choi recused herself and did not participate in any discussion or vote concerning the rules because her law firm formerly represented the Board and assisted with rulemaking during the representation.

**LOG OF FILINGS (TEMPORARY RULES)****State Board of Education**

16 NCAC 06C .0314 and .0315 were unanimously approved.

**EXISTING RULES REVIEW****Commission for Public Health**

15A NCAC 18A – As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than March 1, 2024 pursuant to G.S. 150B-21.3A(d)(2).

**COMMISSION BUSINESS**

The meeting adjourned at 9:20 a.m.

The next regularly scheduled meeting of the Commission is Thursday, November 21, 2019 at 9:00 a.m.

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Alexander Burgos, Paralegal

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Minutes approved by the Rules Review Commission:  
Jeff Hyde, Chair

**October 17, 2019**

Rules Review Commission  
Meeting  
Please Print Legibly

Name	Agency
Julie Ventaloro	NC DEQ
CHRIS VENTALORO	NC DEQ
Kim Evans	NC DPI
Lon Martin	NC DPI
ANDREW SIOBELL	NC DPI
Melissa Strong	NC SBE
Pam Penny	NC DHHS
<del>Jeffrey</del>	WPSVS
Kirsten Cloudis	NC DHHS
<del>Mike Day Nelson</del>	NC DHS
HEATHER CARTER	NC DHHS - DAAS
Shanon Gerger	NC DOA
Martha Frisone	NC DHHS - DHSR
Larry M. Del	NC DHHS
Connie Brower	NC DWR
Virginia Niehan	NC DHHS/CPH
Adrienne Weaver	NC DWR
Danna Bartley	Board of Dental Examiners
Michael Smallwood	NC WRC
Jessica Montice	NC DEQ DWM
Bridget Shelton	NC DEQ DWR

## ***RULES REVIEW COMMISSION***

October 17, 2019

Rules Review Commission  
Meeting  
Please **Print** Legibly

[illegible]



**STATE OF NORTH CAROLINA  
OFFICE OF ADMINISTRATIVE HEARINGS**

Mailing address:  
6714 Mail Service Center  
Raleigh, NC 27699-6700

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

October 17, 2019

Virginia Niehaus, Rulemaking Coordinator  
Commission for Public Health  
1931 Mail Service Center  
Raleigh, NC 27699-1931

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **15A NCAC 18A**

Dear Ms. Niehaus:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the September 19, 2019 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than March 1, 2024.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Amber May", is written over a faint, larger signature.

Amber May  
Commission Counsel

Administration  
919/431-3000  
fax: 919/431-3100

Rules Division  
919/431-3000  
fax: 919/431-3104

Judges and  
Assistants  
919/431-3000  
fax: 919/431-3100

Clerk's Office  
919/431-3000  
fax: 919/431-3100

Rules Review  
Commission  
919/431-3000  
fax: 919/431-3104

Civil Rights  
Division  
919/431-3036  
fax: 919/431-3103

An Equal Employment Opportunity Employer

**RRC DETERMINATION  
PERIODIC RULE REVIEW**

**May 16, 2019**

**APO Review: July 20, 2019**

**Public Health, Commission for**

**Total: 97**

**RRC Determination: Necessary with substantive public interest**

<b>Rule</b>	<b>Determination</b>
<u>15A NCAC 18A .1001</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1002</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1003</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1004</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1006</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1011</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1012</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1014</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1019</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1021</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1301</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1302</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1304</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1305</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1306</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1307</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1308</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1309</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1310</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1311</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1312</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1313</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1314</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1315</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1316</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1317</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1318</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1319</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1320</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1321</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1323</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1324</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1327</u>	Necessary with substantive public interest

<u>15A NCAC 18A .1511</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1601</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1602</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1603</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1604</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1605</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1606</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1607</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1608</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1609</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1610</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1611</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1612</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1613</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1614</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1615</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1616</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1617</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1618</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1619</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1620</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1621</u>	Necessary with substantive public interest
<u>15A NCAC 18A .1724</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2518</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2650</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2670</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2674</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2801</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2802</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2803</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2804</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2806</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2807</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2808</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2809</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2810</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2812</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2814</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2815</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2816</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2817</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2818</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2819</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2820</u>	Necessary with substantive public interest

<u>15A NCAC 18A .2821</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2822</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2823</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2824</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2825</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2826</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2827</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2829</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2830</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2831</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2832</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2833</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2834</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2835</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2836</u>	Necessary with substantive public interest
<u>15A NCAC 18A .2901</u>	Necessary with substantive public interest
<u>15A NCAC 18A .3101</u>	Necessary with substantive public interest
<u>15A NCAC 18A .3105</u>	Necessary with substantive public interest
<u>15A NCAC 18A .3107</u>	Necessary with substantive public interest
<u>15A NCAC 18A .3802</u>	Necessary with substantive public interest

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<u>First-Come First-Served</u>	01 NCAC 43A .0308
<u>Rejection of Bids</u>	01 NCAC 43A .0309
<u>Receipt of Bids</u>	01 NCAC 43A .0310
<u>Inspection of Property</u>	01 NCAC 43A .0311
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<u>Timber Sales, Pine Straw, and Forest Commodities Sales</u>	01 NCAC 43A .0318
<u>Surplus Weapons and Firearms</u>	01 NCAC 43A .0319
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<u>Requirements</u>	10A NCAC 06S .0301
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<u>Procedure for Appeal</u>	10A NCAC 06S .0508
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<u>Cape Fear River Basin</u>	15A NCAC 02B .0311
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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>			
19	DHR	00787	9/27/2019	FRAN Inc	v.	NC Department of Health and Human Services, Division of Child Development and Early Education	Sutton
19	DHR	02190	9/12/2019	David Simmons	v.	Division of Health Benefits	Elkins
19	DHR	02737	9/5/2019	William Edward Mills	v.	DHHS	Ward
19	DOA	02825	9/5/2019	The Wheel of Hope Wayne L Lofton	v.	SECC	Ward
19	INS	01845	9/11/2019	Karen Vick Bates	v.	North Carolina State Health Plan	Elkins
19	OSP	01862	9/17/2019	Shenita Roberts	v.	Regina Garden Gaston County Department of Health & Human Services	Malherbe
				<b><u>Unpublished</u></b>			
19	ABC	03557	9/6/2019	NC Alcoholic Beverage Control Commission	v.	Eusleydi Paulino T/A 3Y Smoke Shop	May
19	ABC	04248	9/25/2019	NC Alcoholic Beverage Control Commission	v.	Mohamed Musa Ahmed T/A Discount Tobacco	Jacobs
19	BPP	02387	9/4/2019	Timothy David Spahr	v.	North Carolina Psychology Board Dr April Harris-Britt Keshawna Solomon	Jacobs

**CONTESTED CASE DECISIONS**

19	CPS	00281	9/20/2019	Wheeler E Lloyd	v.	NC Crime Victims Compensation Commission	Jacobs
19	CPS	03051	9/23/2019	Tiffany Ann Robinson Kyle Storm Lee (deceased victim)	v.	Liddle Shropshire Crime Victims Compensation Commission	Sutton
19	CRA	01434	9/3/2019	Takoby C Cofield	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter
19	DCS	03887	9/3/2019	Sherry Massey	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Overby
19	DCS	04172	9/20/2019	Daisy Castillo	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May
19	DHR	00820	9/3/2019	Vintage Inn Retirement Community LLC Licensee Facility Vintage Inn Retirement Village License Number HAL-058-010	v.	North Carolina Department of Health and Human Services, Division of Health Service Regulation	Overby
19	DHR	02824	9/30/2019	New Beginnings Youth Facility	v.	NC Department of Health and Human Services, Division of Health Service Regulation, Mental Health Licensure and Certification	May
19	DHR	03156	9/9/2019	Kristie L Sluder Foster Mother	v.	NC Department of Health and Human Services, Division of Social Services Child Welfare Child Protective Services	Mann
19	DHR	03206	9/11/2019	Care Health Services 1	v.	NC Department of Health and Human Services, Division of Health Service Regulation, Mental Health Licensure and Certification	Mann
19	DHR	03355	9/4/2019	Brandon M Hudspeth	v.	NC Department of Health and Human Services, Food and Nutrition Services	May
19	DHR	03447	9/27/2019	Robin Grant Lee	v.	NC Dept of Health and Human Service	Lassiter
19	DHR	03448	9/6/2019	Tity Hayes	v.	NC Department of Health and Human Services, Division of Health Service Regulation	May
19	DHR	03553	9/16/2019	Keara Starkes	v.	NC Department of Health and Human Services, Division of Health Service Regulation	May
19	DHR	03579	9/3/2019	Life Stages Assisted Living LLC Torey Morris	v.	Division of Health Service Regulation Adult Care Licensure Section	May
19	DHR	03668	9/23/2019	Fortress F Saah	v.	Department of Health and Human Services, Division of Health Service Regulation	Malherbe
19	DHR	03778	9/16/2019	Geneva Andreal Davis	v.	NC Dept of Health and Human Svcs, Division of Child Development	Lassiter
19	DHR	04372	9/24/2019	New Hope Home III MHL# 036-303 Desareta Jones	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Malherbe

**CONTESTED CASE DECISIONS**

19	DHR	04500	9/13/2019	Inreach Myisha Hayes	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Malherbe
19	DHR	04501	9/11/2019	Skyline Superette Aimee Kennedy	v.	NC Dept Health & Human Services	Malherbe
19	DHR	04508	9/5/2019	Niquia D Hart	v.	Department of Health and Human Services, Division of Health Service Regulation	Malherbe
18	DOJ	07522	9/20/2019	Soomo Karnath	v.	NC Private Protective Services Board	Jacobs
19	DOJ	00715	9/5/2019	Donald Wayne Clanton	v.	NC Criminal Justice Education and Training Standards Commission	Elkins
19	DOJ	01473	9/20/2019	Jeremy Derell Herring	v.	NC Private Protective Services Board	Jacobs
19	DOJ	01474	9/23/2019	Donnell Thomas	v.	NC Private Protective Services Board	Jacobs
19	DOJ	03747	9/20/2019	Devon Quinn Covert	v.	NC Private Protective Services Board	Jacobs
19	DOJ	04082	9/23/2019	Robert Crowe	v.	NC Criminal Justice Education and Training Standards Commission	Sutton
19	DOJ	04084	9/17/2019	Joseph M Stewart	v.	NC Criminal Justice Education and Training Standards Commission	Lassiter
19	INS	04274	9/27/2019	John M McHugh	v.	Blue Cross Blue Shield of North Carolina	Malherbe
19	UNC	03247	9/9/2019	Christopher Wellington	v.	University of North Carolina Hospitals	Lassiter