

NORTH CAROLINA REGISTER

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March 2, 2020

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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

(919) 431-3000

Raleigh, North Carolina 27609

(919) 431-3104 FAX

contact: Molly Masich, Codifier of Rules

molly.masich@oah.nc.gov

(919) 431-3071

Dana McGhee, Publications Coordinator

dana.mcghee@oah.nc.gov

(919) 431-3075

Lindsay Silvester, Editorial Assistant

lindsay.silvester@oah.nc.gov

(919) 431-3078

Cathy Matthews-Thayer, Editorial Assistant

cathy.thayer@oah.nc.gov

(919) 431-3006

Rule Review and Legal Issues

Rules Review Commission

1711 New Hope Church Road

(919) 431-3000

Raleigh, North Carolina 27609

(919) 431-3104 FAX

contact: Amber Cronk May, Commission Counsel

amber.may@oah.nc.gov

(919) 431-3074

Amanda Reeder, Commission Counsel

amanda.reeder@oah.nc.gov

(919) 431-3079

Ashley Snyder, Commission Counsel

ashley.snyder@oah.nc.gov

(919) 431-3081

Alexander Burgos, Paralegal

alexander.burgos@oah.nc.gov

(919) 431-3080

Julie Brincefield, Administrative Assistant

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

osbmruleanalysis@osbm.nc.gov

(984) 236-0689

NC Association of County Commissioners

215 North Dawson Street

(919) 715-2893

Raleigh, North Carolina 27603

contact: Amy Bason

amy.bason@ncacc.org

NC League of Municipalities

(919) 715-4000

150 Fayetteville Street, Suite 300

Raleigh, North Carolina 27601

contact: Sarah Collins

scollins@nclm.org

Legislative Process Concerning Rule-making

545 Legislative Office Building

300 North Salisbury Street

(919) 733-2578

Raleigh, North Carolina 27611

(919) 715-5460 FAX

Jason Moran-Bates, Staff Attorney

Jeremy Ray, Staff Attorney

NORTH CAROLINA REGISTER
Publication Schedule for January 2020 – December 2020

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 th day from publication in the Register
34:13	01/02/20	12/06/19	01/17/20	03/02/20	03/20/20	04/16/20	05/01/20	09/28/20
34:14	01/15/20	12/19/19	01/30/20	03/16/20	03/20/20	04/16/20	05/01/20	10/11/20
34:15	02/03/20	01/10/20	02/18/20	04/03/20	04/20/20	05/21/20	06/01/20	10/30/20
34:16	02/17/20	01/27/20	03/03/20	04/17/20	04/20/20	05/21/20	06/01/20	11/13/20
34:17	03/02/20	02/10/20	03/17/20	05/01/20	05/20/20	06/18/20	07/01/20	11/27/20
34:18	03/16/20	02/24/20	03/31/20	05/15/20	05/20/20	06/18/20	07/01/20	12/11/20
34:19	04/01/20	03/11/20	04/16/20	06/01/20	06/22/20	07/16/20	08/01/20	12/27/20
34:20	04/15/20	03/24/20	04/30/20	06/15/20	06/22/20	07/16/20	08/01/20	01/10/21
34:21	05/01/20	04/09/20	05/16/20	06/30/20	07/20/20	08/20/20	09/01/20	01/26/21
34:22	05/15/20	04/24/20	05/30/20	07/14/20	07/20/20	08/20/20	09/01/20	02/09/21
34:23	06/01/20	05/08/20	06/16/20	07/31/20	08/20/20	09/17/20	10/01/20	02/26/21
34:24	06/15/20	05/22/20	06/30/20	08/14/20	08/20/20	09/17/20	10/01/20	03/12/21
35:01	07/01/20	06/10/20	07/16/20	08/31/20	09/21/20	10/15/20	11/01/20	03/28/21
35:02	07/15/20	06/23/20	07/30/20	09/14/20	09/21/20	10/15/20	11/01/20	04/11/21
35:03	08/03/20	07/13/20	08/18/20	10/02/20	10/20/20	11/19/20	12/01/20	04/30/21
35:04	08/17/20	07/27/20	09/01/20	10/16/20	10/20/20	11/19/20	12/01/20	05/14/21
35:05	09/01/20	08/11/20	09/16/20	11/02/20	11/20/20	12/17/20	01/01/21	05/29/21
35:06	09/15/20	08/24/20	09/30/20	11/16/20	11/20/20	12/17/20	01/01/21	06/12/21
35:07	10/01/20	09/10/20	10/16/20	11/30/20	12/21/20	01/21/21	02/01/21	06/28/21
35:08	10/15/20	09/24/20	10/30/20	12/14/20	12/21/20	01/21/21	02/01/21	07/12/21
35:09	11/02/20	10/12/20	11/17/20	01/04/21	01/20/21	02/18/21	03/01/21	07/30/21
35:10	11/16/20	10/23/20	12/01/20	01/15/21	01/20/21	02/18/21	03/01/21	08/13/21
35:11	12/01/20	11/05/20	12/16/20	02/01/21	02/22/21	03/18/21	04/01/21	08/28/21
35:12	12/15/20	11/20/20	12/30/20	02/15/21	02/22/21	03/18/21	04/01/21	09/11/21

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

February 7, 2020

EXECUTIVE ORDER NO. 115

**DECLARATION OF A STATE OF EMERGENCY AND
TEMPORARY SUSPENSION OF MOTOR VEHICLE REGULATIONS TO
ENSURE RESTORATION OF UTILITY SERVICES**

WHEREAS, on February 6-7, 2020 the State of North Carolina experienced severe weather including tornadoes, torrential rainfall, major flooding, high winds and severe thunderstorms; and

WHEREAS, the impacts from the severe weather have resulted in extensive damage including widespread power outages throughout the state, requiring the transportation of vehicles bearing equipment and supplies for utility restoration and debris removal to be moved through North Carolina on the interstate and intrastate highways; and

WHEREAS, the uninterrupted supply of electricity, fuel oil, diesel oil, gasoline, kerosene, propane, liquid petroleum gas, food, water, and medical supplies to residential and commercial establishments is essential after the storm and interruptions in the delivery of those commodities threatens the public welfare; and

WHEREAS, the prompt restoration of utility services is essential to the safety and well-being of the State's residents; and

WHEREAS, N.C. Gen. Stat. § 166A-19.1(4) provides that it is the responsibility of the undersigned, state agencies, and local governments to "provide for cooperation and coordination of activities relating to emergency mitigation preparedness, response, and recovery among agencies and officials of this State and with similar agencies and officials of other states, with local and federal governments, with interstate organizations, and with other private and quasi-official organizations;" and

WHEREAS, N.C. Gen. Stat. §§ 166A-19.10 and 166A-19.20 authorize the undersigned to declare a state of emergency and exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, the necessity in movement of vehicles transporting equipment and supplies to respond to the widespread power outages as a result of the severe weather and damages to the highway infrastructure constitutes a state of emergency for the State of North Carolina as defined in N.C. Gen. Stat. §§ 166A-19.3(6) and 166A-19.3(19); and

WHEREAS, the emergency area, as defined in N.C. Gen. Stat §§ 166A-19.3(7) and 166A-19.20(b), is the entire State of North Carolina; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(3), the undersigned, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.30(b)(4), the undersigned, with the concurrence of the Council of State, may waive a provision of any regulation or ordinance of a State agency which restricts the immediate relief of human suffering; and

WHEREAS, the undersigned has found that residents may suffer losses and further widespread damage within the meaning of N.C. Gen. Stat. §§ 166A-19.3(3) and 166A-19.21(b); and

WHEREAS, with the concurrence of the Council of State, the undersigned hereby waives the registration requirements of N.C. Gen. Stat. §§ 20-86.1 and 20-382, the fuel tax requirements of N.C. Gen. Stat. § 105-449.47, and the size and weight requirements of N.C. Gen. Stat. §§ 20-116, 20-118 and 20-119 that would apply to vehicles carrying emergency relief supplies or services or to assist with the restoration of utility services; and

WHEREAS, 49 C.F.R. § 390.23 allows the Governor of a state to suspend the rules and regulations under 49 C.F.R. Parts 390-399 for up to thirty (30) days if the Governor determines that an emergency condition exists; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.70, the undersigned may declare that the health, safety, or economic well-being of persons or property requires that the maximum hours of service for drivers prescribed by N.C. Gen. Stat. § 20-381 should be waived for (1) persons transporting essential fuels, food, water, medical supplies and (2) vehicles used in the restoration of utility services.

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.

I hereby declare that a state of emergency, as defined in N.C. Gen. Stat. §§ 166A-19.3(6) and 166A-19.3(19), exists in the State of North Carolina due to loss of power and other essential utilities as a result of the impacts from the severe weather event.

For purposes of this Executive Order, the emergency area is the entire State of North Carolina ("the Emergency Area").

Section 2.

I order all state and local government entities and agencies to cooperate in the implementation of the provisions of this declaration and the provisions of the North Carolina Emergency Operations Plan ("the Plan").

Section 3.

I delegate to Erik A. Hooks, the Secretary of the North Carolina Department of Public Safety ("DPS"), or his designee, all power and authority granted to and required of me by Article 1A of Chapter 166A of the North Carolina General Statutes for the purpose of implementing the Plan and deploying the State Emergency Response Team to take the appropriate actions necessary to promote and secure the safety and protection of the populace in North Carolina.

Section 4.

Further, Secretary Hooks, as Chief Coordinating Officer for the State of North Carolina, shall exercise the powers prescribed in N.C. Gen. Stat. § 143B-602.

Section 5.

I further direct Secretary Hooks or his designee to seek assistance from any and all agencies of the United States Government as may be needed to meet the emergency and seek reimbursement for costs incurred by the State in responding to this emergency.

Section 6.

DPS, in conjunction with the North Carolina Department of Transportation ("DOT"), shall waive the maximum hours of service for drivers prescribed by DPS pursuant to N.C. Gen. Stat. § 20-381.

Section 7.

DPS, in conjunction with DOT, shall waive certain size and weight restrictions and penalties arising under N.C. Gen. Stat. §§ 20-116, 20-118, and 20-119, certain registration requirements and penalties arising under N.C. Gen. Stat. §§ 20-86.1 and 20-382, and certain registration and filing requirements and penalties arising under N.C. Gen. Stat. §§ 105-449.45, 105-449.47, and 105-449.49 for vehicles transporting equipment and supplies for the restoration of utility services, and vehicles carrying essentials and equipment for any debris removal in support of emergency relief efforts in the Emergency Area.

Section 8.

Notwithstanding the waivers set forth above, size and weight restrictions and penalties have not been waived under the following conditions:

- a. When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross weight, whichever is less.
- b. When the tandem axle weight exceeds 42,000 pounds and the single axle weight exceeds 22,000 pounds.
- c. When a vehicle and vehicle combination exceed twelve (12) feet in width and the total overall vehicle combination's length exceeds seventy-five (75) feet from bumper to bumper.
- d. Vehicles and vehicle combinations subject to exemptions or permits by authority of this Executive Order shall not be exempt from the requirement of having (A) a yellow banner on the front and rear that is seven (7) feet long and eighteen (18) inches wide and bears the legend "Oversized Load" in ten (10) inch black letters, 1.5 inches wide and (B) red flags measuring eighteen (18) inches square on all sides at the widest point of the load. In addition, when operating between sunset and sunrise, a certified escort shall be required for loads exceeding eight (8) feet six (6) inches in width.

Section 9.

Vehicles referenced under Sections 7 and 8 of this Executive Order shall be exempt from the following registration requirements:

- a. The requirement to obtain a temporary trip permit and payment of the associated \$50.00 fee listed in N.C. Gen. Stat. § 105-449.49.
- b. The requirement of filing a quarterly fuel tax return as the exemption in N.C. Gen. Stat. § 105-449.45(b)(1) applies.
- c. The registration requirements under N.C. Gen. Stat. §§ 20-382.1 and 20-382 concerning interstate for-hire authority are waived; however, vehicles shall maintain the required limits of insurance as required.
- d. Non-participants in North Carolina's International Registration Plan and International Fuel Tax Agreement will be permitted to enter North Carolina in accordance with the exemptions identified by this Executive Order.

Section 10.

The size and weight exemption for vehicles will be allowed on all DOT designated routes, except those routes designated as light traffic roads under N.C. Gen. Stat. § 20-118. This order shall not be in effect on bridges posted pursuant to N.C. Gen. Stat. § 136-72.

Section 11.

The waiver of regulations under Title 49 of the Code of Federal Regulations does not apply to the Commercial Drivers' License and Insurance Requirements. This waiver shall be in effect for thirty (30) days or the duration of the emergency, whichever is less.

Section 12.

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 6 through 11 of this Executive Order in a manner that does not endanger North Carolina motorists.

Section 13.

Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish that their loads are being used for bearing equipment and supplies for utility restoration, debris removal, carrying essentials in commerce, in the State of North Carolina.

Section 14.

This Executive Order does not prohibit or restrict lawfully possessed firearms or ammunition or impose any limitation on the consumption, transportation, sale, or purchase of alcoholic beverages as provided in N.C. Gen. Stat. § 166A-19.30(c).

Section 15.

Pursuant to N.C. Gen. Stat. § 166A-19.23, this declaration triggers the prohibition against excessive pricing as provided in N.C. Gen. Stat. §§ 75-37 and 75-38 in the Emergency Area.

Section 16.

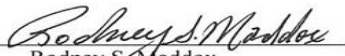
This Executive Order is effective immediately and shall remain in effect for thirty (30) days or the duration of the emergency, whichever is less.

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 7th day of February in the year of our Lord two thousand and twenty.



Roy Cooper
Governor

ATTEST:



Rodney S. Maddox
Chief Deputy 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 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health intends to amend the rule cited as 10A NCAC 41A .0101.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://cph.publichealth.nc.gov/>

Proposed Effective Date: July 1, 2020

Public Hearing:

Date: April 13, 2020

Time: 10:00 a.m.

Location: Cardinal Conference Room, located at 5605 Six Forks Road, Raleigh, NC 27609

Reason for Proposed Action: *The surveillance and control of communicable diseases and conditions is an important part of protecting the public's health. The proposed rule amends the communicable diseases and conditions reporting requirements to: (1) Add Acute Flaccid Myelitis, Babesiosis, Varicella, and Interferon Gamma Release Assay testing; (2) re-list Zika; and (3) make technical changes related to nomenclature, timing of reporting, and scientific progress in laboratory testing and reporting. In addition, the text in italics adding a reporting requirement for novel coronavirus was adopted by the Commission for Public Health under emergency procedures on February 5, 2020 and effective on February 17, 2020 as well as proposed under temporary procedures.*

Comments may be submitted to: Virginia Niehaus, CPH Rulemaking Coordinator, 1931 Mail Service Center, Raleigh, NC 27699-1931; phone (919) 707-5006; email cphcomment@lists.ncmail.net

Comment period ends: May 1, 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 (>= \$1,000,000)
- ☒ Approved by OSBM
- ☐ No fiscal note required

CHAPTER 41 - EPIDEMIOLOGY HEALTH

SUBCHAPTER 41A - COMMUNICABLE DISEASE CONTROL

SECTION .0100 - COMMUNICABLE DISEASE CONTROL

10A NCAC 41A .0101 REPORTABLE DISEASES AND CONDITIONS

(a) The following named diseases and conditions are declared to be dangerous to the public health and are hereby made reportable within the time period specified after the disease or condition is reasonably suspected to exist:

- (1) acquired immune deficiency syndrome (AIDS) - 24 hours;
- (2) acute flaccid myelitis – 7 days;
- (3) anaplasmosis – 7 days;
- (4)(2) anthrax - immediately;
- (5) arboviral infection, neuroinvasive – 7 days;
- (6) babesiosis – 7 days;
- (7)(3) botulism - immediately;
- (8)(4) brucellosis - 7 days;
- (9)(5) campylobacter infection - 24 hours;
- (10)(6) Candida auris - 24 hours;
- (11)(7) Carbapenem-Resistant Enterobacteriaceae (CRE) – 24 hours;
- (12)(8) chancroid - 24 hours;
- (13)(9) chikungunya virus infection - 24 hours;
- (14)(40) chlamydial infection (laboratory confirmed) - 7 days;
- (15)(44) cholera - 24 hours;
- (16)(42) Creutzfeldt-Jakob disease – 7 days;
- (17)(43) cryptosporidiosis – 24 hours;
- (18)(44) cyclosporiasis – 24 hours;
- (19)(45) dengue - 7 days;
- (20)(46) diphtheria - 24 hours;
- (21)(47) Escherichia coli, shiga toxin-producing infection - 24 hours;

(22)(18) ehrlichiosis – 7 days;
 (19) ~~encephalitis, arboviral – 7 days;~~
 (23)(20) foodborne disease, including Clostridium perfringens, staphylococcal, Bacillus cereus, and other and unknown causes – 24 hours;
 (24)(21) gonorrhea – 24 hours;
 (25)(22) granuloma inguinale – 24 hours;
 (26)(23) Haemophilus influenzae, invasive disease – 24 hours;
 (27)(24) Hantavirus infection – 7 days;
 (28)(25) Hemolytic-uremic syndrome – 24 hours;
 (29)(26) Hemorrhagic fever virus infection – immediately;
 (30)(27) hepatitis A – 24 hours;
 (31)(28) hepatitis B – 24 hours;
 (32)(29) hepatitis B carriage – 7 days;
 (33)(30) hepatitis C, acute – 7 days;
 (34)(31) human immunodeficiency virus (HIV) infection confirmed – 24 hours;
 (35)(32) influenza virus infection causing death – 24 hours;
 (36)(33) legionellosis – 7 days;
 (37)(34) leprosy – 7 days;
 (38)(35) leptospirosis – 7 days;
 (39)(36) listeriosis – 24 hours;
 (40)(37) Lyme disease – 7 days;
 (41)(38) Lymphogranuloma venereum – 7 days;
 (42)(39) malaria – 7 days;
 (43)(40) measles (rubeola) – immediately; ~~24 hours~~;
 (44)(41) meningitis, pneumococcal – 7 days;
 (45)(42) meningococcal disease – 24 hours;
 (46)(43) Middle East respiratory syndrome (MERS) – 24 hours;
 (47)(44) monkeypox – 24 hours;
 (48)(45) mumps – 7 days;
 (49)(46) nongonococcal urethritis – 7 days;
 (50) novel coronavirus infection – immediately;
 (51)(47) novel influenza virus infection – immediately;
 (52)(48) plague – immediately;
 (53)(49) paralytic poliomyelitis – 24 hours;
 (54)(50) pelvic inflammatory disease – 7 days;
 (55)(51) psittacosis – 7 days;
 (56)(52) Q fever – 7 days;
 (57)(53) rabies, human – 24 hours;
 (54) ~~Rocky Mountain spotted fever – 7 days~~;
 (58)(55) rubella – 24 hours;
 (59)(56) rubella congenital syndrome – 7 days;
 (60)(57) salmonellosis – 24 hours;
 (61)(58) severe acute respiratory syndrome (SARS) – 24 hours;
 (62)(59) shigellosis – 24 hours;
 (63)(60) smallpox – immediately;
 (64) spotted fever rickettsiosis – 7 days;
 (65)(61) Staphylococcus aureus with reduced susceptibility to vancomycin – 24 hours;

(66)(62) streptococcal infection, Group A, invasive disease – 7 days;
 (67)(63) syphilis – 24 hours;
 (68)(64) tetanus – 7 days;
 (69)(65) toxic shock syndrome – 7 days;
 (70)(66) trichinosis – 7 days;
 (71)(67) tuberculosis – 24 hours;
 (72)(68) tularemia – immediately;
 (73)(69) typhoid – 24 hours;
 (74)(70) typhoid carriage (Salmonella typhi) – 7 days;
 (75)(71) typhus, epidemic (louse-borne) – 7 days;
 (76)(72) vaccinia – 24 hours;
 (77) varicella – 24 hours;
 (78)(73) vibrio infection (other than cholera) – 24 hours;
 (79)(74) whooping cough – 24 hours; ~~and~~
 (80)(75) yellow fever – 7 days; ~~days~~; ~~and~~
 (81) zika virus – 24 hours.

(b) For purposes of reporting, "confirmed human immunodeficiency virus (HIV) infection" is defined as a positive virus culture, repeatedly reactive EIA antibody test confirmed by western blot or indirect immunofluorescent antibody test, positive nucleic acid detection (NAT) test, or other confirmed testing method approved by the Director of the State Public Health Laboratory conducted on or after February 1, 1990. In selecting additional tests for approval, the Director of the State Public Health Laboratory shall consider whether such tests have been approved by the federal Food and Drug Administration, recommended by the federal Centers for Disease Control and Prevention, and endorsed by the Association of Public Health Laboratories.

(c) In addition to the laboratory reports for Mycobacterium tuberculosis, Neisseria gonorrhoeae, and syphilis specified in G.S. 130A-139, laboratories shall report using electronic laboratory reporting (ELR), secure telecommunication, or paper reports.

- (1) Isolation or other specific identification of the following organisms or their products from human clinical specimens:
- (A) Anaplasma spp., the causes of anaplasmosis.
 - (B) Any hantavirus or hemorrhagic fever virus.
 - (C)(B) Arthropod-borne virus (any type).
 - (D) Babesia spp., the cause of babesiosis.
 - (E)(C) Bacillus anthracis, the cause of anthrax.
 - (F)(D) Bordetella pertussis, the cause of whooping cough (pertussis).
 - (G)(E) Borrelia burgdorferi, the cause of Lyme disease (confirmed tests).
 - (H)(F) Brucella spp., the causes of brucellosis.
 - (I)(G) Campylobacter spp., the causes of campylobacteriosis.
 - (J)(H) Candida auris.
 - (K)(I) Carbapenem-Resistant Enterobacteriaceae (CRE).
 - (L)(J) Chlamydia trachomatis, the cause of genital chlamydial infection,

- conjunctivitis (adult and newborn) and pneumonia of newborns.
- (M)(K) ~~Clostridium botulinum~~, a cause of botulism.
- (N)(L) ~~Clostridium tetani~~, the cause of tetanus.
- (O) Coronavirus, novel human strain.
- (P)(M) ~~Corynebacterium diphtheriae~~, the cause of diphtheria.
- (Q)(N) ~~Coxiella burnetii~~, the cause of Q fever.
- (R)(O) ~~Cryptosporidium spp. parvum~~, the cause of human cryptosporidiosis.
- (S)(P) ~~Cyclospora cayetanensis~~, the cause of cyclosporiasis.
- (T) Dengue virus.
- (U)(Q) ~~Ehrlichia spp.~~, the causes of ehrlichiosis.
- (V)(R) ~~Shiga toxin-producing Escherichia coli~~, a cause of hemorrhagic colitis, hemolytic uremic syndrome, and thrombotic thrombocytopenic purpura.
- (W)(S) ~~Francisella tularensis~~, the cause of tularemia.
- (X) Hepatitis A virus.
- (Y)(T) ~~Hepatitis B virus~~ or any component thereof, such as hepatitis B surface antigen.
- (Z)(U) ~~Human Immunodeficiency Virus~~, the cause of AIDS.
- (AA)(V) ~~Legionella spp.~~, the causes of legionellosis.
- (BB)(W) ~~Leptospira spp.~~, the causes of leptospirosis.
- (CC)(X) ~~Listeria monocytogenes~~, the cause of listeriosis.
- (DD) Measles virus.
- (EE)(Y) ~~Middle East respiratory syndrome virus.~~
- (FF)(Z) ~~Monkeypox.~~
- (GG) Mumps virus.
- (HH)(AA) ~~Mycobacterium leprae~~, the cause of leprosy.
- (II)(BB) ~~Plasmodium falciparum, P. malariae, P. ovale, and P. vivax~~, the causes of malaria in humans.
- (JJ)(CC) ~~Poliovirus (any)~~, the cause of poliomyelitis.
- (KK)(DD) ~~Rabies virus.~~
- (LL)(EE) ~~Rickettsia spp. rickettsii~~, the cause of ~~Rocky Mountain spotted fever~~ rickettsiosis, fever.
- (MM)(FF) ~~Rubella virus.~~
- (NN)(GG) ~~Salmonella spp.~~, the causes of salmonellosis.
- (OO)(HH) ~~Shigella spp.~~, the causes of shigellosis.
- (PP)(II) ~~Smallpox virus~~, the cause of smallpox.
- (QQ)(JJ) ~~Staphylococcus aureus~~ with reduced susceptibility to vanomycin.
- (RR)(KK) ~~Trichinella spiralis~~, the cause of trichinosis.
- (SS)(LL) ~~Vaccinia virus.~~
- (TT) Varicella virus.
- (UU)(MM) ~~Vibrio spp.~~, the causes of cholera and other vibrioses.
- (VV)(NN) ~~Yellow fever virus.~~
- (WW)(OO) ~~Yersinia pestis~~, the cause of plague.
- (XX) Zika virus.
- (2) Isolation or other specific identification of the following organisms from normally sterile human body sites:
- (A) Group A ~~Streptococcus pyogenes~~ (group A streptococci).
- (B) ~~Haemophilus influenzae~~, serotype b.
- (C) ~~Neisseria meningitidis~~, the cause of meningococcal disease.
- (3) Positive serologic test results, as specified, for the following infections:
- (A) Fourfold or greater changes or equivalent changes in serum antibody titers to:
- (i) Any arthropod-borne ~~virus~~ viruses associated with neuroinvasive disease, meningitis or encephalitis in a human.
- (ii) Anaplasma spp., the cause of anaplasmosis.
- (iii)(ii) Any hantavirus or hemorrhagic fever virus.
- (iv)(iii) ~~Chlamydia psittaci~~, the cause of psittacosis.
- (v) Chikungunya virus.
- (vi)(iv) ~~Coxiella burnetii~~, the cause of Q fever.
- (vii)(v) ~~Dengue virus.~~
- (viii)(vi) ~~Ehrlichia spp.~~, the causes of ehrlichiosis.
- (ix)(vii) ~~Measles (rubeola) virus.~~
- (x)(viii) ~~Mumps virus.~~
- (xi)(ix) ~~Rickettsia rickettsii~~, the cause of Rocky Mountain spotted fever.
- (xii)(x) ~~Rubella virus.~~
- (xiii) Varicella virus.
- (xiv)(xi) ~~Yellow fever virus.~~
- (B) The presence of IgM serum antibodies to:
- (i) Any arthropod-borne ~~virus~~ associated with neuroinvasive disease.
- (ii) Chikungunya virus.
- (iii)(i) ~~Chlamydia psittaci.~~
- (iv) Dengue virus.
- (v)(ii) Hepatitis A virus.

- (vi)(iii) Hepatitis B virus core antigen.
- (vii) Mumps virus.
- (viii)(iv) Rubella virus.
- (ix)(v) Rubeola (measles) virus.
- (x)(vi) Yellow fever virus.

- (4) Laboratory results from tests to determine the absolute and relative counts for the T-helper (CD4) subset of lymphocytes and all results from tests to determine HIV viral load.
- (5) Identification of CRE from a clinical specimen associated with either infection or colonization, including all susceptibility results and all phenotypic or molecular test results.
- (d) Laboratories utilizing electronic laboratory reporting (ELR) shall report in addition to those listed under Paragraph (c) of this Rule:

- (1) All positive laboratory results from tests used to diagnosis chronic Hepatitis C Infection, including the following:
 - (A) Hepatitis C virus antibody tests (including the test specific signal to cut-off (s/c) ratio);
 - (B) Hepatitis C nucleic acid tests;
 - (C) Hepatitis C antigen(s) tests; and
 - (D) Hepatitis C genotypic tests.
- (2) All HIV genotypic test results, including when available:
 - (A) The entire nucleotide sequence; or
 - (B) The pol region sequence (including all regions: protease (PR)/reverse transcriptase (RT) and integrase (INI) genes, if available).
- (3) All test results for Interferon Gamma Release Assays.

- (e) For the purposes of reporting, Carbapenem-Resistant Enterobacteriaceae (CRE) are defined as:
 - (1) Enterobacter spp, E.coli or Klebsiella spp positive for a known carbapenemase resistance mechanism or positive on a phenotypic test for carbapenemase production; or
 - (2) Enterobacter spp, E.coli or Klebsiella spp resistant to any carbapenem in the absence of carbapenemase resistance mechanism testing or phenotypic testing for carbapenemase production.

Authority G.S. 130A-134; 130A-135; 130A-139; 130A-141.

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Commission for the Blind intends to amend the rules cited as 10A NCAC 63C .0204, .0403 and readopt with substantive changes the rules cited as 10A NCAC 63C .0203, and .0601.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.ncdhhs.gov/documents/division-rules>

Proposed Effective Date: July 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 Cynthia Speight, Rulemaking Coordinator, within 15 days of the publication of the Notice of Text.*

Reason for Proposed Action: *The Commission for the Blind initially proposed to readopt Rules 63C .0203 and .0601, and amend rules 10A NCAC 63C .0204 and .0403 in the May 15, 2018 Register. Following objections by the RRC, the agency is republishing all four rules for a 60-day comment period in order to respond to the RRC's objection and public input.*

Comments may be submitted to: Cynthia Speight, NC Division of Services for the Blind, 2601 MSC, Raleigh, NC 27699-2601; email dsbpubliccomment@dhhs.nc.gov

Comment period ends: May 1, 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 (>= \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

CHAPTER 63 - SERVICES FOR THE BLIND

SUBCHAPTER 63C - BUSINESS ENTERPRISES PROGRAM

SECTION .0200 - LICENSING AND PLACEMENT

10A NCAC 63C .0203 ~~SUSPEND; TERMINATE~~ ~~LICENSE; SUSPENSION OR TERMINATION OF~~ ~~LICENSE AND REMOVAL FROM BUSINESS~~ ~~ENTERPRISES FACILITY~~

- (a) The Division may suspend or terminate the license of an operator, after affording the operator an opportunity ~~for~~ **to appeal**

~~the decision as set forth in Section .0400, a full evidentiary hearing, when it finds that his facility is not being operated in accordance with the rules and regulations; with the terms and conditions of the agreement, contract, or permit between the Division and the sponsor of the building or site upon which the Business Enterprises facility is located; or with the terms of the contract between the operator and the Division relating to the particular assignment.~~

~~(b) An operator may be warned prior to suspension or termination of a license, particularly in situations where lack of compliance is not determined by the Division to pose an immediate threat to the general public or to bring discredit or irreparable damage to the Business Enterprises Program.~~

~~(b) [The license of a licensee] Licenses to licensees and operators shall be terminated if the [licensee's vision is improved by conventional means to the point at which the licensee is not legally blind.] licensee or operator:~~

- ~~(1) no longer meets the definition of legally blind pursuant to Rule .0101 of this Subchapter;~~
- ~~(2) withdraws from the program and sends written notification to the Division;~~
- ~~(3) is convicted of a misdemeanor involving crimes of dishonesty or any felony;~~
- ~~(4) provides false information to the Division pertaining to eligibility requirements set forth pursuant to Rule .0202 of this Subchapter;~~
- ~~(5) unlawfully possesses firearms or lethal weapons on the job;~~
- ~~(6) uses Business Enterprises equipment purchased with program funds or a Business Enterprises facility to operate another business; or~~
- ~~(7) if an operator's license is suspended 3 times within a consecutive 24-month period, regardless of the reason for suspension.~~

~~[(c) The license of an operator shall be terminated if the operator's vision is improved by conventional means to the point at which the operator is not legally blind.]~~

~~(c) Licenses to operators shall be suspended if the operator:~~

- ~~(1) fails to operate the Business Enterprises facility in accordance with the operator agreement for three or more consecutive months;~~
- ~~(2) commits willful acts in the Business Enterprises facility or on the grounds of the facility to create a potential threat to the facility's staff or customers;~~
- ~~(3) reports to a Business Enterprises facility under the influence of alcohol or any controlled substance or partakes of such on the job. This shall not include unanticipated effects from the ingestion of prescription medications taken in accordance with the directions of a doctor;~~
- ~~(4) fails to personally operate the awarded facility, as set forth in the operator agreement, unless prior written approval to operate the facility in another manner has been obtained from the Division. This requirement shall not mandate the physical presence of the operator at the facility at all times of its operation;~~

~~(5) fails three times during the calendar year to pay set-aside and liability fees and health insurance premiums and phone bills, if applicable, to the Controller's Office by the 15th day of the month following the month in which the business was transacted;~~

~~(6) fails to preserve financial and other records pertaining to the operation of the Business Enterprises facility as required by Rule .0601(a)(8) of this Subchapter.~~

~~(7) fails to respond to requests made by an auditing authority conducting audits pursuant to State or federal law, as required by this Subchapter;~~

~~(8) fails to maintain liability and workers compensation insurance coverage as required by law and by Rule .0607 of this Subchapter;~~

~~(9) removes Business Enterprises equipment purchased with program funds from the facility without written authorization from the Division;~~

~~(10) fails to comply with federal or State law prohibiting discrimination in hiring and service to customers;~~

~~(11) fails to comply with federal or State tax laws for individuals who are self-employed if this violation relates to the Business Enterprises facility. This suspension shall only occur if there has been a final adjudication of the violation by State and federal authorities; or~~

~~(12) fails to comply with the operator's responsibilities as required by Rule .0601 of this Subchapter.~~

~~(e)[(d)] Licenses to operators may also be suspended or terminated for any of the following reasons:~~

~~(1) Vision improves so that the operator is no longer eligible for licensing;~~

~~(2) [(4)] Extended illness [extended illness, defined as lasting at least three months,] occurs with medically documented diagnosis of prolonged incapacity of the operator to manage the Business Enterprises facility in a manner consistent with the needs of the location or other available locations in the Business Enterprises Program;~~

~~(3) [(2)] Withdrawal [withdrawal of the operator from the program upon his written notification to the Division;]~~

~~(4) Gross misconduct or conduct so reprehensible as to bring discredit to the program;~~

~~(5) [(3)] Conviction [conviction] of a felony (Class A through E); [misdemeanor involving crimes of dishonesty or any felony;]~~

~~(6) [(4)] Falsified [falsified] information pertaining to eligibility requirements;~~

~~(7) [(5)] Willful [willful] acts that would endanger the lives and property of others;~~

~~(8) [(6)] Possession of firearms or lethal weapons on the job; [site at a Business Enterprises facility;]~~

- ~~(9) [(7)] Reporting [reporting] to Business Enterprises assignment under the influence of alcohol or any controlled substance or partaking of such on the job.;~~
- ~~[(8)] [failing to personally operate the awarded facility as set forth in the operator agreement and permit or contract with the host facility unless prior written approval to operate the facility in another manner has been obtained from the Division.];~~
- ~~[(9)] [failing to pay fees to the Controller's Office by the 15th day of the month following the month in which the business was transacted three times during the calendar year.];~~
- ~~[(10)] [failing to preserve required financial and other records with the Division as required by this Subchapter.];~~
- ~~[(11)] [failing to cooperate with record keeping reviews conducted by the Division.];~~
- ~~[(12)] [failing to cooperate with audits conducted by state or federal agencies.];~~
- ~~[(13)] [failing to maintain bonding, liability and workers compensation insurance coverage as required by law or policy.];~~
- ~~[(14)] [using Business Enterprises equipment and or facility to operate another business.];~~
- ~~[(15)] [failing to maintain facility equipment in a sanitary and operable condition within the scope of the operator's level of maintenance authorization.];~~
- ~~[(16)] [removing facility equipment without written authorization from the Division.];~~
- ~~[(17)] [failing to comply with federal or state law prohibiting discrimination in hiring and service to customers; and]~~
- ~~[(18)] [failing to comply with the operator's responsibilities in this Subchapter or the operator's agreement.];~~

(d) Suspension may be used when an apparent action or lack of action by an operator is not serious enough in the opinion of the Division to warrant termination of the license. The length of the suspension shall vary with the seriousness of the situation, but shall not exceed a maximum of 60 days. Prior to the suspension of an operator's license, the Division shall provide the operator with a written corrective action plan. The Division and the operator shall both sign the corrective action plan. The corrective action plan shall include:

- (1) the specific provision in Paragraph (c) of this Rule that the operator has violated, the specific provision contained in the operator's agreement that has been violated, or the specific provision otherwise contained in this Subchapter that has not been complied with;
- (2) the specific corrective actions that the operator must take to cure the violation identified in Paragraph (d)(1) of this Rule, including participation in training or receipt of technical assistance provided by the Division, if necessary; and

- (3) the time frame in which the operator must cure the violation, which shall not exceed 90 days. The time frame in which to cure the violation may be extended if actions are being taken to resolve the violations pursuant to a written agreement between the operator and Division.

(e) If an operator fails to complete the corrective action plan to cure the violation within the time set forth in the corrective action plan, or otherwise refuses to sign a corrective action plan, the Division shall suspend the license of the operator. The length of a suspension shall not exceed 60 days.

(f) During the time period in which an operator's license is suspended, the Division shall identify another operator to assume responsibility for the locations of the suspended operator.

Authority *G.S. 111-27; 111-27.1; 34 C.F.R. 395.3; 34 C.F.R. 395.7; 20 U.S.C. Sec. 107.*

10A NCAC 63C .0204 FILLING OF VACANCIES

(a) ~~The Division shall make available a listing of available Business Enterprises facilities to all licensees.~~

(b) ~~Licensees who wish to apply for any of the locations listed may forward an application to the office of the Chief of Business Enterprises.~~

(c) ~~Transfers and promotions shall be based on the following procedures:~~

- (1) ~~The Division shall send a notice of available facilities to all operators and licensees on the last 10 working day of the month. The notice shall provide a description of the vacancy and who to contact for more information.~~
- (2) ~~All applications shall be post marked by the 10th of the month following the notice and mailed to the office of the Chief of Business Enterprises.~~
- (3) ~~The Interview Committee shall interview all applicants on the second Friday of the month which follows the application deadline.~~
- (4) ~~At least 10 working days prior to the interview, the Business Enterprises Counselor who works with the applicant shall calculate the applicant's points for sanitation, seniority, Financial Analysis/Operating Standards [Subparagraphs (d), (1), (2), (3) of this Rule] and inform the applicant of his point total. The applicant shall have five working days to review the point total and request any adjustments.~~
- (5) ~~After adding together the points from the sanitation, seniority, Financial Analysis/Operating Standards, Customer Relations and Oral Exam/Interview Sections [Subparagraphs (d), (1), (2), (3), (4), (5), (6), (7) of this Rule] for each applicant, the applicant with the highest point total (if above 60 points) shall be awarded the vacancy. If the applicant with the highest point total declines to accept the location, it shall be offered to the next highest applicant (if above 60 points) and so on. In the case of an exact tie, the applicant with the~~

- most time in the Business Enterprises Program shall be awarded the location.
- (6) Applicants shall be notified as soon as possible after their interview whether or not they have been awarded a location. This notification shall be by telephone and followed up in writing.
- (7) Upon being awarded a location, the applicant shall have 30 days to fill the vacancy. The Division shall agree to a different time frame if adhering to the 30 day time frame would cause a hardship to the applicant awarded the facility. The location shall not be filled for 15 working days following the award to allow time for administrative appeals to be filed. If an appeal is filed, the location shall not be filled until the appeal is resolved. If there is only one applicant for a location, the 15 day waiting period shall not apply.
- (8) If an applicant is awarded a facility and has not had an Operator Agreement with the Agency in the last two years, and the applicant did not meet his financial analysis and operating standards for the last 12 months that his agreement was in effect, the applicant shall repeat the necessary on the job training. The Interview Committee may also recommend refresher course training to assure qualified management.
- (9) Licensees/operators not selected may file an administrative appeal as provided for in Subchapter 63C Section .0400. The fifteen day limit to file an appeal shall begin from the date the licensee/operator is informed by telephone of the results of the award.
- (10) An applicant must have operated a Business Enterprises location for six months prior to the cut off date for calculating financial performance according to standards to be considered an operator, otherwise, the operator shall be in licensee status. The cut off date is defined as the 12 month period ending with the last day of the same month in which the vacancy is advertised.
- (11) If an operator leaves the Business Enterprises Program and then applies for a location within 12 months of leaving, his financial performance according to standards for the 12 months prior to his leaving shall be used to calculate points in the Financial Performance Section.
- (12) Financial analyses of facilities shall be done every two years. The analysis shall be on the facility not the operator; however, an operator may request a new analysis after at least four months in the new facility. If an applicant's financial analysis is less than two years old and the applicant's performance is neither above 100 percent nor below 85 percent on either measure, the financial analysis is current.
- (13) An applicant who does not hold the required level of license for the vacancy may be awarded the facility contingent upon successfully completing the required training. Applicants who hold the required level of license but have not operated a facility at that level for at least two years shall complete refresher on the job training if the applicant did not meet his financial analysis and operating standards for the last 12 months that his agreement was in effect.
- (14) An operator may not sit on the Interview Committee for a location for which he/she is applying or if a member of his/her immediate family has applied for a vacant facility. For this purpose immediate family is defined as spouse, parent, child, brother and sister. Also included are the step, half and in law relationships. If the Vice Chairman and the Chairman of the Elected Committee of Vendors and the Chairman of the sub committee on Transfer and Promotion are all restricted from sitting on the Interview Committee under this Rule, those three must pick another Elected Committee of Vendors member to sit on the Interview Committee.
- (15) The schedule for awarding vacancies may be changed to accommodate holidays, too many applications to process in one day, or at any time necessary due to program conflicts as determined by the chief of Business Enterprises and the Vice Chairman of the Elected Committee of Vendors. All applicants shall be notified in writing of the date, time and place of their interview.
- (16) Applicants shall be reimbursed for their expenses to come to the interview at the state's per diem rates. The Business Enterprises Program shall only reimburse for two interviews per year. After that, applicants shall bear their own expenses for coming to interviews. Licensees who have active rehabilitation cases shall be reimbursed through the rehabilitation program.
- (d) The Division shall use the following criteria in determining points:
- (1) Sanitation:
- (A) Ten point maximum;
- (B) One point for each sanitation grade point above ninety;
- (C) Sanitation grade to be arrived at by averaging all sanitation scores received during last two years;
- (D) Five points shall be subtracted for any adjusted B grade in the last two years;
- (E) The Business Enterprises Counselor shall determine an adjusted grade by adding back in any points subtracted for deficiencies over which the

- operator has no control. The operator shall inform Business Enterprises Counselor when an inspection has occurred so he can review the inspection and adjust the grade if needed. The operator shall make sure the Business Enterprises Counselor has copies of every sanitation inspection form from the relevant period so that he or she can calculate an accurate grade.
- (2) Seniority:
- (A) Five point maximum;
- (B) Seniority points shall be awarded as follows:
- | Years in Business Enterprises Program | Points |
|---------------------------------------|----------|
| 0 to 4.99 | 0 points |
| 5 to 9.99 | 1 point |
| 10 to 14.99 | 2 points |
| 15 to 19.99 | 3 points |
| 20 to 24.99 | 4 points |
| 25 and over | 5 points |
- (C) Seniority is defined as the amount of time in yearly increments an individual has been working in the Business Enterprises Program as an operator. An operator must work 51 percent of the working days in a month to receive credit for that month. The cutoff date for accruing time in the Program is the end of the month when the vacancy is advertised. Business Enterprises operators shall receive credit for one year of seniority for any combined 12 month period.
- (3) Performance According to Financial Analysis/Operating Standards: Operating standards are determined by tabulating all the invoices for purchases for resale for each facility for a period of three months. The optimum sales and gross profit percentage is determined by computing the maximum potential for sales and gross profit without consideration for theft, waste or poor management. Each operator is required to maintain 85 percent of the optimum standard established for each facility for sales and gross profit. Eighty five percent of the optimum sales and gross profit percentage is considered the operating standard for each facility.
- (A) 50 Points Maximum;
- (B) Applicants shall receive 20 points for meeting or exceeding 85 percent of their sales standard;
- (C) Applicants shall receive 20 points for meeting or exceeding 85 percent of their gross profit percentage standard;
- (D) Applicants shall receive five points for meeting or exceeding 92.5 percent of their sales optimum;
- (E) Applicants shall receive five points for meeting or exceeding 92.5 percent of their gross profit percentage optimum.
- (4) Customer and Building Management Relations:
- (A) Five points shall be deducted for each written site management complaint in the past two years, up to a maximum of 10 points.
- (B) If the applicant has more than three written site management complaints, he shall not be considered for the award. No site management complaint that is more than three years old may be used against an operator. Site management is defined as the property official for the property on which a BEP facility is located.
- (5) Oral Exam/Interview:
- (A) 30 points maximum.
- (B) Interview shall be face to face (no conference calls).
- (C) All applicants shall be interviewed.
- (D) The Interview Committee shall consist of:
- (i) The Chief of Business Enterprises, or Deputy Chief or Assistant Director of Programs and Facilities as designated by Chief;
 - (ii) The Area Rehabilitation Supervisor or B.E. Counselor for the area in which the vacancy occurs, and
 - (iii) The Vice Chairman of the Elected Committee of Vendors or the Chairman in his absence, or in the absence of the Chairman, the Chairman of the Transfer and Promotion subcommittee.
- (E) The Oral Exam part shall consist of 10 questions drawn either from a pool of standard questions or developed by the Interview Committee prior to the interview. The oral exam questions shall relate to any special needs of the vacant facility as well as to standard responsibilities and knowledge areas of Business Enterprises operators. Each member of the Interview Committee shall evaluate the applicant's response to each question in the oral exam. The applicant shall receive one point by demonstrating basic knowledge, the applicant shall receive one and one half points for

- demonstrating—above—average knowledge, and the applicant shall be awarded two points for demonstrating exceptional knowledge for each interview question. There shall be at least one question involving a calculation and a talking calculator shall be provided, although applicants may bring their own. The oral exam shall yield a possible 20 points.
- (F) The interview part shall consist of a variety of questions in a give and take format. Each member of the Interview Committee shall evaluate the applicant's response to the interview questions and shall award up to 10 additional points based on the applicant's previous food service experience, knowledge and financial performance. If the applicant meets the requirements for the facility, the applicant shall receive five additional points. If the applicant's qualifications exceed the requirements of the facility, he may be awarded up to ten additional points. The interview shall include the following elements: questions related to business philosophy to promote general discussion to enable the interview panel to evaluate the applicant's expertise, maturity, experience and ability; a discussion of any related work experience outside the Business Enterprises Program; at least two business math questions. Since points are awarded for seniority, time in the Business Enterprises Program shall not be considered as a reason to award points; however, relevant work experience in the Business Enterprises Program may be discussed and taken into consideration. Applicants may bring letters of recommendation, certificates, and other documents that would aid the Interview Committee in awarding its discretionary points.
- (G) Each interviewer shall award discretionary points individually and the total score of Oral Exam and Interview points from each interviewer shall be averaged and added to the applicant's points from the other Sections.
- (6) Licensees and trainees:
- (A) A licensee who has no previous experience in the North Carolina Business Enterprises Program shall be assigned 35 points in the Financial Analysis/Operating—Standards category. If the licensee scores 90 percent or above on the National Restaurant Association's ServSafe exam, he/she shall be awarded three points in the sanitation category.
- (B) A licensee with previous Business Enterprises experience shall be assigned 35 points in the Financial Analysis/Operating—Standards category. Previous sanitation records shall be considered, if available; or the applicant may take the National Restaurant Association's ServSafe exam. If the licensee scores 90 percent or above on the ServSafe exam, he/she shall be given three points in the Sanitation Section.
- (C) Applicants shall have satisfactorily completed Level I training or have a Level I license to be interviewed. The four levels of Business Enterprises facilities are defined as follows: Level I has no cooking or on site food preparation and includes only service via vending machines or over the counter service including snacks, candy, pre packaged sandwiches, coffee, and assorted beverages. Level II service is similar to a deli operation where hot and cold food is prepared on site. Level III service includes all of the above with the addition of a grill and fryer. Level IV service consists of full service cafeteria style facilities. An applicant shall score at least 60 total points to be awarded a location. If the applicant scores at least 55 points but less than 60 points, the interview panel may make a conditional award if the panel agrees it is in the best interest of the Business Enterprises Program.
- (a) The Division shall send a notice of vacant facilities to all operators and licensees within the last 10 business days of the month. The notice shall provide a description of the vacancy, who to contact for more information, the address where the application may be submitted, and the deadline for receipt of application. The deadline specified in the notice shall be no earlier than that 10th day of the following month, or the first business day thereafter. In the event of an emergency vacancy, including death or illness of an operator, the schedule for sending notices of vacant facilities, conducting interviews, and awarding vacancies set forth in this Rule may be changed as determined by the Chief of Business Enterprises and the chairman of the Elected Committee of Blind Vendors or his or her designee.
- (b) An individual shall be eligible to apply for a vacancy if the individual currently possesses the license level required by the vacant facility or, if the training is not currently provided by the

Division or otherwise available for the license level required for the vacant facility, the individual shall be eligible to apply if the applicant holds the next lower license level.

(c) An individual shall not be eligible to apply for a vacancy if either of the following conditions exist:

- (1) the individual has received written notice from the Division that the individual owes money to the Business Enterprises Program and that money is still owed, unless there is a pending grievance as set forth in Section .0400 of this Subchapter; or
- (2) the individual has failed to appear for a scheduled interview twice during the preceding 12 months. In this instance, the individual will not be eligible to apply for a vacancy for 24 months from the date of the last scheduled interview. This provision shall not apply if the applicant withdrew from the interview by providing notice to the Division 48 hours prior to the scheduled appearance or if prior to the interview, the individual provides information to the Division documenting that the individual is unable to attend due to health reasons.

(d) Operators and licensees who wish to apply for any vacancy shall submit an application to the address contained in the notice or to office of the Chief of Business Enterprises via electronic mail, personal delivery, the United States Postal Service, or commercial delivery services.

(e) The application shall include the applicant's name, address, telephone number, the name of the current BEP facility assigned to the applicant if applicable, the name of the facility that the applicant is applying for, the applicant's signature, and the date the application is signed.

(f) All applications shall be received by the Division no later than the deadline date identified in the notice. "Received" for the purpose of this Paragraph means that the application is in the possession of the Division. If the application is not received by the Division by the deadline, the applicant shall not be eligible to interview for the vacancy. However, if the Division does not receive the application by the deadline, an applicant may demonstrate compliance with this Paragraph by demonstrating he or she submitted the application in compliance with Paragraph (d) and any failure or delay in the delivery was due to causes beyond the applicant's control.

(g) At least 10 business days prior to the interview, the Business Enterprises Consultant who works with the applicant shall calculate the applicant's points for sanitation, seniority, and financial performance as set forth in Subparagraphs (h)(1), (2), and (3) of this Rule and inform the applicant of his or her point total in writing and shall include with that communication a description of any ways in which the Business Enterprises Consultant noted that the applicant failed to provide the information required by Subparagraphs (h)(1), (2), and (3) of this Rule. The applicant shall have five business days from his or her receipt of the notice from the Business Enterprises Consultant to request any adjustments to the point total. As part of the request, the applicant must provide to the Business Enterprise Consultant all supporting information with the request, including documents required to complete a new financial analysis and operation

standard tool (FAOS) if another FAOS is requested by the applicant. The applicant's points for sanitation, seniority, and FAOS shall be shared with all members of the interview committee.

(h) The Business Enterprises Consultant shall assign points to each applicant for sanitation, seniority, and financial performance as follows:

- (1) Five sanitation points may be awarded based on the sanitation grades for the Business Enterprises facilities that were operated by an applicant, as follows:

(A) The applicant shall verify with the Business Enterprises Consultant that he or she has copies of every sanitation inspection form from the specified period so that the points can be calculated.

(B) One point shall be awarded for each sanitation grade point above 90, which shall be determined by averaging all sanitation scores received during the previous 24 months.

(C) Any points deducted on the sanitation review reports for deficiencies that are the responsibility of facility management, pertaining to the condition of bathrooms, floors, ceilings and walls, shall be added in the calculations by the Business Enterprises Consultant.

(D) An applicant who is a licensee with a score of 90 percent or greater on his or her most recent National Restaurant Association's ServSafe exam shall be assigned three sanitation points.

- (2) A maximum of five seniority points may be awarded based on the number of years an applicant has worked as an operator in the Business Enterprises Program. The applicant shall be awarded 0.2 points for each 12 months worked as an operator in the Business Enterprises Program. The cutoff date for accruing time in the facility shall be the end of the month when the vacancy is advertised.

- (3) A maximum of 50 financial performance points may be awarded. Financial performance for applicants who are operators shall be based on the facilities assigned to the operator. Financial performance shall be calculated by analyzing the average monthly sales and average gross profit percentage for sales during the 12-month period ending with the last day of the month preceding the month in which the vacancy is advertised. The cut-off date for calculating financial performance shall be the 12-month period ending with the last day of the month in which the vacancy is advertised. The FAOS shall be utilized to help determine the financial performance of the facility. A FAOS shall be

completed by the Business Enterprises Consultant for a facility every three years to determine the optimum sales percentage and optimum gross profit percentage without consideration for theft or waste. Eighty-five percent of the optimum sales percentage and optimum gross profit percentage shall be the standard for each Business Enterprises facility.

(A) If an applicant who is not currently operating a Business Enterprises facility applies for a vacancy within 12 months of leaving a facility, the FAOS for the applicant's prior facility shall be used for the calculations in this Subparagraph if the FAOS was completed within the required two-year period.

(B) The applicant's Business Enterprises Consultant shall determine the FAOS points by tabulating all the invoices for purchases for resale for that facility for the 12-month period ending with the last day of the preceding month in which the vacancy is advertised. The Business Enterprises Consultant shall calculate the month sales average for each of the 12 months for the numbers identified in the following Subparts and using those monthly averages, determine the three months that are closest to the monthly average to allocate points as follows:

- (i) applicants shall receive 20 points for meeting or exceeding 85 percent of their sales standard;
- (ii) applicants shall receive 20 points for meeting or exceeding 85 percent of their gross profit percentage standard;
- (iii) applicants shall receive 5 points for meeting or exceeding 92.5 percent of their optimum sales percentage;
- (iv) applicants shall receive 5 points for meeting or exceeding 92.5 percent of their optimum gross profit percentage;
- (v) applicants who are operators of a Business Enterprises military facility at the time of application shall be assigned 50 FAOS points;
- (vi) applicants who are licensees at the time of application

shall be assigned 40 FAOS points; and

- (vii) applicants who have operated a Business Enterprises facility for less than 6 months prior to the cut-off date for calculating financial performance shall be assigned 40 FAOS points.

(i) The Interview Committee shall consist of:

- (1) the Chief of the Business Enterprises Program or his or her designee;
- (2) a Business Enterprises Program Consultant or Business Enterprises Program designee;
- (3) the vice-chair of the Elected Committee of Vendors (ECBV) or ECBV designee; and
- (4) the chair of the ECBV transfer and promotion subcommittee or ECBV designee.

(j) The Interview Committee shall interview all eligible applicants who present for the scheduled interview. The Interview Committee shall select 15 questions developed by the Interview Committee prior to the interview. A maximum of two points per question may be awarded for a maximum total of 30 points by each Interview Committee member participating in the interview. The interview questions shall relate to any special needs of the vacant facility as well as to standard responsibilities and knowledge areas of Business Enterprises operators. There shall be at least two math questions. A calculator shall be provided by the Interview Committee, although applicants may bring their own calculator.

(k) An applicant shall not sit on the Interview Committee for a location where he or she is applying or if a member of his or her immediate family has applied for a vacant facility. For the purpose of this Rule, "immediate family" means a spouse, parent, or child, as well as siblings, and step, half and in-law relationships. If the vice-chair of the ECBV or the chair of the ECBV transfer and promotions committee are disqualified from serving as a result of this Rule, the vice-chair of the ECBV and the chair of the ECBV transfer and promotions committee shall jointly select two members of the Elected Committee of Blind Vendors to sit on the Interview Committee.

(l) The interview shall be conducted and evaluated as follows:

- (1) all applicants shall be notified in writing of the date, time, and place of their interview;
- (2) the interview shall be face-to-face. For the purposes of this Rule, a conference call shall not be considered face-to-face; and
- (3) each member of the Interview Committee shall evaluate the applicant's response to each interview question. The applicant shall receive up to two points per question as determined by committee members.

(m) The Interview Committee shall calculate the point total under this Rule for each applicant, which shall equal the sum of the points awarded to the applicant for sanitation, seniority, FAOS, the interview score pursuant to Paragraphs (h) and (j) of this Rule. The applicant with the highest point total shall be awarded the vacancy. If the applicant with the highest point total declines to accept the location, it shall be offered to the applicant with the

next highest point total. In the case of an exact tie, the Division shall award the location to the applicant that has worked the longest period of time as an operator in a Business Enterprises facility.

(n) The Division shall notify each applicant by telephone after the conclusion of interviews whether the applicant was awarded the location and shall confirm the notification in writing.

(o) The location shall not be filled for 10 business days following the Division's providing notice to all applicants pursuant to G.S. 150B-23(f) of the results of the award process, in order to allow time for administrative appeals to be filed. If an appeal is filed, the location shall be filled on a conditional basis until the appeal is resolved. For the purposes of this Rule, "conditional basis" means that the operator may manage the location until the appeal has been resolved. If there is only one applicant for a location, the 20 business days waiting period shall not apply.

(p) Upon being awarded a location, the applicant shall have 20 business days to assume the responsibilities for the operation of the vacant facility. The Division shall agree to a different time frame if adhering to the 20 business days' timeframe would cause a hardship to the applicant awarded the facility.

(q) Applicants shall be reimbursed for their expenses to come to the interview at the State's per diem rates. Applicants who are receiving vocational rehabilitation services shall be reimbursed through the vocational rehabilitation program. The Business Enterprises Program shall only reimburse an applicant for three interviews per year. After three interviews, applicants shall bear their own expenses.

(r) Applicants not selected may file an administrative appeal as provided for in Section .0400 of this Subchapter. The time limit to file an appeal shall be 10 business days from the date that the applicant receives a notice of the results of the award process that conforms to the requirements of G.S. 150B-23(f).

Authority G.S. 111-27; 111-27.1; 143B-157; 20 U.S.C. sec. 107.

SECTION .0400 - ADMINISTRATIVE APPEAL PROCEDURE

10A NCAC 63C .0403 PROCEDURE

(a) The operator/licensee shall discuss the problem with the Division staff person taking the action with which the operator is dissatisfied and request specific action in writing to resolve the grievance. This discussion shall be held within 15 working days of the occurrence of the action challenged by the operator. The operator/licensee shall receive a response within five working days following the discussion. Any decision made by agency personnel at this step shall be subject to supervisory review and approval.

(b) If the complaint is not resolved and the operator/licensee is not satisfied with the outcome of Paragraph (a) of this Rule, he shall have 15 working days to ask for a review by the operator relations committee in writing. Within five working days after asking for a review, the operator/licensee shall be notified of the date of the hearing, which shall be held within 25 working days after the operator's/licensee's request for a hearing. The committee shall render its decision within 20 working days after the hearing.

(c) If the decision reached in step of Paragraph (b) of this Rule is not satisfactory to the operator/licensee or the Division staff person responsible for the initial action, the matter may be referred by the operator/licensee or the Division staff person to the director of the Division. Any request for review shall be submitted within 15 working days after the operator relations committee has presented its recommendation. The party requesting the referral shall provide a written summary of the specific facts of the complaint and request for specific action to resolve the grievance, copies of which shall be provided at the same time to all other parties concerned. The director shall make the decision for the Division within 15 working days, and his decision shall be announced immediately to all parties concerned.

(d) If the complaint is not resolved and the operator/licensee is not satisfied with steps of Paragraphs (a) through (c) of this Rule, then the operator/licensee may file a complaint with the Division requesting a full evidentiary hearing.

(e) If a blind operator/licensee requests a full evidentiary hearing, such request shall be made within 15 working days after the director's adverse direction rendered through the procedures in this Rule.

(f) A blind operator/licensee shall request a full evidentiary hearing in writing. This request shall be transmitted to the director of the Division personally or by certified mail, return receipt requested, transmitted through the Elected Committee of Vendors in accordance with 34 C.F.R. 395.14(b)(2). This hearing shall be held in accordance with G.S. 150B, Article 3, the extent that such article does not conflict with these Rules pertaining to grievance procedures or any federal law or regulation.

(g) A blind operator/licensee shall be entitled to legal counsel or other representation in a full evidentiary hearing. The Division shall reimburse the operator for costs of legal counsel at a rate of 50% of the total amount not to exceed a total expenditure by the Division of one thousand five hundred dollars (\$1,500). This expenditure is based on the availability of funds.

(h) Reader services or other communication services shall be arranged for the blind operator/licensee should he so request. Transportation costs and per diem shall be provided also to the blind operator/licensee during the pendency of the evidentiary hearing, if the location of the hearing is in a city other than the legal residence of the operator/licensee.

(i) The hearing shall be held at a time and place convenient and accessible to the blind operator/licensee requesting a full evidentiary hearing. The blind operator/licensee shall be entitled to have the hearing held in the county of his residence unless he waives this right. A hearing held during regular Division working hours shall be deemed among the convenient times. The hearing shall be scheduled by the Division within 15 working days of its receipt of such a request, unless the Division and the blind operator/licensee mutually, in writing, agree to some other period of time. The Division shall notify the blind operator/licensee in writing of the time and place fixed for the hearing and of his right to be represented by legal or other counsel. The Division shall provide the blind operator/licensee a copy of the hearing procedures and other relevant information necessary to enable him to prepare his case for the hearing.

(j) The presiding officer at the hearing, to be appointed by the Secretary of the Department of Health and Human Services, shall be impartial, unbiased, have knowledge in conducting hearings,

and have no involvement either with the Division action which is at issue in the hearing or with the administration or operation of the Randolph Sheppard Business Enterprises Program.

~~(k) The presiding officer shall conduct a full evidentiary hearing, avoid delay, maintain order, and make sufficient record of the proceedings for a full and true disclosure of the facts and issues. To accomplish these ends, the presiding officer shall have all powers authorized by law and may make all procedural and evidentiary rulings necessary for the conduct of the hearing.~~

~~(l) Both the blind operator/licensee and the Division shall be entitled to present their case by oral or documentary evidence, to submit rebuttal evidence and to conduct such examination and cross examination of witnesses as may be required for a full and true disclosure of all facts bearing on the issue.~~

~~(m) All papers and documents introduced into evidence at the hearing shall be filed with the presiding officer and provided to the other party. All such documents and other evidence submitted shall be open to examination by the parties, and opportunities shall be given to refute facts and arguments advanced on either side of the issues.~~

~~(n) A transcript shall be made of the oral evidence and shall be made available to the parties. The Division shall pay all transcript costs and shall provide the blind operator/licensee with at least one copy of the transcript.~~

~~(o) The transcript of testimony, exhibits, and all papers and documents filed in the hearing shall constitute the exclusive record for decision.~~

~~(p) The decision of the presiding officer shall set forth the principal issues and relevant facts adduced at the hearing, and the applicable provisions in law, federal regulations, and state rules. It shall contain findings of fact and conclusions with respect to each of the issues, and the reasons and basis therefor. The decision shall also set forth any remedial action necessary to resolve the issues in dispute. The decision shall be made within 15 working days after the receipt of the official transcript. The decision shall be mailed promptly to the blind operator/licensee and the division.~~

~~(q) If the dispute(s) is not resolved to the satisfaction of a blind operator/licensee after provision of a full evidentiary hearing, an appeal may be made to the Secretary of the U. S. Department of Education for the convening of an arbitration panel.~~

~~(r) The results of the arbitration shall be considered the final agency action and the operator/licensee shall have exhausted his administrative remedies.~~

(a) A licensee, operator, or the ECBV dissatisfied with any action or inaction taken by the Division related to the Business Enterprises Program may request a request an informal review by the Operator Relations Committee. Participation in an informal review is not required to obtain a full evidentiary hearing, nor does participation in such an informal review waive any right to obtain a full evidentiary hearing.

(1) When a licensee, operator, or the ECBV wishes to request an informal review by the Operator Relations Committee, the licensee, operator, or ECBV shall submit a written request to the Business Enterprises Program Chief. The licensee, operator, or the ECBV shall have 20 business days after the action or inaction taken by the Division that they are dissatisfied with to request an informal review.

(2) The written request of the licensee, operator, or ECBV shall include:

- (A) their name, address, and preferred means of receiving written communication with the Division;
- (B) a statement that they are requesting an informal review;
- (C) a statement explaining the actions or inactions with which they are dissatisfied; and
- (D) a statement explaining the resolution sought by the licensee, operator, or ECBV.

This request shall be transmitted to the Business Enterprises Program Chief personally, electronically, or by certified mail, return receipt requested.

(3) The licensee, operator, or the ECBV shall be notified of the date and location of the informal review at least 5 business days in advance of the informal review. The informal review shall be conducted within 25 business days of receipt of the request. The Operator Relations Committee shall issue a written decision within 10 business days after the informal review is conducted and mailed to the licensee, operator, or ECBV and the Division.

(4) The Division shall review the decision of the Operator Relations Committee and shall notify the licensee, operator or ECBV in writing whether the Division affirms or overrules the decision within 5 business days of receipt of the decision.

(5) A request for an informal review under this rule shall have the effect of suspending the time limitation for filing a petition for contested case hearing pursuant to G.S. 150B-23 and other provisions of Chapter 150B, Article 3 until the later of the following:

- (A) the licensee, operator, or the ECBV receives written notice of the Division's final decision regarding the informal review; or
- (B) the licensee, operator, or the ECBV withdraws its request for informal review

(b) Notwithstanding any other provision in this rule, a licensee, operator, or the ECBV dissatisfied with any action or inaction taken by the Division related to the Business Enterprises Program may request a full evidentiary hearing by filing a petition for contested case hearing with the Office of Administrative Hearings. Such a request for a full evidentiary hearing should be filed within the time limitation contained in G.S. 150B-23(f).

(1) This hearing shall be held in accordance with G.S. 150B, Article 3.

(2) If the dispute(s) is not resolved to the satisfaction of the licensee, operator, or the ECBV after the conclusion of a full evidentiary hearing, an appeal may be made to the Secretary of the U. S. Department of Education

for the convening of an arbitration panel in accordance with 34 C.F.R. 395.13.

Authority G.S. 111-27; 111-27.1; 143B-157; 150B-23; 20 U.S.C. 407; 20 U.S.C. 107b-1; 20 U.S.C. 107d-1.

SECTION .0600 - RESPONSIBILITIES OF LICENSED OPERATORS

10A NCAC 63C .0601 GENERAL RESPONSIBILITIES

(a) ~~The A Business Enterprises operator must~~ shall:

- (1) ~~perform faithfully and to the best of his ability the necessary duties in connection with [to] ensure the operation of the a Business Enterprises facility in accordance with the rules of the Commission for the [Blind] Blind, and standards issued pursuant thereto and the contractual agreement between the Division and the operator, and the terms and conditions of the permit or contract with the building or property on which the host [facility,] facility including any amendments if provided to the operator. facility is located; This requirement shall not mandate the physical presence of the operator at the facility at all times of its operation;~~
- (2) operate the facility in accordance with all applicable public health laws and Rules;
- (3) ~~assume such responsibilities as purchasing needed supplies and merchandise, pricing, merchandising the facility, and control of inventory; purchase merchandise, price goods for [sale,] sale as set forth in Rule .0608 of this Subchapter, purchase supplies for the [facility] facility, rotate stock, and control inventory in the Business Enterprises facility;~~
- (4) ~~devote his full managerial attention to the responsibilities of operating the facility in accordance with the agreement between him and [with] the Division and in accordance with the Rules in this Subchapter. The operator is not required to be on site at all times; and~~
- (5) maintain good [professional relationships with] customer [customers,] relations with his patrons and with the property managing officials at his work site. [the host facility and the Division;]
- [(6)] ~~[maintain a neat, business like appearance while working at the Business Enterprises facility, and shall conduct the facility in an orderly, business like manner;]~~
- [(7)] ~~[must assure that the business to be carried on at the facility shall be limited to that specified and authorized in the operator agreement and permit or contract with the sponsor of the building or property where the facility is located. host facility;]~~
- [(8)](4) open and maintain a business bank account [in which funds are maintained to operate] for the

management of funds derived from the Business Enterprises facility;

- [(9)](5) submit an electronic profit and loss report (D-sheet) to the Division by the 15th of the month following the reporting [month,] month. Assistance shall be provided with the electronic submission of the report by the Business Enterprises Consultant upon request from the operator;
 - [(+0)](6) submit payment of all monthly [fees] fees, including set-aside and liability fees, health insurance premiums, and phone bill payments, if applicable, to the Controller's Office by the 15th of the month following the month in which the business was transacted;
 - [(+1)](7) keep all records supporting the monthly revenue and expense profit and loss report (D-sheet) for three calendar [years:] years, as required by this Subchapter;
 - [(+2)](8) provide [all] records for the assigned facility to the Division upon request [for the purpose of business consultation,] [consultation and] for [conducting audits and record keeping reviews,] reviews as required by this Subchapter. That may include cash sales deposit receipts, cash register tapes, monthly bank and credit card statements, invoices and receipts for purchases and expenses, card reader weekly reports, and payroll records;
 - [(+3)](9) be available for all appointments with the Division staff [members] members, [to allow inspection, advice, record] [reviews] [reviews, and consultation to support operations,] which will be scheduled at the convenience of both parties;
 - [(+4)](10) not subcontract management of the Business Enterprises facility except as approved in writing by the [Division,] Division;
 - [(+5)](11) take [appropriate] actions to correct deficiencies noted on Business Enterprises facility audits or reviews within 15 business [days, and] days after receiving notification of the deficiencies and a description of the corrective actions to be taken, unless an extension to this time frame has been agreed to by the Division and operator in writing; and
 - [(+6)](12) notify the Division of [any] changes to the following no later than 10 business days after the change occurs:
 - (A) the facility telephone number;
 - (B) the address to which Business Enterprises correspondence [shall be] is delivered; and
 - (C) emergency contact [information] information.
- (b) The operator shall be accountable to the Division for the proceeds of the Business Enterprises facility, facility and shall handle the proceeds, proceeds including payments to suppliers and deposits of funds, in accordance with Division guidelines

~~developed to facilitate the provision of management, accounting, and technical services to operators, and in accordance with the U. S. Department of Education reporting requirements, as set forth in Section .0700 of the Subchapter.~~

~~(c) The operator shall maintain a neat, business like appearance while working at the Business Enterprises facility, and shall conduct the facility in an orderly, business like manner.~~

~~(d) In accordance with Paragraph (b) of this Rule, any rebates, commissions, or bonuses received by the operator from supplier shall be considered as income or a refund of purchases and shall be accounted for accordingly.~~

~~(e) The operator must assure that the business to be carried on at the facility shall be limited to that specified and authorized in the permit or contract with the sponsor of the building or property where the facility is located.~~

Authority G.S. 111-27; 111-27.1; 34 C.F.R. 395.3; 34 C.F.R. 395.7; 20 U.S.C. Sec. 107.

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Criminal Justice Education and Training Standards Commission intends to amend the rule cited as 12 NCAC 09E .0105.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/>

Proposed Effective Date: January 1, 2021

Public Hearing:

Date: May 13, 2020

Time: 10:00 a.m.

Location: Wake Technical Community College Public Safety Training Center, 321 Chapanoke Rd, Raleigh, NC 27502

Reason for Proposed Action: Provide annual in-service topics for 2021.

Comments may be submitted to: Charminique D. Williams, PO Drawer 149, Raleigh, NC 27602; email cdwilliams@ncdoj.gov

Comment period ends: May 13, 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 (>= \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

CHAPTER 09 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SUBCHAPTER 09E - IN-SERVICE TRAINING PROGRAMS

SECTION .0100 - LAW ENFORCEMENT OFFICER'S IN-SERVICE TRAINING PROGRAM

12 NCAC 09E .0105 MINIMUM TRAINING SPECIFICATIONS: ANNUAL IN-SERVICE TRAINING

(a) The following topics, specifications, and hours shall be included in each law enforcement officer's annual in-service training courses. For the purposes of this Subchapter, a credit shall be equal to one hour of traditional classroom instruction. All sworn law enforcement officers shall complete a minimum of 24 in-service training credits. The following topics, totaling ~~48~~ 14 credits, shall be specifically required:

- (1) ~~2021~~ 2020 Firearms Training and Qualification (minimum 4 credits);
- (2) ~~2021~~ 2020 Legal Update (minimum 4 credits);
- (3) ~~2021 Continue to Make a Difference: Positive Engagement Stories ad Studies~~ 2020 Long-Term Effects of Childhood Adversity (minimum 2 credits);
- (4) ~~2021 School Safety and Responding to School Incidents (minimum 4 credits)~~ 2020 The Signs Within: Suicide Prevention Education and Awareness (2 credits);
- (5) ~~2020 Career Survival: Training and Standards Issues (2 credits);~~
- (6) ~~2020 Communication Strategies When Encountering Persons Who are Deaf or Hard of Hearing (2 credits);~~
- (7) ~~2020 Armed/Unarmed Security/Company Police: Understanding Their Roles and Authority (2 credits);~~
- (5)(8) Topics of Choice (12 credits);
 - (A) Officer Awareness: Responding to Victims of Trauma (minimum 4 credits); Hazardous Materials (2 credits);
 - (B) Patrol Vehicle Operations (minimum 4 credits); Bloodborne Pathogens (2 credits);
 - (C) Hemp Industry: Overview and Officer Roles (minimum 2 credits);

~~Situational Awareness/Subject Control (4 credits); and~~
(D) Physical and Mental Wellness: Building & Implementing a Plan for Improvement (minimum 2 credits).
~~Law enforcement Threat Assessment (4 credits).~~

(b) All sworn law enforcement officers shall complete a minimum of 10 ~~6~~ in-service credits, in topics identified by their respective agency heads. The agency head may choose any topic, provided the lesson plan is written in Instructional Systems Design format and is taught by an instructor who is certified by the Commission. Topics delivered pursuant to Rule .0104(1) of this Section and National Certification Programs administered by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) completed during the mandated in-service year, shall satisfy in part or in whole the topic requirements set forth by the agency head. To satisfy this requirement these topics shall not be required to be written in Instructional Systems Design format or delivered by an instructor certified by the Commission.

(c) The "Specialized Firearms Instructor Training Manual" published by the North Carolina Justice Academy shall be applied as a guide for conducting the annual in-service firearms training program. Copies of this publication may be inspected at the office of the:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
Raleigh, North Carolina 27610

and may be obtained at the cost of printing and postage from the Academy at the following address:

North Carolina Justice Academy
Post Office Drawer 99
Salemberg, North Carolina 28385

(d) The "In-Service Lesson Plans" published by the North Carolina Justice Academy shall be applied as a minimum curriculum for conducting the annual in-service training program. Copies of this publication may be inspected at the office of the:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
Raleigh, North Carolina 27610

and may be obtained at the cost of printing and postage from the Academy at the following address:

North Carolina Justice Academy
Post Office Drawer 99
Salemberg, North Carolina 28385

(e) Lesson plans are designed to be delivered in hourly increments. A student who completes an online in-service training topic shall receive the number of credits that correspond to the number of hours of traditional classroom training, regardless of the amount of time the student spends completing the course.

(f) Completion of training shall be demonstrated by passing a written test for each in-service training topic, as follows:

- (1) A written test comprised of at least five questions per credit shall be developed by the agency or the North Carolina Justice Academy for each in-service training topic requiring

testing. The Firearms Training and Qualifications in-service course and topics delivered pursuant to Rule .0104(1) of this Section shall be exempt from this written test requirement;

- (2) A student shall pass each test by achieving at least 70 percent correct answers; and
- (3) A student who completes a topic of in-service training in a traditional classroom setting or online and fails the end of topic exam shall be given one attempt to re-test. If the student fails the exam a second time, the student shall complete the in-service training topic in a traditional classroom setting before taking the exam a third time.

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

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 32 - NORTH CAROLINA MEDICAL BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the Medical Board intends to amend the rules cited as 21 NCAC 32M .0101-.0110 and .0117.

Link to agency website pursuant to G.S. 150B-19.1(c):
www.ncmedboard.org/about_the_board/rule_changes

Proposed Effective Date: August 1, 2020

Public Hearing:

Date: May 1, 2020

Time: 10:00 a.m.

Location: North Carolina Medical Board, 1203 Front Street, Raleigh, NC 27609

Reason for Proposed Action:

21 NCAC 32M .0101 - .0106, .0108, and .0110 are being amended for modernization of the language in the rules and processes.

21 NCAC 32M .0107 is being amended to add a continuing education requirement for Nurse Practitioners who prescribe controlled substances.

21 NCAC 32M .0109 is being amended to ensure Nurse Practitioners understand they may not prescribe controlled substances to a patient he or she is having a physical, sexual, or intimate emotional relationship with.

21 NCAC 32M .0117 is being amended to add SOPI Reports C and D to assist with identifying problematic prescribing practices.

Comments may be submitted to: Lynne Taylor, 1203 Front Street, Raleigh, NC 27609; phone (919) 326-1109; email lynne.taylor@ncmedboard.org

Comment period ends: May 1, 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 32M - APPROVAL OF NURSE PRACTITIONERS

21 NCAC 32M .0101 DEFINITIONS

The following definitions apply to this Subchapter:

- (1) "Approval to Practice" means authorization by the ~~Joint Subcommittee of the~~ Medical Board and the Board of Nursing for a nurse practitioner to ~~perform medical acts~~ practice within her or his area of educational preparation and certification under a collaborative practice agreement ~~(CPA)~~ with a ~~licensed~~ physician licensed by the Medical Board in accordance with this Subchapter.
- (2) "Back-up Supervising Physician" means ~~the licensed~~ a physician licensed by the Medical Board who, by signing an agreement with the nurse practitioner and the primary supervising physician(s), shall provide supervision, collaboration, ~~consultation~~ consultation, and evaluation of medical acts by the nurse practitioner in accordance with the collaborative practice agreement when the ~~Primary Supervising Physician~~ primary supervising physician is not available. Back-up supervision shall be in compliance with the following:
 - (a) The signed and dated agreements for each back-up supervising physician(s) shall be maintained at each practice site.

- (b) A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a back-up supervising physician.
- (c) A fully licensed physician in a graduate medical education program who is also practicing in a non-training situation and has a signed collaborative practice agreement with the nurse practitioner and the primary supervising physician may be a back-up supervising physician for a nurse practitioner in the non-training situation.
- (3) ~~"Board of Nursing"~~ "Board" means the North Carolina Board of Nursing.
- (4) "Collaborative practice agreement" means the arrangement for nurse practitioner-physician provides for continuous availability to each other for ongoing supervision, consultation, collaboration, ~~referral~~ referral, and evaluation of care provided by the nurse practitioner.
- (5) ~~"Disaster"~~ "Emergency" means a state of ~~disaster~~ emergency as defined in ~~G.S. 166A-4(1a)~~ G.S. 166A-19.3 and proclaimed by the Governor, or by the General Assembly pursuant to ~~G.S. 166A-6~~ Assembly.
- (6) "Joint Subcommittee" means the subcommittee composed of members of the ~~Board of Nursing~~ and members of the Medical Board to whom responsibility is given by G.S. 90-8.2 and G.S. 90-171.23(b)(14) to develop rules to govern the performance of medical acts by nurse practitioners in North Carolina.
- (7) "Medical Board" means the North Carolina Medical Board.
- (8) "National Credentialing Body" means one of the following credentialing bodies that offers certification and re-certification in the nurse practitioner's specialty area of practice:
 - (a) American Nurses Credentialing Center (ANCC);
 - (b) American Academy of Nurse Practitioners ~~(AANP)~~; National Certification Board (AANPCB);
 - (c) American Association of Critical Care Nurses Certification Corporation (AACN);
 - (d) National Certification Corporation of the Obstetric, Gynecologic and Neonatal Nursing Specialties (NCC); and
 - (e) the Pediatric Nursing Certification Board (PNCB).
- (9) "Nurse Practitioner" or "NP" means a ~~currently licensed~~ registered nurse who holds an active unencumbered license approved to ~~perform medical acts~~ practice consistent with the nurse's

area of nurse practitioner academic educational preparation and national certification under an agreement with a ~~licensed~~ physician licensed by the Medical Board for ongoing supervision, consultation, ~~collaboration~~ collaboration, and evaluation of medical acts performed. Such medical acts are in addition to those nursing acts performed by virtue of registered nurse (RN) licensure. The NP is held accountable under the RN license for those nursing acts that he or she may perform.

- (10) "Primary Supervising Physician" means ~~the licensed a physician with an active unencumbered license with the Medical Board~~ who shall provide on-going supervision, collaboration, ~~consultation~~ consultation, and evaluation of the medical acts performed by the nurse practitioner as defined in the collaborative practice agreement. Supervision shall be in compliance with the following:
- (a) The primary supervising physician shall assure both Boards that the nurse practitioner is qualified to perform those medical acts described in the collaborative practice agreement.
 - (b) A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a primary supervising physician.
 - (c) A fully licensed physician in a graduate medical education program who is also practicing in a non-training situation may supervise a nurse practitioner in the non-training situation.
- (11) "Registration" means authorization ~~by the Medical Board and the Board of Nursing~~ for a registered nurse to use the title nurse practitioner in accordance with this Subchapter.
- (12) "Supervision" means the physician's function of overseeing medical acts performed by the nurse practitioner.
- (13) "Volunteer Approval" means approval to practice consistent with this Subchapter except without expectation of direct or indirect compensation or payment (monetary, in kind or otherwise) to the nurse practitioner.

Authority G.S. 90-5.1(a)(3); 90-8.1; 90-8.2; 90-18(c)(14); 90-18.2.

21 NCAC 32M .0102 SCOPE OF PRACTICE

The nurse practitioner's scope of practice is defined by academic educational preparation and national certification and maintained competence. A nurse practitioner shall be held accountable by both Boards for the continuous and comprehensive management of a broad range of personal health services for which the nurse practitioner is educationally prepared and for which competency

has been maintained, with physician supervision and collaboration as described in Rule .0110 of this Subchapter. These services include but are not restricted to:

- (1) promotion and maintenance of health;
- (2) prevention of illness and disability;
- (3) diagnosing, treating and managing acute and chronic illnesses;
- (4) guidance and counseling for both individuals and families;
- (5) prescribing, ~~administering~~ administering, and dispensing therapeutic measures, tests, ~~procedures~~ procedures, and drugs;
- (6) planning for situations beyond the nurse practitioner's expertise, and consulting with and referring to other health care providers as appropriate; and
- (7) evaluating health outcomes.

Authority G.S. 90-5.1(a)(3); 90-18(14).

21 NCAC 32M .0103 NURSE PRACTITIONER REGISTRATION

(a) The Board of ~~Nursing~~ shall register an applicant as a nurse practitioner who:

- (1) has an ~~unrestricted~~ active unencumbered license to practice as a registered nurse in North Carolina or compact state and, when applicable, an ~~unrestricted~~ active unencumbered approval, ~~registration~~ registration, or license as a nurse practitioner in another state, territory, or possession of the United States;
- (2) has successfully completed a nurse practitioner education program as outlined in Rule .0105 of this Subchapter;
- (3) is certified as a nurse practitioner by a national credentialing body consistent with 21 NCAC 36 .0801(8); and
- (4) has supplied additional information necessary to evaluate the application as requested.

(b) ~~Beginning~~ Applicants who have graduated from a nurse practitioner program after January 1, 2005, new graduates of a nurse practitioner program, who are seeking first-time nurse practitioner registration ~~in North Carolina~~ shall:

- (1) hold a Master's or higher degree in Nursing or related field with primary focus on Nursing;
- (2) have successfully completed a graduate level nurse practitioner education program accredited by a national accrediting body; and
- (3) provide documentation of certification by a national credentialing body.

Authority G.S. 90-5.1(a)(3); 90-18(c)(14); 90-18.2; 90-171.36.

21 NCAC 32M .0104 PROCESS FOR APPROVAL TO PRACTICE

(a) Prior to the performance of any medical acts, a nurse practitioner shall:

- (1) meet registration requirements as specified in 21 NCAC 32M .0103;

- (2) submit an application for approval to practice;
- (3) submit any additional information necessary to evaluate the application as requested; and
- (4) have a collaborative practice agreement with a primary supervising ~~physician~~ physician who is actively engaged in a practice that mirrors or exceeds that of the nurse practitioner's practice.

(b) A nurse practitioner seeking approval to practice who has not practiced as a nurse practitioner in more than two years shall complete a nurse practitioner refresher course approved by the Board of Nursing in accordance with Paragraphs (o) and (p) of 21 NCAC 36 .0220 and consisting of common conditions and their management directly related to the nurse practitioner's area of education and certification. A nurse practitioner refresher course participant shall be granted an approval to practice that is limited to clinical activities required by the refresher course.

(c) The nurse practitioner shall not practice until notification of approval to practice is ~~received from the Board of Nursing after both Boards have approved the application.~~ received.

(d) The nurse practitioner's approval to practice is terminated when the nurse practitioner discontinues working within the approved nurse practitioner collaborative practice agreement or experiences an interruption in her or his registered nurse licensure status, and the nurse practitioner shall ~~so~~ notify the Board of Nursing in writing. The ~~Boards~~ Board shall extend the nurse practitioner's approval to practice by 45 days in cases of emergency such as ~~sudden~~ sudden injury, ~~sudden illness~~ sudden illness, or ~~death~~ death, or the sudden unavailability of the primary supervising physician.

(e) Applications for approval to practice in North Carolina shall be submitted to the Board of Nursing and then approved by both Boards as follows:

- (1) the Board of Nursing shall verify compliance with Rule .0103 of this Subchapter and Paragraph (a) of this Rule; and
- (2) the Medical Board shall verify that the designated primary supervising physician holds a valid license to practice medicine in North Carolina and compliance with Paragraph (a) of this Rule.

(f) Applications for approval of changes in practice arrangements and addition or change of primary supervising physician for a nurse practitioner currently approved to practice in North Carolina shall be submitted by the ~~applicant~~ applicant as follows:

- (1) ~~addition or change of primary supervising physician shall be submitted to the Board of Nursing and proceed~~ processed pursuant to protocols developed by both ~~Boards; and~~ Boards.
- (2) ~~request for change(s) in the scope of practice shall be submitted to the Joint Subcommittee.~~

(g) A registered nurse who was previously approved to practice as a nurse practitioner in this state who reapplies for approval to practice shall:

- (1) meet the nurse practitioner approval requirements as stipulated in Rule .0108(c) of this Subchapter; and
- (2) complete the appropriate application.

(h) Volunteer Approval to Practice. The ~~North Carolina Board of Nursing~~ shall grant approval to practice in a volunteer capacity to a nurse practitioner who has met the qualifications to practice as a nurse practitioner in North Carolina.

(i) The nurse practitioner shall pay the appropriate fee as outlined in Rule .0115 of this Subchapter.

(j) A Nurse Practitioner approved under this Subchapter shall keep proof of current licensure, ~~registration~~ registration, and approval available for inspection at each practice site upon request by agents of either Board.

Authority G.S. 90-5.1(a)(3); 90-18(c)(14); 90-18.2; 90-171.20(7); 90-171.23(b); 90-171.42.

21 NCAC 32M .0105 EDUCATION AND CERTIFICATION REQUIREMENTS FOR REGISTRATION AND APPROVAL AS A NURSE PRACTITIONER

(a) A nurse practitioner applicant seeking with registration or first-time approval to practice after January 1, 2000, shall provide evidence of current certification ~~or recertification~~ as a nurse practitioner by a national credentialing body.

(b) A nurse practitioner applicant seeking registration or approval to practice who completed a nurse practitioner education program prior to December 31, 1999 shall provide evidence of successful completion of a course of education that contains a core curriculum including 400 contact hours of didactic education and 400 contact hours of preceptorship or supervised clinical experience. The core curriculum shall contain the following components:

- (1) health assessment and diagnostic reasoning including:
 - (A) historical data;
 - (B) physical examination data;
 - (C) organization of data base;
- (2) pharmacology;
- (3) pathophysiology;
- (4) clinical management of common health problems and diseases such as the following shall be evident in the nurse practitioner's academic program:
 - (A) respiratory system;
 - (B) cardiovascular system;
 - (C) gastrointestinal system;
 - (D) genitourinary system;
 - (E) integumentary system;
 - (F) hematologic and immune systems;
 - (G) endocrine system;
 - (H) musculoskeletal system;
 - (I) infectious diseases;
 - (J) nervous system;
 - (K) behavioral, mental health and substance abuse problems;
- (5) clinical preventative services including health promotion and prevention of disease;
- (6) client education related to Subparagraph (b)(4) and (5) of this Rule; and

- (7) role development including legal, ethical, economical, health ~~policy~~ policy, and interdisciplinary collaboration issues.

(c) Nurse practitioner applicants exempt from components of the core curriculum requirements listed in Paragraph (b) of this Rule are:

- (1) Any nurse practitioner approved to practice in North Carolina prior to January 18, 1981, is permanently exempt from the core curriculum requirement.
- (2) A nurse practitioner certified by a national credentialing body prior to January 1, 1998, who also provides evidence of satisfying Subparagraphs (b)(1) – (3) of this Rule shall be exempt from core curriculum requirements in Sub-paragraphs (b)(4) – (7) of this Rule. Evidence of satisfying Subparagraphs (b)(1) – (3) of this Rule shall include:
 - (A) a narrative of course content; and
 - (B) contact hours.

Authority G.S. 90-5.1(a)(3); 90-18(c)(14); 90-171.42.

21 NCAC 32M .0106 ANNUAL RENEWAL OF APPROVAL TO PRACTICE

(a) Each registered nurse who is approved to practice as a nurse practitioner in this State shall annually renew each approval to practice with the Board of Nursing no later than the last day of the nurse practitioner's birth month by:

- (1) Maintaining current North Carolina RN licensure; licensure or privilege to practice;
- (2) Maintaining certification as a nurse practitioner by a national credentialing body identified in Rule .0101(8) of this Subchapter;
- (3) attesting to completion of continuing competence requirements, and submitting evidence of completion if requested by the Board, as specified in Rule .0107 of this Section.
- ~~(3)(4)~~ Submitting the fee required in Rule .0115 of this Subchapter; and
- ~~(4)(5)~~ Completing the renewal application.

(b) If the nurse practitioner has not renewed by the last day of her or his birth month, the approval to practice as a nurse practitioner shall ~~lapse~~ expire.

Authority G.S. 90-5.1(a)(3); 90-8.1; 90-8.2(a).

21 NCAC 32M .0107 CONTINUING EDUCATION (CE)

In order to maintain nurse practitioner approval to practice, the nurse practitioner shall maintain certification as a nurse practitioner by a national credentialing body identified in Rule .0101(8) of this Section and earn 50 contact hours of continuing education each year beginning with the first renewal after initial approval to practice has been granted. At least 20 hours of the required 50 hours must be in the advanced practice nursing population focus of the NP role ~~those hours~~ for which approval has been granted by the American Nurses Credentialing Center (ANCC) or Accreditation Council on Continuing Medical

Education (ACCME), other national credentialing bodies, or practice relevant courses in an institution of higher learning. Every nurse practitioner who prescribes controlled substances shall complete at least one hour of the total required continuing education (CE) hours annually consisting of CE designed specifically to address controlled substance prescribing practices, ~~signs of the abuse or misuse of controlled substances,~~ and controlled substance prescribing for chronic pain management. CE that includes recognizing signs of the abuse or misuse of controlled substances, or non-opioid treatment options shall qualify for the purposes of this Rule. Documentation shall be maintained by the nurse practitioner for the previous five calendar years and made available upon request to either Board.

Authority ~~G.S. 90-5.1;~~ G.S. 90-5.1(a)(3); 90-8.1; 90-8.2; 90-14(a)(5); S.L. 2015-241, s. 12F.

21 NCAC 32M .0108 INACTIVE STATUS

(a) Any nurse practitioner who wishes to place her or his approval to practice on an inactive status shall notify the Board of Nursing in writing.

(b) A nurse practitioner with an inactive approval to practice status shall not practice as a nurse practitioner.

(c) A nurse practitioner with an inactive approval to practice status who reapplies for approval to practice shall meet the qualifications for approval to practice in Rules .0103(a)(1), .0104(a) and (b), .0107, and .0110 of this Subchapter and receive notification from the Board of Nursing of approval prior to beginning practice after the application is ~~approved by both Boards~~ approved.

(d) A nurse practitioner who has not practiced as a nurse practitioner in more than two years shall complete a nurse practitioner refresher course approved by the Board of Nursing in accordance with Paragraphs (o) and (p) of 21 NCAC 36 .0220 and consisting of common conditions and management of these conditions directly related to the nurse practitioner's area of academic education and national certification. A nurse practitioner refresher course participant shall be granted an approval to practice that is limited to clinical activities required by the refresher course.

Authority G.S. 90-5.1(a)(3); 90-18(c)(14); 90-18.2; 90-171.36.

21 NCAC 32M .0109 PRESCRIBING AUTHORITY

(a) The prescribing stipulations contained in this Rule apply to writing prescriptions and ordering the administration of medications.

(b) Prescribing and dispensing stipulations are as follows:

- (1) Drugs and devices that may be prescribed by the nurse practitioner in each practice site shall be included in the collaborative practice agreement as outlined in Rule .0110(2) of this Section.
- (2) Controlled Substances (Schedules II, IIN, III, IIN, IV, V) defined by the State and Federal Controlled Substances Acts may be procured, prescribed, or ordered as established in the collaborative practice agreement, providing all of the following requirements are met:

- (A) the nurse practitioner has an assigned DEA number that is entered on each prescription for a controlled substance;
 - (B) refills may be issued consistent with Controlled Substance laws and regulations; and
 - (C) the primary supervising physician(s) ~~possesses~~ shall possess a the same schedule(s) of controlled substances ~~as equal to or greater than~~ the nurse practitioner's DEA registration.
- (3) The nurse practitioner may prescribe a drug or device not included in the collaborative practice agreement only as follows:
- (A) upon a specific written or verbal order obtained from a primary or back-up supervising physician before the prescription or order is issued by the nurse practitioner; and
 - (B) the written or verbal order as described in Part (b)(3)(A) of this Rule shall be entered into the patient record with a notation that it is issued on the specific order of a primary or back-up supervising physician and signed by the nurse practitioner and the physician.
- (4) Each prescription shall be noted on the patient's chart and include the following information:
- (A) medication and dosage;
 - (B) amount prescribed;
 - (C) directions for use;
 - (D) number of refills; and
 - (E) signature of nurse practitioner.
- (5) Prescription Format:
- (A) All prescriptions issued by the nurse practitioner shall contain the supervising physician(s) name, the name of the patient, and the nurse practitioner's name, telephone number, and approval number.
 - (B) The nurse practitioner's assigned DEA number shall be written on the prescription form when a controlled substance is prescribed as defined in Subparagraph (b)(2) of this Rule.
- (6) A nurse practitioner shall not prescribe controlled substances, as defined by the State and Federal Controlled Substances Acts, for the following:
- (A) nurse practitioner's own use;
 - (B) nurse practitioner's supervising physician;
 - (C) a member of the nurse practitioner's immediate family, which shall mean:
 - (i) spouse;
 - (ii) parent;
 - (iii) child;
 - (iv) sibling;
 - (v) parent-in-law;
 - (vi) son or daughter-in-law;
 - (vii) brother or sister-in-law;
 - (viii) step-parent;
 - (ix) step-child; or
 - (x) step-siblings;
 - (D) any other person living in the same residence as the licensee; or
 - (E) anyone with whom the nurse practitioner is having a sexual physical, sexual, and/or emotional intimate relationship.
- (c) The nurse practitioner may obtain approval to dispense the drugs and devices other than samples included in the collaborative practice agreement for each practice site from the Board of Pharmacy, and dispense in accordance with 21 NCAC 46 .1703 that is hereby incorporated by reference including subsequent amendments.

Authority G.S. 90-5.1(a)(3); 90-18.2.

21 NCAC 32M .0110 QUALITY ASSURANCE STANDARDS FOR A COLLABORATIVE PRACTICE AGREEMENT

The following are the quality assurance standards for a collaborative practice agreement:

- (1) Availability: The primary or back-up supervising physician(s) and the nurse practitioner shall be continuously available to each other for consultation by direct communication or telecommunication.
- (2) Collaborative Practice Agreement:
 - (a) shall be agreed ~~upon and upon~~ signed, signed, and dated by both the primary supervising physician and the nurse practitioner, and maintained in each practice site;
 - (b) shall be reviewed at least yearly. This review shall be acknowledged by a dated signature sheet, signed by both the primary supervising physician and the nurse practitioner, appended to the collaborative practice ~~agreement~~ agreement, and available for inspection by members or agents of either Board;
 - (c) shall include the drugs, devices, medical treatments, ~~tests~~ tests, and procedures that may be prescribed, ~~ordered~~ ordered, and performed by the nurse practitioner consistent with Rule .0109 of this Subchapter; and
 - (d) shall include a pre-determined plan for emergency services.
- (3) The nurse practitioner shall demonstrate the ability to perform medical acts as outlined in the collaborative practice agreement upon request by members or agents of either Board.

- (4) Quality Improvement Process:
- (a) The primary supervising physician and the nurse practitioner shall develop a process for the ongoing review of the care provided in each practice site including a written plan for evaluating the quality of care provided for one or more frequently encountered clinical problems.
 - (b) This plan shall include a description of the clinical problem(s), an evaluation of the current treatment interventions, and if needed, a plan for improving outcomes within an identified time-frame.
 - (c) The quality improvement process shall include scheduled meetings between the primary supervising physician and the nurse practitioner at least every six months. Documentation for each meeting shall:
 - (i) identify clinical problems discussed, including progress toward improving outcomes as stated in Subparagraph (d)(2) of this Rule, and recommendations, if any, for changes in treatment plan(s);
 - (ii) be signed and dated by those who attended; and
 - (iii) be available for review by members or agents of either Board for the previous five calendar years and be retained by both the nurse practitioner and primary supervising physician.
- (5) Nurse Practitioner-Physician Consultation. The following requirements establish the minimum standards for consultation between the nurse practitioner and primary supervising physician(s):
- (a) During the first six months of a collaborative practice agreement between a nurse practitioner and the primary supervising physician, there shall be monthly meetings for the first six months to discuss practice relevant clinical issues and quality improvement measures.
 - (b) Documentation of the meetings shall:
 - (i) identify clinical issues discussed and actions taken;
 - (ii) be signed and dated by those who attended; and
 - (iii) be available for review by members or agents of either Board for the previous five calendar years and be retained by both the nurse practitioner and primary supervising physician.
- calendar years and be retained by both the nurse practitioner and primary supervising physician.
- Authority G.S. 90-5.1(a)(3); 90-8.1; 90-8.2; 90-18(14); 90-18.2; 90-171.23(14).*
- 21 NCAC 32M .0117 REPORTING CRITERIA**
- (a) The Department of Health and Human Services ("Department") may report to the North Carolina Board of Nursing (~~"Board of Nursing"~~) ("Board") information regarding the prescribing practices of those nurse practitioners ("prescribers") whose prescribing:
 - (1) falls within the top two percent of those prescribing 100 morphine milligram equivalents ("MME") per patient per day; or
 - (2) falls within the top two percent of those prescribing 100 MME's per patient per day in combination with any benzodiazepine and who are within the top one percent of all controlled substance prescribers by volume.
 - (b) In addition, the Department may report to the Board ~~of Nursing~~ information regarding prescribers who have had two or more patient deaths in the preceding 12 months due to opioid poisoning where the prescribers authorized more than 30 tablets of an opioid to the decedent and the prescriptions were written within 60 days of the patient deaths.
 - (c) In addition, the Department may report to the Board information regarding prescribers who meet three or more of the following criteria, if there are a minimum of five patients for each criterion:
 - (1) at least 25 percent of the prescriber's patients receiving opioids reside 100 miles or greater from the prescriber's practice location;
 - (2) the prescriber had more than 25 percent of patients receiving the same opioids and benzodiazepine combination;
 - (3) the prescriber had 75 percent of patients receiving opioids self-pay for the prescriptions;
 - (4) the prescriber had 90 percent or more of patients in a three-month period that received an opioid prescription that overlapped with another opioid prescription for at least one week;
 - (5) More than 50 percent of the prescriber's patients received opioid doses of 100 MME or greater per day excluding office-based treatment medications; and
 - (6) the prescriber had at least 25 percent of patients who used three or more pharmacies within a three-month period to obtain opioids regardless of the prescriber.
 - (d) In addition, the Department may report to the Board information regarding prescribers who authorize a prescription for opioids to at least one patient where the prescribing meets the following criteria:
 - (1) The prescription is for 100 MME or greater;
 - (2) The prescription is for 30 or more days;

- (3) The patient has not received a prescription for an opioid from any prescriber in the six months prior to the prescription in question as demonstrated in the North Carolina Controlled Substances Reporting System at the time the prescription was authorized and as reported by the patient.
- ~~(e)~~(e) The Department may submit these reports to the Board of Nursing upon request and may include the information described in G.S. 90-113.73(b).
- ~~(d)~~(f) The reports and communications between the Department and the Board of Nursing shall remain confidential pursuant to ~~G.S. 90-16~~ and G.S. 90-113.74.

Authority G.S. 90-5.1(a)(3); 90-18.2; 90-113.74.

Note from the Codifier: The rules published in this Section of the NC Register are emergency rules reviewed by the Codifier of Rules and entered in the North Carolina Administrative Code. The agency must subsequently publish a proposed temporary rule on the OAH website (www.ncoah.com/rules) and submit that adopted temporary rule to the Rules Review Commission within 60 days from publication of the emergency rule or the emergency rule will expire on the 60th day from publication. This section of the Register may also include, from time to time, a listing of emergency rules that have expired. See G.S. 150B-21.1A and 26 NCAC 02C .0600 for adoption and filing requirements.

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Rule-making Agency: *Commission for Public Health*

Rule Citation: *10A NCAC 41A .0101*

Effective Date: *February 17, 2020*

Findings Reviewed and Approved by the Codifier: *February 5, 2020*

Reason for Action: *A novel Coronavirus (nCoV) was identified as the cause of an emerging infectious disease outbreak in December 2019 in Wuhan, Hubei Province, China. This nCoV causes respiratory illness ranging in severity from milder illness to death. As of February 4, 2020, over 20,500 confirmed cases and 427 deaths had been reported, almost all from China, but also from 25 other countries including the United States. The ongoing outbreak has already surpassed the total number of the previous outbreaks of SARS (Sudden Acute Respiratory Syndrome) and MERS (Middle Eastern Respiratory Syndrome). The first U.S. case was reported in a traveler returning from Wuhan on January 21, 2020 in Washington State. The North Carolina Division of Public Health is working closely with the Centers for Disease Control and Prevention (CDC) to monitor and prepare for possible cases in North Carolina. No vaccine or specific treatment for this infection is available. Rapid implementation of control measures may help limit spread if cases are reported once identified.*

It is imperative that public health authorities be rapidly notified when these infections are suspected so that appropriate control measures can be implemented to prevent further spread. Currently, diagnostic testing is only available at CDC through coordination with the State Laboratory for Public Health. Rapid notification of suspected infections will increase the timeliness of testing, case identification, and implementation of control measures to protect the public's health. For this reason, the State Health Director issued a Temporary Order pursuant to G.S. 130A-141.1 requiring immediate reporting of novel coronavirus effective February 3, 2020. An emergency rule is needed to replace the Temporary Order while temporary and eventually permanent rules are pursued.

CHAPTER 41 - EPIDEMIOLOGY HEALTH

SUBCHAPTER 41A - COMMUNICABLE DISEASE CONTROL

SECTION .0100 - COMMUNICABLE DISEASE CONTROL

10A NCAC 41A .0101 REPORTABLE DISEASES AND CONDITIONS

(a) The following named diseases and conditions are declared to be dangerous to the public health and are hereby made reportable within the time period specified after the disease or condition is reasonably suspected to exist:

- (1) acquired immune deficiency syndrome (AIDS) - 24 hours;
- (2) anthrax - immediately;
- (3) botulism - immediately;
- (4) brucellosis - 7 days;
- (5) campylobacter infection - 24 hours;
- (6) *Candida auris* - 24 hours;
- (7) Carbapenem-Resistant *Enterobacteriaceae* (CRE) – 24 hours;
- (8) chancroid - 24 hours;
- (9) chikungunya virus infection - 24 hours;
- (10) chlamydial infection (laboratory confirmed) - 7 days;
- (11) cholera - 24 hours;
- (12) Creutzfeldt-Jakob disease – 7 days;
- (13) cryptosporidiosis – 24 hours;
- (14) cyclosporiasis – 24 hours;
- (15) dengue - 7 days;
- (16) diphtheria - 24 hours;
- (17) *Escherichia coli*, shiga toxin-producing - 24 hours;
- (18) ehrlichiosis – 7 days;
- (19) encephalitis, arboviral - 7 days;
- (20) foodborne disease, including *Clostridium perfringens*, staphylococcal, *Bacillus cereus*, and other and unknown causes - 24 hours;
- (21) gonorrhea - 24 hours;
- (22) granuloma inguinale - 24 hours;
- (23) *Haemophilus influenzae*, invasive disease - 24 hours;
- (24) Hantavirus infection – 7 days;
- (25) Hemolytic-uremic syndrome – 24 hours;
- (26) Hemorrhagic fever virus infection – immediately;
- (27) hepatitis A - 24 hours;
- (28) hepatitis B - 24 hours;
- (29) hepatitis B carriage - 7 days;
- (30) hepatitis C, acute – 7 days;
- (31) human immunodeficiency virus (HIV) infection confirmed - 24 hours;
- (32) influenza virus infection causing death – 24 hours;
- (33) legionellosis - 7 days;

- (34) leprosy – 7 days;
- (35) leptospirosis - 7 days;
- (36) listeriosis – 24 hours;
- (37) Lyme disease - 7 days;
- (38) Lymphogranuloma venereum - 7 days;
- (39) malaria - 7 days;
- (40) measles (rubeola) - 24 hours;
- (41) meningitis, pneumococcal - 7 days;
- (42) meningococcal disease - 24 hours;
- (43) Middle East respiratory syndrome (MERS) - 24 hours;
- (44) monkeypox – 24 hours;
- (45) mumps - 7 days;
- (46) nongonococcal urethritis - 7 days;
- (47) novel coronavirus infection – immediately;
- ~~(48)(47)~~ novel influenza virus infection – immediately;
- ~~(49)(48)~~ plague - immediately;
- ~~(50)(49)~~ paralytic poliomyelitis - 24 hours;
- ~~(51)(50)~~ pelvic inflammatory disease – 7 days;
- ~~(52)(51)~~ psittacosis - 7 days;
- ~~(53)(52)~~ Q fever - 7 days;
- ~~(54)(53)~~ rabies, human - 24 hours;
- ~~(55)(54)~~ Rocky Mountain spotted fever - 7 days;
- ~~(56)(55)~~ rubella - 24 hours;
- ~~(57)(56)~~ rubella congenital syndrome - 7 days;
- ~~(58)(57)~~ salmonellosis - 24 hours;
- ~~(59)(58)~~ severe acute respiratory syndrome (SARS) – 24 hours;
- ~~(60)(59)~~ shigellosis - 24 hours;
- ~~(61)(60)~~ smallpox - immediately;
- ~~(62)(61)~~ Staphylococcus aureus with reduced susceptibility to vancomycin – 24 hours;
- ~~(63)(62)~~ streptococcal infection, Group A, invasive disease - 7 days;
- ~~(64)(63)~~ syphilis - 24 hours;
- ~~(65)(64)~~ tetanus - 7 days;
- ~~(66)(65)~~ toxic shock syndrome - 7 days;
- ~~(67)(66)~~ trichinosis - 7 days;
- ~~(68)(67)~~ tuberculosis - 24 hours;
- ~~(69)(68)~~ tularemia – immediately;
- ~~(70)(69)~~ typhoid - 24 hours;
- ~~(71)(70)~~ typhoid carriage (Salmonella typhi) - 7 days;
- ~~(72)(71)~~ typhus, epidemic (louse-borne) - 7 days;
- ~~(73)(72)~~ vaccinia – 24 hours;
- ~~(74)(73)~~ vibrio infection (other than cholera) – 24 hours;
- ~~(75)(74)~~ whooping cough – 24 hours; and
- ~~(76)(75)~~ yellow fever - 7 days.

(b) For purposes of reporting, "confirmed human immunodeficiency virus (HIV) infection" is defined as a positive virus culture, repeatedly reactive EIA antibody test confirmed by western blot or indirect immunofluorescent antibody test, positive nucleic acid detection (NAT) test, or other confirmed testing method approved by the Director of the State Public Health Laboratory conducted on or after February 1, 1990. In selecting additional tests for approval, the Director of the State Public

Health Laboratory shall consider whether such tests have been approved by the federal Food and Drug Administration, recommended by the federal Centers for Disease Control and Prevention, and endorsed by the Association of Public Health Laboratories.

(c) In addition to the laboratory reports for Mycobacterium tuberculosis, Neisseria gonorrhoeae, and syphilis specified in G.S. 130A-139, laboratories shall report using electronic laboratory reporting (ELR), secure telecommunication, or paper reports.

- (1) Isolation or other specific identification of the following organisms or their products from human clinical specimens:
 - (A) Any hantavirus or hemorrhagic fever virus.
 - (B) Arthropod-borne virus (any type).
 - (C) Bacillus anthracis, the cause of anthrax.
 - (D) Bordetella pertussis, the cause of whooping cough (pertussis).
 - (E) Borrelia burgdorferi, the cause of Lyme disease (confirmed tests).
 - (F) Brucella spp., the causes of brucellosis.
 - (G) Campylobacter spp., the causes of campylobacteriosis.
 - (H) Candida auris.
 - (I) Carbapenem-Resistant Enterobacteriaceae (CRE).
 - (J) Chlamydia trachomatis, the cause of genital chlamydial infection, conjunctivitis (adult and newborn) and pneumonia of newborns.
 - (K) Clostridium botulinum, a cause of botulism.
 - (L) Clostridium tetani, the cause of tetanus.
 - ~~(M)~~ Coronavirus, novel human strain.
 - ~~(N)(M)~~ Corynebacterium diphtheriae, the cause of diphtheria.
 - ~~(O)(N)~~ Coxiella burnetii, the cause of Q fever.
 - ~~(P)(O)~~ Cryptosporidium parvum, the cause of human cryptosporidiosis.
 - ~~(Q)(P)~~ Cyclospora cayetanensis, the cause of cyclosporiasis.
 - ~~(R)(Q)~~ Ehrlichia spp., the causes of ehrlichiosis.
 - ~~(S)(R)~~ Shiga toxin-producing Escherichia coli, a cause of hemorrhagic colitis, hemolytic uremic syndrome, and thrombotic thrombocytopenic purpura.
 - ~~(T)(S)~~ Francisella tularensis, the cause of tularemia.
 - ~~(U)(T)~~ Hepatitis B virus or any component thereof, such as hepatitis B surface antigen.
 - ~~(V)(U)~~ Human Immunodeficiency Virus, the cause of AIDS.

- (~~W~~)(~~V~~) Legionella spp., the causes of legionellosis.
- (~~X~~)(~~W~~) Leptospira spp., the causes of leptospirosis.
- (~~Y~~)(~~X~~) Listeria monocytogenes, the cause of listeriosis.
- (~~Z~~)(~~Y~~) Middle East respiratory syndrome virus.
- (~~AA~~)(~~Z~~) Monkeypox.
- (~~BB~~)(~~AA~~) Mycobacterium leprae, the cause of leprosy.
- (~~CC~~)(~~BB~~) Plasmodium falciparum, P. malariae, P. ovale, and P. vivax, the causes of malaria in humans.
- (~~DD~~)(~~CC~~) Poliovirus (any), the cause of poliomyelitis.
- (~~EE~~)(~~DD~~) Rabies virus.
- (~~FF~~)(~~EE~~) Rickettsia rickettsii, the cause of Rocky Mountain spotted fever.
- (~~GG~~)(~~FF~~) Rubella virus.
- (~~HH~~)(~~GG~~) Salmonella spp., the causes of salmonellosis.
- (~~II~~)(~~HH~~) Shigella spp., the causes of shigellosis.
- (~~JJ~~)(~~II~~) Smallpox virus, the cause of smallpox.
- (~~KK~~)(~~JJ~~) Staphylococcus aureus with reduced susceptibility to vanomycin.
- (~~LL~~)(~~KK~~) Trichinella spiralis, the cause of trichinosis.
- (~~MM~~)(~~LL~~) Vaccinia virus.
- (~~NN~~)(~~MM~~) Vibrio spp., the causes of cholera and other vibrioses.
- (~~OO~~)(~~NN~~) Yellow fever virus.
- (~~PP~~)(~~OO~~) Yersinia pestis, the cause of plague.
- (2) Isolation or other specific identification of the following organisms from normally sterile human body sites:
- (A) Group A Streptococcus pyogenes (group A streptococci).
- (B) Haemophilus influenzae, serotype b.
- (C) Neisseria meningitidis, the cause of meningococcal disease.
- (3) Positive serologic test results, as specified, for the following infections:
- (A) Fourfold or greater changes or equivalent changes in serum antibody titers to:
- (i) Any arthropod-borne viruses associated with meningitis or encephalitis in a human.
- (ii) Any hantavirus or hemorrhagic fever virus.
- (iii) Chlamydia psittaci, the cause of psittacosis.
- (iv) Coxiella burnetii, the cause of Q fever.
- (v) Dengue virus.
- (vi) Ehrlichia spp., the causes of ehrlichiosis.
- (vii) Measles (rubeola) virus.
- (viii) Mumps virus.
- (ix) Rickettsia rickettsii, the cause of Rocky Mountain spotted fever.
- (x) Rubella virus.
- (xi) Yellow fever virus.
- (B) The presence of IgM serum antibodies to:
- (i) Chlamydia psittaci.
- (ii) Hepatitis A virus.
- (iii) Hepatitis B virus core antigen.
- (iv) Rubella virus.
- (v) Rubeola (measles) virus.
- (vi) Yellow fever virus.
- (4) Laboratory results from tests to determine the absolute and relative counts for the T-helper (CD4) subset of lymphocytes and all results from tests to determine HIV viral load.
- (5) Identification of CRE from a clinical specimen associated with either infection or colonization, including all susceptibility results and all phenotypic or molecular test results.
- (d) Laboratories utilizing electronic laboratory reporting (ELR) shall report in addition to those listed under Paragraph (c) of this Rule:
- (1) All positive laboratory results from tests used to diagnosis chronic Hepatitis C Infection, including the following:
- (A) Hepatitis C virus antibody tests (including the test specific signal to cut-off (s/c) ratio);
- (B) Hepatitis C nucleic acid tests;
- (C) Hepatitis C antigen(s) tests; and
- (D) Hepatitis C genotypic tests.
- (2) All HIV genotypic test results, including when available:
- (A) The entire nucleotide sequence; or
- (B) The pol region sequence (including all regions: protease (PR)/reverse transcriptase (RT) and integrase (IN) genes, if available).
- (e) For the purposes of reporting, Carbapenem-Resistant Enterobacteriaceae (CRE) are defined as:
- (1) Enterobacter spp, E.coli or Klebsiella spp positive for a known carbapenemase resistance mechanism or positive on a phenotypic test for carbapenemase production; or
- (2) Enterobacter spp, E.coli or Klebsiella spp resistant to any carbapenem in the absence of carbapenemase resistance mechanism testing or phenotypic testing for carbapenemase production.

History Note: Authority G.S. 130A-134; 130A-135; 130A-139; 130A-141;
Amended Eff. October 1, 1994; February 1, 1990;
Temporary Amendment Eff. July 1, 1997;
Amended Eff. August 1, 1998;

EMERGENCY RULES

*Temporary Amendment Eff. February 13, 2003; October 1, 2002;
February 18, 2002; June 1, 2001;
Amended Eff. April 1, 2003;
Temporary Amendment Eff. November 1, 2003; May 16, 2003;
Amended Eff. January 1, 2005; April 1, 2004;
Temporary Amendment Eff. June 1, 2006;
Amended Eff. April 1, 2008; November 1, 2007; October 1, 2006;
Temporary Amendment Eff. January 1, 2010;
Temporary Amendment Expired September 11, 2011;
Amended Eff. July 1, 2013;*

*Temporary Amendment Eff. December 2, 2014;
Amended Eff. October 1, 2015;
Emergency Amendment Eff. March 1, 2016;
Temporary Amendment Eff. July 1, 2016;
Amended Eff. January 1, 2018; October 1, 2016;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. January 9, 2018;
Amended Eff. October 1, 2018;
Emergency Amendment Eff. February 17, 2020.*

APPROVED RULES

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

Rules approved by the Rules Review Commission at its meeting on January 16, 2020 Meeting.

**REGISTER CITATION TO THE
NOTICE OF TEXT****ADMINISTRATION, DEPARTMENT OF**

<u>Definitions</u>	01 NCAC 35A .0101	34:06 NCR
<u>Purpose</u>	01 NCAC 35A .0102	34:06 NCR
<u>Organization of the Campaign</u>	01 NCAC 35A .0103	34:06 NCR
<u>Applications</u>	01 NCAC 35A .0201	34:06 NCR
<u>Content of Applications</u>	01 NCAC 35A .0202	34:06 NCR
<u>Review and Schedule</u>	01 NCAC 35A .0203	34:06 NCR
<u>Response</u>	01 NCAC 35A .0204	34:06 NCR
<u>Agreements</u>	01 NCAC 35A .0205	34:06 NCR
<u>Other Solicitation Prohibited</u>	01 NCAC 35A .0301	34:06 NCR
<u>Coercive Activities Prohibited</u>	01 NCAC 35A .0302	34:06 NCR
<u>Methods of Giving and Terms of Contribution</u>	01 NCAC 35A .0304	34:06 NCR
<u>Campaign Literature</u>	01 NCAC 35A .0305	34:06 NCR
<u>Designation Campaign</u>	01 NCAC 35A .0306	34:06 NCR
<u>Distribution of Undesignated Funds</u>	01 NCAC 35A .0307	34:06 NCR
<u>Campaign Operation</u>	01 NCAC 35A .0309	34:06 NCR
<u>Definitions</u>	01 NCAC 35B .0101*	34:06 NCR
<u>Purpose and Organization</u>	01 NCAC 35B .0102*	34:06 NCR
<u>Statewide Campaign Chair</u>	01 NCAC 35B .0103	34:06 NCR
<u>SECC Advisory Committee</u>	01 NCAC 35B .0104*	34:06 NCR
<u>Statewide Campaign Organization</u>	01 NCAC 35B .0105*	34:06 NCR
<u>Campaign Solicitation Organization</u>	01 NCAC 35B .0106*	34:06 NCR
<u>Contract</u>	01 NCAC 35B .0107*	34:06 NCR
<u>Campaign Literature</u>	01 NCAC 35B .0108*	34:06 NCR
<u>Applications</u>	01 NCAC 35B .0201*	34:06 NCR
<u>Content of Applications</u>	01 NCAC 35B .0202*	34:06 NCR
<u>Criteria for Applicants</u>	01 NCAC 35B .0203*	34:06 NCR
<u>Application Review Process</u>	01 NCAC 35B .0204*	34:06 NCR
<u>Operating Requiriements</u>	01 NCAC 35B .0301*	34:06 NCR
<u>Authorized Solicitation Methods</u>	01 NCAC 35B .0302*	34:06 NCR
<u>Revocation of Eligibility</u>	01 NCAC 35B .0303*	34:06 NCR
<u>Terms of Contributions/Designated Campaign</u>	01 NCAC 35B .0304*	34:06 NCR
<u>Distribution of Undesignated Funds</u>	01 NCAC 35B .0305*	34:06 NCR

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

<u>General Instructor Certification</u>	12 NCAC 09B .0302*	34:06 NCR
<u>Certification of Diversion Investigator and Supervisors</u>	12 NCAC 09B .0314*	34:06 NCR

ALCOHOLIC BEVERAGE CONTROL COMMISSION

<u>General Prohibitions</u>	14B NCAC 15B .1004*	34:06 NCR
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WILDLIFE RESOURCES COMMISSION

<u>Northampton and Warren Counties</u>	15A NCAC 10F .0336	34:04 NCR
<u>General Requirements</u>	15A NCAC 10H .0101*	34:04 NCR
<u>Establishment and Operation</u>	15A NCAC 10H .0102*	34:04 NCR
<u>Labeling of Harvested Birds</u>	15A NCAC 10H .0103*	34:04 NCR
<u>Quality of Birds Released</u>	15A NCAC 10H .0104*	34:04 NCR
<u>Records and Reporting Requirements</u>	15A NCAC 10H .0105*	34:04 NCR
<u>Hunting License Required</u>	15A NCAC 10H .0106*	34:04 NCR
<u>Revocation of License to Operate</u>	15A NCAC 10H .0107*	34:04 NCR
<u>Feeding of Stocked Birds</u>	15A NCAC 10H .0108*	34:04 NCR
<u>Quail Call-Pen Traps</u>	15A NCAC 10H .0109*	34:04 NCR
<u>Supplement Feeding</u>	15A NCAC 10H .0110	34:04 NCR

DENTAL EXAMINERS, BOARD OF

<u>Direction Defined</u>	21 NCAC 16W .0101*	34:06 NCR
<u>Dental Access Shortage Areas</u>	21 NCAC 16W .0104*	34:06 NCR

MEDICAL BOARD/PERFUSION ADVISORY COMMITTEE

<u>Qualifications for License</u>	21 NCAC 32V .0103*	34:03 NCR
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SOCIAL WORK CERTIFICATION AND LICENSURE BOARD

<u>Petition for Predetermination</u>	21 NCAC 63 .0215*	34:08 NCR
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STATE HUMAN RESOURCES COMMISSION

<u>Separation: Payment of Vacation Leave</u>	25 NCAC 01E .0210*	34:06 NCR
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TITLE 01 - DEPARTMENT OF ADMINISTRATION		01 NCAC 35A .0201	APPLICATIONS
01 NCAC 35A .0101	DEFINITIONS	01 NCAC 35A .0202	CONTENT OF APPLICATIONS
		01 NCAC 35A .0203	REVIEW AND SCHEDULE
		01 NCAC 35A .0204	RESPONSE
		01 NCAC 35A .0205	AGREEMENTS
<i>History Note: Authority G.S. 143-3.3; 143-340(26); 143B-10; Eff. February 1, 1984; Amended Eff. December 1, 1994; December 1, 1993; May 1, 1987; Temporary Amendment Eff. February 15, 2002; Amended Eff. August 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017; Repealed Eff. April 1, 2020.</i>		<i>History Note: Authority G.S. 143-3.3; 143-340(26); 143B-10; Eff. February 1, 1984; Amended Eff. December 1, 1993; February 3, 1992; June 1, 1988; July 1, 1987; May 1, 1987; Transferred and Recodified from 01 NCAC 35 .0301-.0302 Eff. December 1, 1993; Amended Eff. January 1, 1995; December 1, 1994; Temporary Amendment Eff. February 15, 2002; Amended Eff. March 1, 2006; August 1, 2004; Repealed Eff. April 1, 2020.</i>	
01 NCAC 35A .0102	PURPOSE	01 NCAC 35A .0301	OTHER SOLICITATION
01 NCAC 35A .0103	ORGANIZATION OF THE CAMPAIGN	PROHIBITED	
		01 NCAC 35A .0302	COERCIVE ACTIVITIES
		PROHIBITED	
		<i>History Note: Authority G.S. 143-3.3; 143-340(26); 143B-10; Eff. February 1, 1984;</i>	

Transferred and Recodified from 01 NCAC 35 .0401 - .0402 Eff. December 1, 1993;
Amended Eff. December 1, 1994; December 1, 1993;
Temporary Amendment Eff. February 15, 2002;
Amended Eff. March 1, 2006; August 1, 2004;
Repealed Eff. April 1, 2020.

01 NCAC 35A .0304 METHODS OF GIVING AND TERMS OF CONTRIBUTION

01 NCAC 35A .0305 CAMPAIGN LITERATURE
01 NCAC 35A .0306 DESIGNATION CAMPAIGN
01 NCAC 35A .0307 DISTRIBUTION OF UNDESIGNATED FUNDS

History Note: Authority G.S. 143-3.3; 143-340(26); 143B-10; Eff. February 1, 1984;
Amended Eff. February 3, 1992; January 1, 1988; May 1, 1987;
Transferred and Recodified from 01 NCAC 35 .0403-.0406 Eff. December 1, 1993;
Amended Eff. December 1, 1994; December 1, 1993;
Temporary Amendment Eff. February 15, 2002;
Amended Eff. March 1, 2006; August 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017;
Repealed Eff. April 1, 2020.

01 NCAC 35A .0309 CAMPAIGN OPERATION

History Note: Authority G.S. 143-3.3; 143-340(26); 143B-10; Temporary Adoption Eff. February 15, 2002;
Eff. August 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017;
Repealed Eff. April 1, 2020.

01 NCAC 35B .0101 DEFINITIONS

The following definitions shall apply:

- (1) "Administrative Expenses" means costs for reporting and informational activities related to business management that are neither educational, direct conduct of program services, nor fund-raising services.
- (2) "Audit" or "Audited Financial Statement" shall mean an examination of financial statements of an organization by a Certified Public Accountant ("CPA"), conducted in accordance with generally accepted auditing standards, to determine whether, in the CPA's opinion, the statements conform with generally accepted accounting principles or, if applicable, another comprehensive basis of accounting.
- (3) "Campaign Contribution" means the amount of funds received from a contributor.
- (4) "Campaign Fiscal Year" shall be January 1 through December 31 of each year.
- (5) "Campaign Solicitation Organization" or "Solicitation Organization" means the regional contacts for fund-raising.

- (6) "Campaign Solicitation Period" means the period between August 1 and December 31 of each year in which solicitations will be conducted.
- (7) "Charitable Organizations" means any Independent Organization or Federation approved to solicit contributions in accordance with the rules of this Subchapter.
- (8) "Federation" or "Federated Group" means a group of voluntary charitable human health and welfare agencies organized for purposes of supplying common fund-raising, administrative, and management services to its constituent members.
- (9) "Fund-raising" or "Solicitation Activities" means the act of soliciting contributions, gifts, and grants; participating in federated campaigns; maintaining donor mailing lists; and preparing and distributing fund-raising manuals, instructions and other materials.
- (10) "Fund-raising Consultant" means a consultant as defined in G.S. 131F-2(10).
- (11) "Fund-raising Expenses" means the total cost incurred from all activities that constitute, or are an integral and inseparable part of, an appeal for financial support.
- (12) "Fund-raising Solicitor" means a solicitor as defined in G.S. 131F-2(19).
- (13) "Independent Organization" or "Independent Charitable Organization" means a singular voluntary charitable agency.
- (14) "Member Charitable Organization" means an Independent Organization that is organized under a Federation or Federated Group.
- (15) "Program Services Expenses" means costs for those activities that the reporting organization was created to conduct which fulfill the purpose or mission for which the organization exists, exclusive of fund-raising and administrative expenses, and which, along with any activities commenced subsequently, form the basis of the organization's current exemption from tax.
- (16) "SECC Advisory Committee" or "Advisory Committee" means an appointed committee that serves as an application point for all Charitable Organizations applying to participate in the SECC.
- (17) "State Employee Combined Campaign" or "SECC" shall be the official name of the state employee charitable fund-raising drive.
- (18) "Statewide Campaign Organization" means the organization contracted to manage the SECC's administrative operations.
- (19) "Undesignated Funds" means solicited funds received in which the designee is not stated or that has not been approved through the SECC application process.

History Note: Authority G.S. 143-340(26);

Eff. April 1, 2020.

01 NCAC 35B .0102 PURPOSE AND ORGANIZATION

(a) The purpose of the State Employee Combined Campaign ("SECC") is to provide a single charitable campaign for all state employees to voluntarily contribute to Independent Organizations or Federations approved in accordance with the rules of this Subchapter.

(b) The SECC shall be comprised as follows:

- (1) a Statewide Campaign Chair;
- (2) an Advisory Committee;
- (3) a Statewide Campaign Organization; and
- (4) a Campaign Solicitation Organization.

*History Note: Authority G.S. 143-340(26);
Eff. April 1, 2020.*

01 NCAC 35B .0103 STATEWIDE CAMPAIGN CHAIR

(a) The Statewide Campaign Chair shall be appointed each year by the Governor from one of the Executive Cabinet, Council of State, System of Community Colleges, or University Administration agencies.

(b) The Statewide Campaign Chair shall:

- (1) serve as director of the campaign;
- (2) enlist the support and cooperation of the head of each State department and university to promote the SECC's purpose;
- (3) set the dates of and approve the published materials for the SECC in accordance with Rule .0108 of this Section;
- (4) contract for the designation of the Statewide Campaign Organization;
- (5) appoint members the Advisory Committee; and
- (6) serve as Chair over Advisory Committee meetings.

*History Note: Authority G.S. 143-340(26);
Eff. April 1, 2020.*

01 NCAC 35B .0104 SECC ADVISORY COMMITTEE

(a) The SECC Advisory Committee members shall serve four-year staggered terms and shall serve no more than two consecutive terms. In the event of a vacancy, the Statewide Campaign Chair shall appoint a replacement to fill an unexpired term.

(b) The SECC Advisory Committee shall meet at the discretion of the Statewide Campaign Chair and no fewer than four meetings per year shall be held. The Advisory Committee shall conduct business only when a quorum of one-third of the Committee membership, including the Statewide Campaign Chair, is present.

(c) The SECC Advisory Committee shall review the recommendations made by the Statewide Campaign Organization and shall accept or reject its recommendations in accordance with Rules .0202 and .0203 of this Subchapter.

(d) The SECC Advisory Committee shall review the Statewide Campaign Organization's annual work plan and a budget to cover all of the costs related to the SECC.

(e) An SECC Advisory Committee member shall not participate in any decision where that Committee member may have a personal or financial interest resulting in a conflict of interest or the appearance of a conflict of interest, either of a personal nature or with regard to the agency in which members is employed.

*History Note: Authority G.S. 143-340(26);
Eff. April 1, 2020.*

01 NCAC 35B .0105 STATEWIDE CAMPAIGN ORGANIZATION

(a) To be eligible for consideration as a potential Statewide Campaign Organization, the applicant shall:

- (1) demonstrate the ability to manage a state-wide fund-raising campaign in the form of experience and references;
- (2) have an Audit to demonstrate a history of financial accountability;
- (3) be a tax-exempt organization under the Internal Revenue Code;
- (4) have the means to verify a bond or obtain proof of insurance in an amount that covers the total amount of funds to be allocated to each of the respective Charitable Organizations based on the previous campaign year contributions; and
- (5) agree to comply with the terms of the Statewide Campaign Organization contract.

(b) The Statewide Campaign Organization shall conduct its own organization operations separately from their duties performed as the Statewide Campaign Organization for the SECC.

(c) The Statewide Campaign Organization shall:

- (1) serve as the financial administrator of the SECC;
- (2) provide staff to administer, maintain records, and provide central management functions such as review applications, arrange meetings, and answer questions for the SECC in consultation with the SECC Advisory Committee;
- (3) review Independent Organization and Federation applications for compliance with Rules .0202 and .0203 of this Subchapter;
- (4) provide a centralized pledge processing service in order to process all pledge forms of state employees;
- (5) compile reports for the SECC Advisory Committee including:
 - (A) a list of all Independent Organizations and Federations approved in accordance with these Rules;
 - (B) a budget of anticipated Fund-raising, Administrative, and Program Services expenses; and
 - (C) an annual work plan of goals and objectives.
- (6) print and distribute pledge forms, campaign report forms and collection envelopes to each Campaign Solicitation Organization;
- (7) collect pledge reports and envelopes from each Campaign Solicitation Organization;

- (8) notify the Independent Organization and Federation of contributions they are to receive no later than March 1 following the Campaign Solicitation Period;
- (9) transmit quarterly to the Independent Organization and Federation its portion of the charitable contributions;
- (10) maintain an accounting of all Campaign Contributions and submit an audited end of campaign report of the following:
 - (A) amounts contributed and pledged;
 - (B) number of contributions; and
 - (C) amounts distributed to the participating Independent Organization or Federation.
- (11) coordinate annual statewide or regional training sessions for all Campaign Solicitation Organizations;
- (12) serve as liaison to all participating Independent Organizations and Federations;
- (13) educate state employees in the services provided through their support;
- (14) deduct, before disbursements are made, direct costs of operating the SECC from the gross contributions and charge each Independent Organization or Federation its proportionate share of the operational costs as determined in Rule .0107 of this Section; and
- (15) document the total actual costs of the SECC, which shall not exceed 20 percent of gross contributions.

History Note: Authority G.S. 143-340(26); Eff. April 1, 2020.

01 NCAC 35B .0106 CAMPAIGN SOLICITATION ORGANIZATION

(a) Each State department or university shall have a Campaign Solicitation Organization within their agency. The Campaign Solicitation Organization shall ensure that solicitation activities are organized and conducted in accordance with Rule .0302 of this Subchapter and shall:

- (1) assist in planning solicitation activities for their department or university;
- (2) act as liaison between state employees and the Statewide Campaign Organization by soliciting employees in their assigned area;
- (3) report all pledges and contributions to their campaign coordinators or department leaders; and
- (4) distribute and collect pledge forms.

(b) The Campaign Solicitation Organization shall ensure that all donations are made on a voluntary basis, allow free choice, and prevent an impression of required giving. The Campaign Solicitation Organization may solicit contributions at employee meetings, events, through written or email communication, and individual contact. Solicitation Activities may be conducted during working hours.

History Note: Authority G.S. 143-340(26); Eff. April 1, 2020.

01 NCAC 35B .0107 CONTRACT

(a) The SECC and Statewide Campaign Organization shall execute a three-year contract for services. The contract shall allow a charge for Fund-raising Expenses, Administrative Expenses, and Program Services Expenses for the Statewide Campaign Organization. The Statewide Campaign Chair shall approve the contract based upon the criteria provided in Rule .0105 of this Section.

(b) The Statewide Campaign Organization shall recover from gross receipts of the SECC its expenses that shall reflect the actual costs of administering the campaign. Total actual costs of the campaign to be recovered pursuant to the contract shall be documented and shall not exceed 20 percent of budgeted gross receipts. The campaign expenses shall be shared proportionately by all the recipient organizations reflecting their percentage share of gross campaign receipts. No costs associated with the campaign shall be borne by the State. All costs shall be borne by the proceeds from the campaign.

History Note: Authority G.S. 143-340(26); Eff. April 1, 2020.

01 NCAC 35B .0108 CAMPAIGN LITERATURE

(a) The SECC shall distribute a campaign resource guide designed by the SECC Advisory Committee subject to approval by the Statewide Campaign Chair. The campaign resource guide shall not favor one Independent Organization or Federation over another.

(b) The Statewide Campaign Chair shall approve, prior to distribution, the content of any campaign pledge or distribution card to ensure compliance with the State Controller's requirements for format and substance.

(c) The Independent Organization or Federation approved for inclusion in the SECC shall be listed in campaign literature no more than one time unless:

- (1) it is in the Independent Organization or Federation's interest to more specifically direct their gifts to separate geographic locations; and
- (2) the Independent Organization or Federation maintains records that determine that contributions are designated to that geographic area accrue only to the benefit and purposes of the designated area.

History Note: Authority G.S. 143-340(26); Eff. April 1, 2020.

01 NCAC 35B .0201 APPLICATIONS

The Independent Organization or Federation shall apply annually in accordance with the requirements set forth in Rules .0202 and .0203 of this Section to the Statewide Campaign Organization. Applications may be obtained via the SECC website at www.ncsecc.org. A Federation may submit an application on behalf of a Member Charitable Organization. Applications for inclusion into the SECC current Campaign Solicitation Period shall be received or postmarked by the Statewide Campaign

Organization no later than March 1st to be included in the following fall campaign. If March 1st falls on a Sunday or federal holiday, the application shall be postmarked or received by the Statewide Campaign Organization by the end of the next day not a Sunday or federal holiday.

*History Note: Authority G.S. 143-340(26);
Eff. April 1, 2020.*

01 NCAC 35B .0202 CONTENT OF APPLICATION

(a) The Independent Organization or Federation seeking inclusion in the SECC shall submit an application to the Statewide Campaign Organization. The application shall include:

- (1) the name of the Independent Organization or Federation;
- (2) name and title of a contact person;
- (3) contact person's telephone number and email address;
- (4) calculation of fund-raising and administrative costs; and
- (5) a signed certification of compliance with the eligibility standards listed in Rule .0203 of this Section.

(b) The Independent Organization or Federation seeking inclusion in the SECC shall submit with the application the attached documentation:

- (1) a letter from the Independent Organization or Federation signed by a voting member of the Board of Directors requesting inclusion in the SECC;
- (2) a certification of compliance from the Independent Organization or Federation signed by Board of Director or agent authorized to sign documents on behalf of the organization. A Federation shall submit certifications for each of a Member Charitable Organization;
- (2) a description of services provided and service area of the organization;
- (3) documentation showing the percentage of the organization's total support and revenue that is allocated to administration and fund-raising, to include:
 - (A) copies of the organization's annual report;
 - (B) newsletters;
 - (C) brochures; or
 - (D) fact sheets.
- (4) a signed copy of the Independent Organization or Federation's IRS 990 form. If the Independent Organization or Federation is not required to file the form with the IRS, they shall submit pages one and two of the completed form with an annotation on the document that it is for SECC purposes only. The IRS 990 form shall cover the same fiscal year and, if revenue and expenses on the two documents differ, these amounts shall be reconciled on an accompanying statement by the CPA who completed the financial audit or review. The

SECC shall reject any application from the Independent Organization or Federation with fund-raising and administrative expenses in excess of 25 percent of the total revenue, unless the organization demonstrates to the SECC Advisory Committee that its actual expenses for those purposes are reasonable under all the circumstances of the case and specifies steps the organization shall take to accomplish a reduction within the next fiscal year. The percentage shall be computed from the information on the IRS 990 form by adding the amount spent on management and general expenses to the amount spent on fund-raising and dividing the resulting total by total revenue; a current copy of the Independent Organization or Federation's Charitable License issued by the NC Secretary of State; and

(6) a current copy of the certificate of existence, for domestic corporations, or certificate of authorization, for foreign corporations, issued by the NC Secretary of State.

*History Note: Authority G.S. 143-340(26);
Eff. April 1, 2020.*

01 NCAC 35B .0203 CRITERIA FOR APPLICANTS

The SECC Advisory Committee shall approve an Independent Organization or Federation for inclusion if the following criteria is met:

- (1) be licensed through the North Carolina Secretary of State to solicit funds, if required;
- (2) be able to maintain the confidentiality of the contributor list;
- (3) not permit payments of commissions, kickbacks, finders fees, percentages, bonuses, or overrides for fund-raising, and permit no paid solicitation by a fund-raising consultant or solicitor in the SECC;
- (4) have a written board policy that assures compliance with all State and Federal laws. Nothing herein denies eligibility to any organization that is otherwise eligible because it is organized by, on behalf of, or to serve persons of a particular race, color, religion, sex, age, national origin or physical or mental disability;
- (5) have contact information available to respond to inquiries from state employees, via email, telephone, or messaging;
- (6) not use SECC contributions for lobbying activities; and
- (7) have a board of directors that contains no less than three persons who meet at least three times a year. The board of directors shall maintain records of all decisions made and make those decisions available to the SECC for inspections if requested.

*History Note: Authority G.S. 143-340(26);
Eff. April 1, 2020.*

**01 NCAC 35B .0204 APPLICATION REVIEW
PROCESS**

(a) The Statewide Campaign Organization shall review the application materials for compliance with Rule .0202 of this Chapter and report to the SECC Advisory Committee the status of this review within four weeks of the submission deadline provided in Rule .0201 of this Section.

(b) The SECC Advisory Committee shall review the recommendations of the Statewide Campaign Organization and shall either approve or reject the recommendations based on compliance with Rule .0202 of this Section.

(c) The SECC Advisory Committee may request additional information if necessary to make an eligibility determination under Rule .0203 of this Section. The Independent Organization or Federation shall submit the requested additional information within 10 days of the notification date. Failure to do so may result in the denial of eligibility.

(d) The Statewide Campaign Organization shall notify all Independent Organizations and Federations of the SECC Advisory Committee's decision within 60 days of the submission deadline.

(e) The Independent Organization or Federation may submit a written request for reconsideration to the Statewide Campaign Organization within 10 business days of receipt of notification of rejection by the SECC Advisory Committee.

(f) If after reconsideration, the SECC Advisory Committee upholds its rejection, the Independent Organization or Federation may commence a contested case by filing a petition under G.S. 150B-23.

*History Note: Authority G.S. 143-340(26);
Eff. April 1, 2020.*

01 NCAC 35B .0301 OPERATING REQUIREMENTS

(a) The Independent Organization or Federation that receives the names and addresses of state employees shall segregate this information from all other lists of contributors and use the lists only for acknowledgement purposes. This segregated list shall not be sold or released to anyone outside of the recipient organization.

(b) The Independent Organization or Federation shall disburse contribution amounts on the basis of actual funds received rather than the amount pledged.

(c) The Federation shall disburse contributions quarterly to their Member Charitable Organizations on the basis of actual funds received, rather than amounts pledged.

(d) In the event the Independent Organization or Federation or any of its directors, officers, or employees are the subject of any investigation or legal proceeding by any federal, state or local law enforcement authority based upon its charitable solicitation activities, delivery program services, or use of funds, the organization shall inform the SECC within 10 days of its learning or being notified of the investigation or proceeding. The Independent Organization or Federation shall also inform the SECC of any investigation or proceeding within 10 days of the outcome.

(f) Any Independent Organization or Federation that fails to comply with this Rule or Rule .0203 of this Subchapter may be declared ineligible by the SECC Advisory Committee and the remainder of the contributions shall be classified as Undesignated Funds and distributed pursuant to Rule .0305 of this Section. Any Member Charitable Organization that fails to comply with this Rule or Rule .0203 of this Subchapter may be declared ineligible by the SECC Advisory Committee and the remainder of the contributions shall be redistributed in accordance with the Federation's policies. A declaration of ineligibility shall be based on factors including the following:

- (1) the type and severity of the failure to comply;
- (2) the period of time or duration that the failure to comply occurred; and
- (3) the amount of financial implications of the failure to comply.

*History Note: Authority G.S. 143-340(26);
Eff. April 1, 2020.*

**01 NCAC 35B .0302 AUTHORIZED SOLICITATION
METHODS**

(a) All activities of the campaign shall be conducted in a manner that promotes a unified solicitation on behalf of all participants. While it is permissible to individually identify, describe or explain the Independent Organization or Federation in the campaign for informational purposes, no person affiliated with the campaign shall engage in any campaign activity that is construed to either advocate or criticize specific Charitable Organizations. The Independent Organization or Federation shall not engage in any solicitation activities at any state employee work site. Bloodmobiles or employee member associations shall be excluded from this restriction.

(b) No Campaign Solicitation Organization representative shall:

- (1) provide or use contributor lists for purposes other than collection, forwarding, and acknowledgment of contributions;
- (2) set mandatory employee participation goals;
- (3) establish personal dollar goals or quotas; and
- (4) develop nor use lists of non-contributors.

*History Note: Authority G.S. 143-340(26);
Eff. April 1, 2020.*

01 NCAC 35B .0303 REVOCATION OF ELIGIBILITY

(a) Violations of Rules .0203 and .0301 of this Subchapter by the Individual Organization or Federation may result in the revocation of eligibility of the organization. The Independent Organization or Federation shall be given notice of the violation and an opportunity to respond prior to any action being taken by the SECC Advisory Committee. A revocation of ineligibility shall be based on factors including the following:

- (1) the type and severity of the failure to comply;
- (2) the period of time or duration that the failure to comply occurred; and
- (3) the amount of financial implications of the failure to comply.

(b) The Independent Organization or Federation that is dissatisfied with the revocation of its eligibility may file an appeal

to the SECC Advisory Committee within 10 days of the notification postmark date.

(c) The Independent Organization or Federation that is dissatisfied with the appeal determination of the SECC Advisory Committee may commence a contested case by filing a petition under G.S. 150B-23.

History Note: Authority G.S. 143-340(26); Eff. April 1, 2020.

01 NCAC 35B .0304 TERMS OF CONTRIBUTIONS/DESIGNATED CAMPAIGN

(a) If an employee chooses to contribute to an Independent Organization or Federation through the SECC, he or she shall designate an Independent Organization or Federation to receive the contribution that has been approved in accordance with Rule .0204 of this Subchapter. A list of approved Charitable Organizations shall be provided to each employee by the SECC. Any funds designated to an organization that has not been approved shall be treated as Undesignated Funds and be distributed in accordance with Rule .0305 of this Section.

(b) Campaign Contributions may be made by payroll deduction, personal check, or credit card. If an employee chooses to use the payroll deduction method of contribution, he or she shall agree to have the deduction continued for one year with equal amounts deducted from each pay period. If the employee authorized payroll deduction or credit card, the minimum amount of the deduction is five dollars per month. Payroll deductions shall be processed pursuant to G.S. 143B-426.40A.

(c) All one time contributions shall be a minimum of ten dollars (\$10.00) annually per Independent Organization or Federation. If a designation does not comply with the minimum contribution it shall be treated as Undesignated Funds and be distributed in accordance with Rule .0305 of this Section.

(d) An employee shall not change the Independent Organization or Federation designated contribution outside of the Campaign Solicitation Period.

(e) When the total contribution for the Independent Organization or Federation is two hundred fifty dollars (\$250.00) or less, the SECC Advisory Committee shall direct the contribution be made in a lump sum the first quarter to the recipient Independent Organization or Federation. Interest earnings shall be disbursed to the Independent Organization or Federation based on its proportionate share of the total gross contributions if an interest-bearing account is established.

History Note: Authority G.S. 143-340(26); Eff. April 1, 2020.

01 NCAC 35B .0305 DISTRIBUTION OF UNDESIGNATED FUNDS

Any monies not designated to an Independent Organization or Federation that has been approved to received contributions through the SECC shall be deemed Undesignated Funds. Undesignated Funds shall be distributed to an Independent Organization or Federation based on its percentage of total designated funds during the current Campaign Solicitation Period after total actual costs of the campaign are recovered pursuant to Rule .0107(b) of this Subchapter.

History Note: Authority G.S. 143-340(26); Eff. April 1, 2020.

TITLE 12 - DEPARTMENT OF JUSTICE

12 NCAC 09B .0302 GENERAL INSTRUCTOR CERTIFICATION

(a) A General Instructor Certification issued after December 31, 1984, shall be limited to those topics that are not expressly incorporated under the Specialized Instructor Certification category. Individuals certified under the general instructor category shall not teach any of the subjects specified in Rule .0304 of this Section, entitled "Specialized Instructor Certification." To qualify for issuance of Probationary Instructor Certification, an applicant shall demonstrate a combination of education and experience in criminal justice and proficiency in the instructional process by meeting the following requirements:

- (1) Present documentary evidence showing that the applicant:
 - (A) is a high school, college, or university graduate or has received a high school equivalency credential as recognized by the issuing state; and
 - (B) has acquired four years of practical experience as a Criminal Justice Officer, an administrator or specialist in a field related to the criminal justice system, or as an employee of a Criminal Justice Agency;
- (2) Present evidence showing completion of a Commission-accredited instructor training program or an equivalent instructor training course.
- (3) Achieve a passing score on the comprehensive written examination administered by the Commission, as required by Rule .0413(d) of this Subchapter.

(b) Applications for Probationary Instructor Certification shall be submitted to the Standards Division within 60 days of the date the applicant passed the State comprehensive examination administered at the conclusion of the Commission-accredited instructor training program.

(c) Persons having completed a Commission-accredited training course and not having submitted the application within 60 days of the date the applicant passed the State comprehensive examination shall complete a subsequent Commission-accredited instructor training course in its entirety by completing the requirements in Paragraph (a) of this Rule.

(d) Out-of-State applicants having completed an equivalent instructor training course and who are certified or have been certified within two years prior to the submission of application to the Standards Division as an instructor in a Criminal Justice Program, as verified by the respective State Police Officer Standards and Training (POST) or Federal Law Enforcement Training Center FLETC or military POST organization, are eligible to apply for Probationary Instructor Certification upon achieving a passing score of 75 percent on the comprehensive

written examination administered by the Commission, as required by Rule .0413(d) of this Subchapter. The application shall be submitted to the Standards Division within 60 days of the date the applicant passed the State comprehensive examination.

(e) The Standards Division staff shall evaluate the out-of-state applicant's combined training and experience to determine if the combined training and experience is equivalent to or exceeds the requirements for Probationary Instructor certification as prescribed in Subparagraphs (a)(1) and (2) of this Rule and includes course topics in instructional leadership, liability, teaching adults, presentation styles, and written lesson plan preparation.

(f) Applicants for Speed Measuring Instrument Instructor courses shall possess probationary or General Instructor Certification.

*History Note: Authority G.S. 17C-6;
Eff. January 1, 1981;*

Amended Eff. October 1, 2017; January 1, 2017; February 1, 2016; January 1, 2015; January 1, 2006; May 1, 2004; August 1, 2000; July 1, 1991; December 1, 1987; October 1, 1985; January 1, 1985;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;
Amended Eff. February 1, 2020.*

12 NCAC 09B .0314 CERTIFICATION OF DIVERSION INVESTIGATORS AND SUPERVISORS

(a) The diversion training courses for investigators and supervisors shall provide the trainee with the skills and knowledge to perform the duties of a law enforcement Diversion Investigator or Supervisor. The diversion training course for investigators shall be 24 classroom hours. The diversion training course for supervisors shall be administered in a four hour online training course. To be certified as a Diversion Investigator or Diversion Supervisor the trainee shall complete the respective diversion training course and achieve a minimum score of 70 percent on the comprehensive written or online examination.

(b) Only a Sheriff, deputy sheriff, or law enforcement officer certified or appointed through the North Carolina Criminal Justice Education and Training Standards or North Carolina Sheriffs' Education and Training Standards Commissions and employed by a law enforcement agency shall be enrolled in a diversion training course. A trainee shall not be certified as a Diversion Investigator or Diversion Supervisor until the Basic Law Enforcement Training course, pursuant to Rule .0205 of this Subchapter, has been completed with passing scores and probationary or general law enforcement certification has been granted. Sheriffs and appointed deputy sheriffs shall be allowed to participate in the diversion training courses on a space available basis at the discretion of the Diversion Training Course School Director without having enrolled in, or having completed with passing scores, the Basic Law Enforcement Training course, pursuant to Rule .0205 of this Subchapter and 12 NCAC 09G .0411 and without being currently certified in a probationary status or holding justice officer certification.

(c) Special Agents with the North Carolina State Bureau of Investigation deemed Diversion Investigators as of July 1, 2019, shall be automatically granted certification under this Rule for a period of three years.

(d) The "Diversion Training Courses" required for certification, authored by the North Carolina State Bureau of Investigation and published by the North Carolina Justice Academy, shall include the topic areas as outlined in G.S. 17C-6(a)(19) and is to be applied as the basic curriculum for the Diversion Training Courses for Diversion Investigator and Diversion Supervisors as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tyron Park Drive
Post Office Drawer 149
Raleigh, North Carolina 27602

and obtained at cost from the Academy at the following address:
North Carolina Justice Academy
Post Office Box 99
Salemberg, North Carolina 28385

*History Note: Authority G.S. 17C-6; 17E-4; 90-113.74E;
Eff. February 1, 2020.*

TITLE 14B - DEPARTMENT OF PUBLIC SAFETY

14B NCAC 15B .1004 GENERAL PROHIBITIONS

(a) For the purposes of this Rule, the following definitions shall apply:

- (1) "Coupon" means a part of a retail permittee's advertisement that is redeemed by a purchaser to the retail permittee to obtain a discount at the time of sale;
- (2) "Loyalty card, discount card, or membership card" means a card that is issued by a retail permittee to customers that, upon presentation to the retail permittee, provides for the purchaser to receive a loyalty card, discount card, membership card, or coupon discount on a portion of the amount paid by the purchaser for off-premises beer or wine consumption sales at the time of sale; and
- (3) "Rebate" for a retail permittee, means a promise by the retail permittee to return a portion of the amount paid by the purchaser upon the condition the purchaser completes a rebate form and the purchaser meets the terms and conditions of the rebate form's requirements.

(b) Advertising for an alcoholic beverage shall not include a coupon or an offer for a free alcoholic beverage. No person shall advertise by means of a coupon, a rebate or a permittee's loyalty card, discount card or membership card offering a discount off the purchase of a malt beverage or wine, except as provided in this Section. A combination of the use of a coupon, a rebate or a permittee's loyalty card, discount card or membership card shall not exceed a total of 35 percent of the advertised retail price of the item. Permittees may advertise by means of a coupon, a rebate or a permittee's loyalty card, discount card or membership card under the following conditions:

- (1) A permittee who holds an on-premises or off-premises malt beverage or wine permit under

G.S. 18B-1001(1) through (6) or a wine shop permit under G.S. 18B-1001(16) may advertise by means of a coupon or a rebate in the following circumstances:

- (A) The permittee may provide a coupon or a rebate for use by a customer when purchasing a malt beverage or wine sold at the permittee's retail location for off-premises consumption;
 - (B) The permittee may require a customer to use the permittee's loyalty card, discount card, or membership card with the use of a coupon or rebate when purchasing a malt beverage or wine sold at the permittee's retail location for off-premises consumption;
 - (C) No coupons or rebates shall be honored for the purchase of alcohol for any individual below the legal age for purchase of alcohol;
 - (D) A coupon or rebate shall not provide a discount exceeding 35 percent of the advertised retail price of the item;
 - (E) A permittee shall not advertise or distribute coupons or rebates in a publication produced for or by a higher education institution; and
 - (F) In any advertisement displaying a discount coupon or rebate, the permittee shall include the following statement on or about the discount coupon or rebate in a similar font to the discount coupon or rebate, "Drink Responsibly – Be 21;" and
- (2) A permittee who holds an on-premises or off-premises malt beverage or wine permit under G.S. 18B-1001(1) through (6) or a wine shop permit under G.S. 18B-1001(16) may advertise discounts, coupons and rebates with the requirement of the use of the permittee's loyalty card, discount card or membership card in the following circumstances;
- (A) The permittee shall require customers to present a loyalty card, discount card or membership card to receive the advertised loyalty card, discount card or membership card discount when purchasing a malt beverage or wine sold at the permittee's retail location for off-premises consumption;
 - (B) No loyalty card, discount card or membership card shall be honored for the purchase of alcohol for any individual below the legal age for purchase of alcohol;
 - (C) A loyalty card, discount card or membership card shall not provide a

- (D) discount exceeding 35 percent of the advertised retail price of the item; A permittee shall not advertise permittee loyalty card, discount card or membership card discounts in a publication produced for or by a higher education institution; and
- (E) In any advertisement displaying a permittee loyalty card, discount card or membership card discount, the permittee shall include the following statement on or about the discount coupon or rebate in a similar font to the discount, "Drink Responsibly – Be 21."

Cooperation shall not occur between a retailer and an industry member in either marketing, redemption or funding of coupons, rebates or loyalty card, discount card or membership card discounts under this Rule. Participation of an industry member in the use of coupons, rebates or loyalty card, discount card or membership card discounts is a violation of G.S. 18B-1116(a)(3).

(c) No industry member or retailer shall advertise alcoholic beverages in any programs for events or activities in connection with any elementary or secondary schools; nor shall any alcoholic beverages advertising be connected with these events when broadcast over radio or television.

(d) No industry member or retailer is permitted to advertise alcoholic beverages by use of sound trucks.

(e) No industry member or retailer shall advertise spirituous liquor upon the picture screen of any theater.

(f) Except as otherwise provided in these Rules, no industry member or retailer shall promote an alcoholic beverage product by giving prizes, premiums, or merchandise to individuals for which any purchase of alcoholic beverages is required or based on the return of empty containers unless all containers of like products are accepted and considered on an equal basis with the product sold by the promoter.

(g) No on-premise permittee or his agent shall advertise any drink promotion prohibited by 14B NCAC 15B .0223. This Paragraph includes a ban on all advertisements of "2 for 1," "buy 1 get 1 free," "buy 1 get another for a _____ (nickel, penny, etc.)," and any other similar statement indicating that a patron must buy more than one drink.

History Note: Authority G.S. 18B-100; 18B-105(b); 18B-207; 18B-1116(a)(3); S.L. 2019-182, s. 11;

Eff. January 1, 1982;

Amended Eff. January 1, 2011; July 1, 1992; August 1, 1985; May 1, 1984;

Transferred and Recodified from 04 NCAC 02S .1006 Eff. August 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;

Amended Eff. February 1, 2020.

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

15A NCAC 10F .0336 NORTHAMPTON AND WARREN COUNTIES

(a) Regulated Area. This Rule shall apply to the waters of Lake Gaston in Northampton and Warren counties.

(b) Speed Limit in Mooring Areas. No person shall operate a vessel at greater than no-wake speed while within a marked mooring area on the waters of Lake Gaston within Northampton and Warren counties.

(c) Speed Limit Near Shore Facilities. No person shall operate a vessel at greater than no-wake speed within 50 yards of any marked boat launching area, dock, pier, bridge, marina, boat storage structure, or boat service area on the waters of the regulated areas described in Paragraph (a) of this Rule.

(d) Speed Limit in specific waters. No person shall operate a vessel at greater than no-wake speed within the following bodies of water:

- (1) the cove on the north shore of Lake Gaston in Northampton County east of SR 1252 otherwise known as Vincent Lane, shore to shore from a point on the north shore at 36.51660 N, 77.82226 W to a point on the south shore at 36.51578 N, 77.82269 W;
- (2) Big Stone House Creek in Warren County within 50 yards of the culvert under N.C. Highway 903 at 36.48789 N, 77.95009 W;
- (3) Songbird Creek in Warren County within 50 yards of the culvert under N.C. Highway 903 at 36.53260 N, 77.97330 W;
- (4) Sixpound Creek in Warren County within 50 yards of the culvert under SR 1704 otherwise known as Nocarva Road at 36.52950 N, 78.07283 W;
- (5) Lizard Creek in Warren County within 50 yards of the culvert under SR 1362 otherwise known as Lizard Creek Road at 36.52501 N, 77.91187 W; and
- (6) Jimmies Creek in Northampton County shore to shore, north of a line from a point on the east shore at 36.52450 N, 77.82600 W to a point on the west shore at 36.52445 N, 77.82810 W.

(e) Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked public swimming area on the waters of Lake Gaston in Northampton and Warren counties.

(f) Placement of Markers. The Boards of Commissioners of Northampton County and Warren County shall be the designated agencies for placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and United States Army Corps of Engineers.

History Note: Authority G.S. 75A-3; 75A-15; Eff. March 29, 1981;

Amended Eff. June 1, 1994; March 1, 1993; September 1, 1989; Temporary Amendment Eff. March 15, 2003;

Temporary Amendment Expired October 12, 2003;

Amended Eff. May 1, 2014; May 1, 2004;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Amended Eff. February 1, 2020; October 1, 2018.

15A NCAC 10H .0101 GENERAL REQUIREMENTS

(a) It shall be unlawful to operate a controlled hunting preserve without first obtaining a controlled hunting operator's license from the North Carolina Wildlife Resources Commission (Commission).

(b) A controlled hunting preserve operator's license shall authorize an operator, guest, or customer to take the following:

- (1) Mallard Ducks (in accordance with 50 C.F.R. 21.13);
- (2) Chukar Partridges;
- (3) Hungarian Partridges; and
- (4) Other domestically raised game birds, except Wild Turkey.

(c) The following conditions shall apply to the take of birds on a controlled hunting preserve:

- (1) take shall be by shooting, which may include the use of dogs;
- (2) there shall be no bag limits or sex restrictions; and
- (3) take shall be authorized from October 1 to March 31.
- (4) domestically raised migratory gamebirds shall be marked by one of the methods provided in 50 C.F.R. 21.13, all other domestically raised game birds, except Chukar Partridges and Hungarian Partridges, shall be individually marked on one leg with a band imprinted with the propagator's license number.

(d) Application for a controlled hunting preserve operator's license shall be made on a form available from the Commission online at www.ncwildlife.org or at the Commission headquarters located at 1751 Varsity Drive, Raleigh, NC 27606-2576. The application shall include the following information:

- (1) The applicant's name, mailing address, residence address, telephone number, and date of birth;
- (2) The preserve name and address;
- (3) GPS coordinates of preserve entrance;
- (4) The total preserve acres owned or leased;
- (5) The name, address, and telephone number of the landowner, if applicable;
- (6) The type of preserve; and
- (7) The species of domestically raised game birds to be offered for hunting.

(e) Applicants shall certify and demonstrate ownership or proof of lease of the land for the license period and for the operation of a controlled hunting preserve.

(f) A licensed controlled hunting preserve operator shall be authorized to purchase, possess, propagate, sell, transport, and release propagated migratory game birds, their eggs, and propagated upland game birds, except for wild turkey, subject to limitations in Section .0900 of this Subchapter.

(g) Representatives of the Commission shall be permitted to enter the premises upon request or during business hours for inspection, enforcement, or scientific purposes.

History Note: Authority G.S. 113-134; 113-273;

Eff. February 1, 1976;

Amended Eff. August 1, 2010; May 1, 2008; July 1, 1994; November 1, 1990; July 1, 1988; July 1, 1987; Readopted Eff. April 1, 2020.

15A NCAC 10H .0102 ESTABLISHMENT AND OPERATION

(a) Controlled hunting preserves shall be at least 100 acres and shall be one contiguous block of land.

(b) The boundary of each controlled hunting preserve shall be posted with printed signs that face both outward and inward from the preserve boundary and meet the following requirements:

- (1) Signs shall be at least 12 inches wide and at least nine inches tall with white background and black lettering of uniform font.
- (2) Signs shall be placed along the boundaries of the controlled hunting preserve, not more than 150 feet apart.
- (3) Text of signs facing outward from the boundary shall contain the following information in font no less than ¼ of an inch in height:
 - (A) the words "Controlled Hunting Preserve";
 - (B) the words, "The owner or lessee of this property is operating by authority of a license issued by the N.C. Wildlife Resources Commission. Hunting on this preserve shall be in accordance with regulations of the Commission.";
 - (C) the words, "State hunting license is required"; and
 - (D) the name of the licensed operator of the controlled hunting preserve.
- (4) Text of signs facing inward from the boundary shall bear the words "Controlled Hunting Preserve" in font no less than ¾ of an inch in height.

History Note: Authority G.S. 113-134; 113-273; Eff. February 1, 1976; Amended Eff. June 1, 2009; January 1, 1992; November 1, 1990; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. April 1, 2020.

15A NCAC 10H .0103 LABELING OF HARVESTED BIRDS

(a) It shall be unlawful to remove harvested birds from the hunting preserve or to possess harvested birds unless the birds are packaged and marked with a label provided by the preserve. The label shall contain the following information:

- (1) the name and address of the hunting preserve;
- (2) the name and address of the possessor of the harvested birds;
- (3) the number of harvested birds contained in the package;
- (4) a statement that the package may be opened for inspection by an enforcement officer; and
- (5) the signature of the licensed operator or his or her designee.

(b) The packaged and marked harvested birds shall be accompanied at all times by the hunter's receipt, which shall be completed and signed by the operator or his or her designee as described in Rule .0105 of this Section.

History Note: Authority G.S. 113-134; 113-273; 113-274; Eff. February 1, 1976; Amended Eff. November 1, 1990; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. April 1, 2020.

15A NCAC 10H .0104 QUALITY OF BIRDS RELEASED

All birds purchased or raised for release on controlled hunting preserves shall be free from disease. Pursuant to the authority granted to the Commission in G.S. 113-276.2, possession of diseased birds may be grounds for the suspension, revocation, or denial of a controlled hunting preserve license.

History Note: Authority G.S. 113-134; 113-273; 113-276.2; Eff. February 1, 1976; Amended Eff. August 1, 2010; June 1, 2005; November 1, 1990; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. April 1, 2020.

15A NCAC 10H .0105 RECORDS AND REPORTING REQUIREMENTS

(a) The controlled hunting preserve operator shall maintain a written record of each hunter using the controlled hunting preserve. This record shall contain the following information:

- (1) name, address, and license number of the preserve;
- (2) the name, address, and state hunting license number of each hunter using the preserve;
- (3) the date(s) of the hunt;
- (4) the number and species of each bird harvested by the hunter on the preserve; and
- (5) the signature of the operator.

This record shall be executed in duplicate. The original record shall be given to the hunter to serve as a receipt for birds harvested on the preserve as required in Rule .0103 of this Section. The duplicate record shall be retained by the operator for 12 months after the date(s) of the hunt. It shall be unlawful for a person to possess game birds harvested on controlled hunting preserves without a receipt as described in this Rule.

(b) The operator shall maintain a written record of each bird species released on the preserve. This record shall include the number and species of each bird released and the date of the release.

(c) The records required by this Rule shall be available for inspection at the request of the Commission.

(d) Licensed operators that release birds shall report the number released, the species of the birds released, and the county where the release occurred to renew their operator's license. This reporting requirement shall be limited to those birds released during the time period of the operator's current valid license or last valid license and shall be reported on the Controlled Shooting

Preserve Game Birds Report Form found online at www.ncwildlife.org or at the Commission headquarters.

History Note: Authority G.S. 113-134; 113-273; 113-274;
Eff. February 1, 1976;
Amended Eff. November 1, 1990; April 15, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. December 6, 2016;
Amended Eff. April 1, 2020.

15A NCAC 10H .0106 HUNTING LICENSE REQUIRED

A valid North Carolina hunting license or controlled hunting preserve hunting license shall be required of all persons hunting domestically raised birds on controlled hunting preserves.

History Note: Authority G.S. 113-134; 113-270.2; 113-273;
Eff. February 1, 1976;
Amended Eff. November 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. December 6, 2016;
Amended Eff. April 1, 2020.

15A NCAC 10H .0107 REVOCATION OF LICENSE TO OPERATE

(a) As authorized in G.S. 113-276.2, the Executive Director of the Commission may revoke, suspend, or deny the renewal of the license of any controlled hunting preserve operator upon violation of the rules in this Section.

(b) The determination whether to revoke, suspend, or deny a controlled hunting preserve operator license shall be based upon the seriousness of the violation and any previous violations.

History Note: Authority G.S. 113-134; 113-273; 113-276.2;
Eff. February 1, 1976;
Amended Eff. November 1, 1990; January 1, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. December 6, 2016;
Amendment Eff. April 1, 2020.

15A NCAC 10H .0108 FEEDING OF STOCKED BIRDS

(a) Types of Feeders. Bird feeders used on controlled hunting preserves shall meet the following conditions:

- (1) not disperse grain or other food on the ground around the feeders; and
- (2) be sheltered to protect the grain or other food from dampness and precipitation.

(b) Location of Feeders. No bird feeder shall be placed within 100 yards of any boundary of a controlled hunting preserve.

(c) Supplemental feeding. Licensed operators shall be authorized to broadcast supplemental feed on the preserve. It shall be lawful for licensed hunters to take all birds authorized in 15A NCAC 10H .0101(b) in supplemented areas. Wild birds may not be taken with the use or aid of bait, including in supplemental feeding areas.

History Note: Authority G.S. 113-134; 113-273;
Eff. September 30, 1979;
Amended Eff. May 1, 2009; November 1, 1990;

Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. December 6, 2016;
Amended Eff. April 1, 2020.

15A NCAC 10H .0109 QUAIL CALL-PEN TRAPS

Licensed controlled hunting preserve operators that release pen-raised quail for hunting or dog training shall be authorized to use quail call-pen traps, between September 1 and April 30, to recover released quail, subject to the following requirements:

- (1) all traps shall have a weather-resistant permanent tag attached with the operator's name and address written legibly;
- (2) no trap shall be located within 100 yards of any boundary of the hunting preserve; and
- (3) no trapped, unbanded quail shall be retained.

History Note: Authority G.S. 113-134; 113-291.1;
Eff. September 1, 1980;
Amended Eff. May 1, 2009; December 1, 1993; November 1, 1990; July 1, 1987;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. December 6, 2016;
Amended Eff. April 1, 2020.

15A NCAC 10H .0110 SUPPLEMENTAL FEEDING

History Note: Authority G.S. 113-134; 113-273;
Eff. May 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. December 6, 2016;
Repealed Eff. April 1, 2020.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 16 – BOARD OF DENTAL EXAMINERS

21 NCAC 16W .0101 DIRECTION DEFINED

(a) A public health hygienist may perform clinical procedures under the direction of a licensed dentist, as defined by 21 NCAC 16A .0101(9), and in accordance with G.S. 90-233(a).

(b) The specific clinical procedures delegated to the hygienist shall be completed, in accordance with a written order from the dentist, within 270 days of the dentist's in-person evaluation of the patient.

(c) The dentist's evaluation of the patient shall include a comprehensive oral examination, medical and dental health history, and diagnosis of the patient's condition.

(d) A public health hygienist may provide educational information, such as instruction in brushing and flossing, without the direction of a licensed dentist.

History Note: Authority G.S. 90-223; 90-233(a);
Temporary Adoption Eff. October 1, 1999;
Eff. April 1, 2001;
Amended Eff. April 1, 2016; July 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. January 9, 2018;

Amended Eff. February 1, 2020.

21 NCAC 16W .0104 DENTAL ACCESS SHORTAGE AREAS

(a) Public health hygienists who are practicing under Rule .0101(a) of this Section and who perform procedures in public schools, nursing homes, rest homes, long-term care facilities, and rural and community clinics provided through federal, State, county, or local governments in areas identified by the Office of Rural Health in the Department of Health and Human Services as dental access shortage areas may:

- (1) perform clinical hygiene procedures as described in G.S. 90-221 under the direction of a dentist based on a written standing order, rather than an in-person evaluation by the dentist as set forth in Rule .0101(c) of this Section; and
- (2) supervise a Dental Assistant who assists the public health hygienists in the procedures described in Subparagraph (a)(1) of this Rule. For purposes of this Rule, Dental Assistant means any person classified as a Dental Assistant II or permitted to perform functions of a Dental Assistant II pursuant to 21 NCAC 16H .0104(a) or (b).

(b) Public health hygienists working under supervision of a dentist in accordance with G.S. 90-233(a) and providing services at facilities identified in Paragraph (a) of this Rule who are performing services pursuant to a written standing order from the dentist must complete the procedures ordered within 270 days.

(c) Dentists providing services at facilities pursuant to Paragraph (a) of this Rule are providing public health services and may supervise more than two public health hygienists at the same time who are performing dental hygiene functions.

History Note: Authority G.S. 90-223; 90-233(a); 90-233(b); Eff. February 1, 2020.

CHAPTER 32 - MEDICAL BOARD/PERFUSION ADVISORY COMMITTEE

21 NCAC 32V .0103 APPLICATION FOR LICENSE

(a) Except as otherwise provided in this Subchapter, an individual shall obtain a license from the Committee before the individual may practice as a licensed perfusionist. The Committee may grant a license or provisional license, reactivate a license or provisional license, or reinstate a license or provisional license to an applicant who has met the following criteria:

- (1) satisfies the requirements of G.S. 90-686;
- (2) is not disqualified for any reason set out in G.S. 90-691;
- (3) completes the application;
- (4) pays the fee as specified in 21 NCAC 32V .0115, plus the cost of a criminal background check;

- (5) submits to the Committee two completed original fingerprint record cards, on fingerprint record cards provided by the Board;
- (6) submits to the Committee a signed and dated original Authority for Release of Information Form allowing a search of local, state, and national files to disclose any criminal record;
- (7) except for applications for a provisional license, submits proof of current certification with the American Board of Cardiovascular Perfusionists (ABCP); and
- (8) supplies any other information the Committee deems necessary to evaluate the applicant's qualifications.

(b) If the Committee determines it needs more information to evaluate the applicant based on information provided by the applicant, the applicant may be required to appear, in person, for an interview with the Committee.

(c) For purposes of this Rule, an "application for reactivation" is for those applicants whose license was placed on inactive status within the past calendar year.

(d) For purposes of this Rule, an "application for reinstatement" is for those applicants whose license has been inactive for more than one calendar year, or if the inactive status resulted from disciplinary action or was taken to avoid disciplinary action.

History Note: Authority G.S. 90-5.1(a)(3); 90-685(3)(4a)(5)(6) and (7); 90-686;

Eff. September 1, 2007;

Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016;

Amended Eff. February 1, 2020.

CHAPTER 63 – SOCIAL WORK CERTIFICATION AND LICENSURE BOARD

21 NCAC 63 .0215 PETITION FOR PREDETERMINATION

(a) General. An individual seeking predetermination pursuant to G.S. 93B-8.1(b6) and this Rule may file with the Board a petition form located on the Board's website, www.ncswboard.org.

(b) Petition Procedure. The petition form shall include all of the following information:

- (1) The person's name;
- (2) The last four digits of the person's social security number;
- (3) The person's current residential address;
- (4) The person's current mailing address;
- (5) A nationwide criminal history record report from a reporting service designated by the Board, the cost of which shall be borne by the petitioner;
- (6) For each crime identified in the criminal history record report, the following information:
 - (A) Whether the crime was a felony or misdemeanor;
 - (B) The date that the crime occurred;

- (C) The date the person was convicted of, or plead guilty or nolo contendere to, the crime;
 - (D) The age of the person at the time of the crime;
 - (E) The circumstances surrounding the commission of the crime;
 - (F) The sentence imposed for the crime;
 - (G) The period of time during which the person was incarcerated for the crime, if any;
 - (H) The period of time during which the person was on probation or parole for the crime, if any;
 - (I) Any documentation related to the person's rehabilitation or employment since the date of the crime, if any;
 - (J) Whether the person has undergone any rehabilitative drug or alcohol treatment since the date of the crime;
 - (K) Whether a Certificate of Relief has been granted regarding the crime, pursuant to G.S. 15A 173.2; and
 - (L) Any affidavits or other written documents, including character references, for the person; and
- (7) An affirmation under oath that the person has read the statutes and rules governing the practice of social work and that the information contained in the petition is true and accurate.

Incomplete petitions shall not be considered by the Board. If incomplete petitions received by the Board are not made complete within 30 days of receipt, the incomplete petitions will be returned to the person from whom the request was made.

(c) **Petition Fee.** A non-refundable petition fee of forty-five dollars (\$45.00) shall accompany each petition. This fee may be paid by certified bank check or money order made payable to the North Carolina Social Work Certification and Licensure Board. Cash shall not be accepted.

(d) **Delegation of Authority for Predetermination.** The Board delegates authority for rendering predeterminations under this Rule to a committee of the Board that is tasked with reviewing disciplinary matters.

History Note: Authority G.S. 90B-11; 93B-8.1; Eff. February 1, 2020.

TITLE 25 - STATE HUMAN RESOURCES COMMISSION

25 NCAC 01E .0210 SEPARATION: PAYMENT OF VACATION LEAVE

- (a) The agency shall pay an employee in a lump sum for vacation leave only at the time of separation.
- (b) When separated from State service due to resignation, dismissal, or death, an employee shall be paid in a lump sum for accumulated vacation leave not to exceed a maximum of 240 hours. The employee is not entitled to any holiday pay after the

date of separation. The employee shall cease to accumulate leave or be entitled to take sick leave.

(c) When separated from State service due to service retirement, early retirement, or reduction in force, an employee may, at the discretion of the employee's supervisor, elect to exhaust vacation leave after the last day of work but prior to the effective date of the separation. All benefits shall accrue while leave is being exhausted, including holidays that occur during the period. Unused vacation leave not exhausted shall be paid in a lump sum not to exceed 240 hours. An employee who was reduced in force and who had over 240 hours of vacation leave at the time of separation shall have the excess leave reinstated when reemployed within one year. The date of separation shall be determined as follows:

- (1) If leave is exhausted, the last day of leave shall be the date of separation.
- (2) If no leave is exhausted, the last day of work shall be the date of separation.

(d) If an employee separates and is overdrawn on any type of leave, the employing agency shall deduct the value of the overdrawn leave from the final salary check.

(e) The employing agency shall make a retirement deduction from all leave payments.

(f) Receipt of lump sum leave payment and retirement benefit shall not be considered as dual compensation.

(g) In the case of a deceased employee, the employing agency shall make a payment for unpaid salary, vacation leave, and travel, upon establishment of a valid claim, to the deceased employee's administrator or executor. In the absence of an administrator or executor, the employing agency must make a payment in accordance with the provisions of G.S. 28A-25-6.

(h) If the employee separates due to a workers' compensation injury pursuant to 25 NCAC 01C .1007(a)(3), leave shall be paid in a lump sum as follows:

- (1) Unused vacation leave earned (up to a maximum of 240 hours) and bonus leave granted and eligible for payout as of the date of injury;
- (2) Unused vacation and sick leave accumulated only during the first 12 months of workers' compensation leave; and
- (3) Any unused bonus leave eligible for payout granted on or after the date of injury.

(i) If the employee returns to permanent duty after workers' compensation leave, vacation leave shall remain available for use after returning to work until the end of the calendar year, at which time any vacation leave over the 240-hour maximum shall be converted to sick leave. If the employee separates for any reason during the calendar year in which he or she returned to work after workers' compensation leave, the employee shall be paid a lump sum for unused leave as follows:

- (1) Unused vacation leave earned (up to a maximum of 240 hours) and bonus leave granted and eligible for payout as of the date of injury;
- (2) Unused vacation leave accumulated during the first 12 months of workers' compensation leave; and

APPROVED RULES

- (3) Any unused bonus leave eligible for payout granted on or after the date of injury.

Amended Eff. December 1, 2008; December 1, 2007; July 1, 1995; March 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;
Amended Eff. February 1, 2020.

History Note: Authority G.S. 126-4;
Eff. February 1, 1976;
Amended Eff. December 1, 1988; January 1, 1993;
Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire June 29, 1989;

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission March 19, 2020 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-431-3000. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

Jeff Hyde (Chair)
Robert A. Bryan, Jr.
Margaret Currin
Brian P. LiVecchi
W. Tommy Tucker, Sr.

Appointed by House

Jeanette Doran (1st Vice Chair)
Andrew P. Atkins
Anna Baird Choi (2nd 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

March 19, 2020 April 16, 2020
May 21, 2020 June 18, 2020

AGENDA

RULES REVIEW COMMISSION

THURSDAY, MARCH 19, 2020 9:00 A.M.

1711 New Hope Church Rd., Raleigh, NC 27609

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
 - A. Department of Natural and Cultural Resources - 07 NCAC 13F .0202, .0303, .0304 (Reeder)
 - B. Board of Elections - 08 NCAC 10B .0103 (May)
 - C. Commission for the Blind - 10A NCAC 63C .0203, .0204, .0403, .0601 (Reeder)
 - D. Department of Insurance - 11 NCAC 12 .0321, .0514, .1501, .1502, .1503, .1504, .1505, .1506, .1507, .1508, .1509, .1803 (Snyder)
 - E. Criminal Justice Education and Training Standards Commission – 12 NCAC 09E .0105 (Snyder)
 - F. Environmental Management Commission - 15A NCAC 02B .0240 (Reeder)
 - G. 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 (May)
 - H. Sedimentation Control Commission - 15A NCAC 04A .0101, .0105; 04B .0105, .0106, .0107, .0108, .0109, .0110, .0111, .0112, .0113, .0115, .0118, .0120, .0124, .0125, .0126, .0127, .0129, .0130, .0131, .0132; 04C .0103, .0106, .0107, .0108, .0110, .0111; 04D .0102; 04E .0101, .0102, .0104, .0201, .0203, .0403, .0405, .0406, .0501, .0502, .0503, .0504 (Reeder)
 - I. Coastal Resources Commission - 15A NCAC 07H .0304, .0305, .0309, .0313, .1901, .1902, .1904, .1905 (Snyder)
 - J. Psychology Board - 21 NCAC 54 .1602, .1605, .1606, .1607, .1608, .1609, .1610, .1611, .1612, .1701, .1702, .1703, .1705, .1706, .1707, .1802, .1803, .1901, .1903, .1904, .2001, .2002, .2005, .2006, .2007, .2008, .2009, .2101, .2102, .2103, .2104, .2202, .2203, .2301, .2302, .2303, .2304, .2305, .2308, .2309, .2311, .2314, .2401, .2402, .2601, .2701, .2703, .2704, .2705, .2706, .2801, .2802, .2803, .2804, .2805, .2806 (May)
- IV. Review of Log of Filings (Permanent Rules) for rules filed between January 22, 2020 through February 20, 2020

- Structural Pest Control Committee (Snyder)
 - Medical Care Commission (May)
 - Commission for Public Health/DHHS (Snyder)
 - Department of Insurance (Snyder)
 - Commission for Public Health (Reeder)
 - Cemetery Commission (Reeder)
 - Board of Dental Examiners (Reeder)
 - Medical Board (May)
 - Midwifery Joint Committee (May)
 - Board of Pharmacy (Reeder)
- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
- VI. Existing Rules Review
- Readoptions
- VII. Commission Business
- Next meeting: Thursday, April 16, 2020
-

Commission Review
Log of Permanent Rule Filings
January 22, 2020 through February 20, 2020

STRUCTURAL PEST CONTROL COMMITTEE

The rules in Chapter 34 are from the Structural Pest Control Committee and include introduction and definitions (.0100); the structural pest control committee (0200); licensing and certification (.0300); public safety (.0400); wood-destroying organisms (.0500); wood-destroying organisms agreements (.0600); household pesticides (.0700); fumigation (.0800); duties and responsibilities of licensee (.0900); time for filing complaints (.1000); inspection fees (.1100); and administrative hearings: contested cases (.1200).

<u>Application for Licenses and Cards: Examination</u>	02	NCAC	34	.0302
Readopt without Changes*				
<u>Recertification</u>	02	NCAC	34	.0309
Readopt without Changes*				
<u>Records: Pesticides and Application Equipment Used</u>	02	NCAC	34	.0328
Readopt without Changes*				
<u>Ancillary Activities</u>	02	NCAC	34	.0331
Readopt without Changes*				
<u>Wood-Destroying Insects: Excluding Subterranean Termites</u>	02	NCAC	34	.0501
Readopt without Changes*				
<u>Pesticides for Subterranean Termite Prevention and/or Con...</u>	02	NCAC	34	.0502
Readopt without Changes*				
<u>Subterranean Termite Control: Buildings After Constructed</u>	02	NCAC	34	.0503
Readopt without Changes*				
<u>Reporting Damage: Infestation: Uninspected Areas</u>	02	NCAC	34	.0504
Readopt without Changes*				
<u>Subterranean Termite Preventions/Res Bldgs Under Const</u>	02	NCAC	34	.0505
Readopt without Changes*				
<u>Min Require/Subterranean Termite Prev/Commercial Bldgs Un...</u>	02	NCAC	34	.0506
Readopt without Changes*				
<u>Wood-Destroying Insects and Other Organism Reports</u>	02	NCAC	34	.0602
Readopt without Changes*				
<u>Written Records of Household Pest Control</u>	02	NCAC	34	.0703

Readopt without Changes*

Decision of Committee

02 NCAC 34 .1206

Readopt without Changes*

MEDICAL CARE COMMISSION

The rules in Subchapter 13B set standards for the licensing of hospitals including supplemental rules for the licensure of skilled intermediate, adult care home beds in a hospital (.1900); specialized rehabilitative and rehabilitative services (.2000); general information (.3000); procedure (.3100); general requirements (.3200); patients' bill of rights (.3300); supplemental rules for the licensure of critical care hospitals (.3400); grievance and management (.3500); management and administration of operations (.3600); medical staff (.3700); nursing services (.3800); medical record services (.3900); outpatient services (.4000); emergency services (.4100); special care units (.4200); maternal-neonatal services (.4300); respiratory care services (.4400); pharmacy services and medication administration (.4500); surgical and anesthesia services (.4600); nutrition and dietetic services (.4700); diagnostic imaging (.4800); laboratory services and pathology (.4900); physical rehabilitation services (.5000); infection control (.5100); psychiatric services (.5200); nursing and adult care beds (.5300); comprehensive inpatient rehabilitation (.5400); supplemental rules for hospitals providing living organ donation transplant services (.5500); physical plant (.6000); general requirements (.6100); and construction requirements (.6200).

Definitions

10A NCAC 13B .1902

Readopt with Changes*

Adult Care Home Personnel Requirements

10A NCAC 13B .1915

Readopt without Changes*

Training

10A NCAC 13B .1918

Readopt with Changes*

Required Spaces

10A NCAC 13B .1925

Readopt with Changes*

Definitions

10A NCAC 13B .3001

Readopt with Changes*

General Requirements

10A NCAC 13B .3101

Readopt with Changes*

Itemized Charges

10A NCAC 13B .3110

Readopt without Changes*

Transfer Agreement

10A NCAC 13B .3204

Readopt without Changes*

Discharge of Minor or Incompetent

10A NCAC 13B .3205

Readopt without Changes*

Minimum Provisions of Patient's Bill of Rights

10A NCAC 13B .3302

Readopt with Changes*

Procedure

10A NCAC 13B .3303

Readopt without Changes*

Additional Requirements for Traumatic Brain Injury Patients

10A NCAC 13B .5412

Readopt with Changes*

Additional Requirements for Spinal Cord Injury Patients

10A NCAC 13B .5413

Readopt with Changes*

The rules in Subchapter 13F concern licensing of homes for the aged and infirm and include definitions (.0100); licensing (.0200); physical plant (.0300); staff qualification (.0400); staff orientation training, competency and continuing education (.0500); staffing (.0600); admission and discharge (.0700); resident assessment and care plan (.0800); resident care and services (.0900); medication (.1000); Resident's funds and refunds (.1100); policies; records and reports (.1200); special care units for alzheimer and related disorders (.1300); special care units for mental health disorders (.1400); use of physical restraints and alternatives (.1500); and rated certificates (.1600).

The License

10A NCAC 13F .0202

Amend*

<u>Applying for a License to Operate a Facility not Currently...</u> Amend*	10A	NCAC	13F	.0204
<u>Renewal of License</u> Amend*	10A	NCAC	13F	.0208
<u>Conditions for License Renewal</u> Repeal*	10A	NCAC	13F	.0209
<u>Denial or Revocation of License</u> Amend*	10A	NCAC	13F	.0212

The rules in Subchapter 13G concern licensing of family care homes including definitions (.0100); licensing (.0200); the building (.0300); staff qualifications (.0400); staffing orientation, training, competency and continuing education (.0500); staffing of the home (.0600); admission and discharge (.0700); resident assessment and care plan (.0800); resident care and services (.0900); medications (.1000); management and resident's funds and refunds (.1100); policies, records and reports (.1200); use of physical restraints and alternatives (.1300); and rated certificates (.1600).

<u>The License</u> Readopt with Changes*	10A	NCAC	13G	.0202
<u>Application for a License to Operate a Home not Currently...</u> Readopt with Changes*	10A	NCAC	13G	.0204
<u>Renewal of License</u> Readopt with Changes*	10A	NCAC	13G	.0208
<u>Conditions for License Renewal</u> Readopt/Repeal*	10A	NCAC	13G	.0209
<u>Denial and Revocation of License</u> Readopt with Changes*	10A	NCAC	13G	.0212
<u>Appeal of Licensure Action</u> Readopt/Repeal*	10A	NCAC	13G	.0213

PUBLIC HEALTH, COMMISSION FOR/HEALTH AND HUMAN SERVICES, DEPARTMENT OF

The rules in Chapter 41 are Health and Epidemiology rules.

The rules in Subchapter 41B concern injury control including definitions (.0100); blood alcohol test regulations (.0200); breath alcohol test regulations (.0300); controlled drinking programs (.0400); and alcohol screening test devices (.0500).

<u>Intoximeter: Model: EC/IR II</u> Amend*	10A	NCAC	41B	.0322
<u>Preventative Maintenance: Intoximeter: Model EC/IR II</u> Amend*	10A	NCAC	41B	.0323
<u>Approved Alcohol Screening Test Devices; Calibration</u> Amend*	10A	NCAC	41B	.0503

INSURANCE, DEPARTMENT OF

The rules in Chapter 4 are from the Consumer Services Division including general provisions (.0100); market conduct examination section (.0200); life: accident and health (.0300); property and liability (.0400); and life insurance illustrations (.0500).

<u>Total Losses on Motor Vehicles</u> Readopt with Changes*	11	NCAC	04	.0418
<u>Motor Vehicle Repair Estimates</u> Readopt with Changes*	11	NCAC	04	.0419
<u>Handling of Loss and Claim</u> Readopt with Changes*	11	NCAC	04	.0421
<u>Definitions</u>	11	NCAC	04	.0425

Readopt with Changes*

The rules in Chapter 6 are from the Agent Services Division.

The rules in Subchapter 6A cover general provisions (.0100); forms (.0200); examinations (.0300); licensing (.0400); license renewals and cancellations (.0500); license denials (.0600); preclicensing education (.0700); continuing education (.0800); and public adjusters (.0900).

Definitions 11 NCAC 06A .1001

Adopt*

Ethical Standards 11 NCAC 06A .1002

Adopt*

The rules in Chapter 10 are from the property and casualty division and include general provisions (.0100); interpretations (.0300); fire and casualty rating organizations (.0400); consent to rate (.0600); insurance in unlicensed foreign and alien companies (.0700); licensing of rating organizations (.0800); licensing of advisory organizations (.0900); licensing of joint underwriting organizations (.1000); rate filings (.1100); forms filings (.1200); NC Joint Underwriting Association (.1300); NC Insurance Underwriting Association (.1400); prospective loss costs filings (.1600); and licensing of statistical organizations (.1700).

Consent to Rate Procedures: Rate Bureau Coverages 11 NCAC 10 .0602

Amend*

PUBLIC HEALTH, COMMISSION FOR

The rules in Chapter 18 are from the Commission for Public Health and cover environmental aspects of health such as sanitation (18A), mosquito control (18B), water supplies (18C), and water treatment facility operators (18D). The rules in Subchapter 18C are water supply rules including their protection and location (.0100-.0200), submission of plans, etc. (.0300), design criteria (.0400-.0500), raw surface water facilities (.0600), surface water treatment facilities (.0700), hydropneumatic storage tanks (.0800), distribution systems (.0900), disinfection (.1000), protection of unfiltered and filtered supplies (.1100-.1200), variances (.1300), fluoridation (.1400), water quality standards and variances (.1500-.1600), systems grants (.1700), local plan approval (.1800), administrative penalties (.1900), filtration and disinfection (.2000); operating permits (.2100); and ground water systems (.2200).q

Source Water Protection Planning 15A NCAC 18C .1305

Amend*

CEMETERY COMMISSION

The rules in Subchapter 7D concern trust funds including maintenance and care funds (perpetual care funds) (.0100); and pre-need cemetery merchandise, pre-constructed mausoleums and below ground crypts trust funds (.0200).

Withdrawals from Perpetual Care Trust Funds 21 NCAC 07D .0108

Adopt*

DENTAL EXAMINERS, BOARD OF

The rules in Subchapter 16A concern the organization of the board of dental examiners.

Petition for Predetermination 21 NCAC 16A .0106

Adopt*

MEDICAL BOARD

The rules in Subchapter 32R concern Continuing Medical Education (CME) Requirements.

Continuing Medical Education (CME) Required 21 NCAC 32R .0101

Amend*

The rules in Subchapter 32S regulate physician assistants including physician assistant registration (.0200).

<u>Continuing Medical Education</u>	21	NCAC	32S	.0216
Amend*				

MIDWIFERY JOINT COMMITTEE

The rules in Chapter 33 are from the Midwifery Joint Committee.

<u>Administrative Body and Definitions</u>	21	NCAC	33	.0101
Amend*				
<u>Fees</u>	21	NCAC	33	.0102
Amend*				
<u>Application</u>	21	NCAC	33	.0103
Amend*				
<u>Due Process</u>	21	NCAC	33	.0105
Amend*				
<u>Reporting Criteria</u>	21	NCAC	33	.0110
Amend*				

PHARMACY, BOARD OF

The rules in Chapter 46 cover organization of the board (.1200); general definitions (.1300); hospitals and other health facilities (.1400); admission requirements and examinations (.1500); licenses and permits (.1600); drugs dispensed by nurse and physician assistants (.1700); prescriptions (.1800); forms (.1900); administrative provisions (.2000); elections (.2100); continuing education (.2200); prescription information and records (.2300); dispensing in health departments (.2400); miscellaneous provisions (.2500); devices (.2600); nuclear pharmacy (.2700); compounding (.2800); product selection (.2900); disposal of unwanted drugs (.3000); clinical pharmacist practitioner (.3100); impaired pharmacist peer review program (.3200); and registry of pharmacist technicians (.3300).

<u>Device and Medical Equipment Committee</u>	21	NCAC	46	.1207
Adopt*				
<u>Eligibility to Vote</u>	21	NCAC	46	.2102
Amend*				
<u>Committee on Nominations</u>	21	NCAC	46	.2104
Amend*				
<u>Device and Medical Equipment Committee Representatives</u>	21	NCAC	46	.2109
Repeal*				

CONTESTED CASE DECISIONS

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

OFFICE OF ADMINISTRATIVE HEARINGS**Chief Administrative Law Judge****JULIAN MANN, III****Senior Administrative Law Judge****FRED G. MORRISON JR.****ADMINISTRATIVE LAW JUDGES**

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

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

Year	Code	Number	Date Decision Filed	Petitioner		Respondent	ALJ
				<u>Published</u>			
19	BOE	01535	1/7/2020; 1/14/2020	The People for Rev. Joseph L Irving	v.	State Board of Elections and Ethics Enforcement	May
19	BOE	02435	1/24/2020	Robert Jameson	v.	NC State Board of Elections	Ward
19	DHR	00943	5/21/2019; 1/9/2020	Central Family Care Home Dr Thelma B Brown	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Overby
19	DHR	02817	1/16/2020	Perkins Professional Daycare Inc	v.	Department of Health and Human Services	May
19	DHR	05406	1/28/2020	New Horizon Group Home LLC	v.	NC Department of Health and Human Services, Division of Social Services	Lassiter
19	DOJ	00322	1/27/2020	Kenneth M Tanguay	v.	North Carolina Criminal Justice Education and Training Standards Commission	Lassiter
19	DOJ	01621	1/23/2020	Matthew Bounds	v.	NC Sheriffs Education and Training Standards Commission	Sutton
19	DOJ	01622	1/30/2020	Joshua Orion David	v.	NC Sheriffs Education and Training Standards Commission	Ward
19	DOJ	02498	1/23/2020	Justin T Combs	v.	NC Sheriffs Education and Training Standards Commission	Sutton
19	DOJ	02985	1/6/2020	Thomas Council	v.	NC Sheriffs Education and Training Standards Commission	Overby
19	DOJ	03862	1/21/2020	Andre D Green Sr	v.	NC Sheriffs Education and Training Standards Commission	Bawtinheimer
19	INS	02486	1/3/2020	Candace Heer	v.	State Health Plan	May
19	INS	03891	1/13/2020	Donna Thomas Tedder	v.	North Carolina State Health Care Plan	Bawtinheimer

CONTESTED CASE DECISIONS

18	OSP	02258	1/6/2020	Jodette Dorene Hall	v.	North Carolina Department of Public Safety	Bawtinheimer
19	OSP	03469	1/27/2020	Alejandro Asbun	v.	North Carolina Department of Health and Human Services	Jacobs
19	OSP	03472	11/18/2019; 1/2/2020	Rex A Draughon	v.	NCDPS Adult Corrections and Juvenile Justice	Overby
19	OSP	04414	1/29/2020	Tiffany Efird	v.	NC DOT/ DMV	Bawtinheimer
				Unpublished			
19	BAR	06047	1/13/2020	Kelvin D Exum	v.	The North Carolina State Bar	Overby
19	BOE	04976	1/10/2020	Barbara Dantonio	v.	NC State Board of Elections	Ward
19	CPS	03805	1/7/2020	Christene Callihan	v.	Crime Victims Compensation Commission	Lassiter
19	CPS	05739	1/7/2020	Larry Richard Moore	v.	Public Safety operating as North Carolina State Highway Patrol	Sutton
19	CPS	06274	1/16/2020	Courtney King	v.	NC Crime Victims Comp Commission	Malherbe
19	CSE	03117	1/2/2020	Andrelle Wiley	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
19	CSE	05599	1/16/2020	Eron Thomas	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Culpepper
19	CSE	05671	1/7/2020	Tesha M Mangum	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Malherbe
19	CSE	05693	1/23/2020	Ascencion Escamilla Rodriguez	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May
19	CSE	05799	1/16/2020	Charles Pettus	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Culpepper
19	CSE	05856	1/30/2020	Antonio Mock	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
19	CSE	05921	1/13/2020	Damian D Liles	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Services	Sutton
19	CSE	05928	1/23/2020	Allyson Lucia Chavis	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	May
19	CSE	05963	1/30/2020	Dwain Evans	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Sutton
19	CSE	05971	1/14/2020	Thomas A Miller	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Service	Sutton
19	CSE	06058	1/16/2020	Lincoln Hardrick	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Culpepper

CONTESTED CASE DECISIONS

19	CSE	06122	1/15/2020	Gregory E Dwyer	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
19	CSE	06127	1/13/2020	Claude Sanders	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Malherbe
19	CSE	06330	1/14/2020	Christine L Barnes	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinhimer
19	CSE	06606	1/22/2020	Michael T Holloway	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Services	Bawtinhimer
19	DCS	04290	1/10/2020	Lynetta J Givens	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Malherbe
19	DHR	04623	1/28/2020	Loretta Buckley Malakie	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Sutton
19	DHR	05200	1/3/2020	Antonio Ray Davis	v.	Department of Health and Human Services, Division of Health Service Regulation	Ward
19	DHR	05205	1/10/2020	Onslow Pines Rest Home	v.	NC Dept of Health and Human Services (DHHS)	Mann
19	DHR	05871	1/17/2020	LifeQuest Disabilities Services Inc Jane Williams	v.	Trillium Health Resources	Lassiter
19	DHR	05911	1/22/2020	Teketa Pemberton	v.	DHHS	May
19	DHR	05962	1/22/2020	Nicole Richardson	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Mann
19	DHR	06006	1/7/2020	Lalee Lee	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Sutton
19	DHR	06383	1/7/2020	Lewis E Williams	v.	DHHS Ms Lisa G Corbett General Counsel	Bawtinhimer
19	DHR	06419	1/29/2020	Gaston Residential Services Inc	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Malherbe
19	DHR	06446	1/21/2020	Kiayanis Harris	v.	North Carolina Department of Health and Human Services, Division of Child Development and Early Education	Malherbe
19	DHR	06567	1/23/2020	Sylvia Corry	v.	NC Department of Health and Human Services, Division of Child Development and Early Education	Malherbe
19	DHR	06942	1/30/2020	Valerie R Davis	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Malherbe
19	DOJ	02330	1/2/2020	Demonte Dominique Shaw	v.	NC Private Protective Services Board	Bawtinhimer
19	DST	05116	1/17/2020	Michael Bagala A/K/A Bernard C Wijesingha	v.	State Treasurer of North Carolina, Retirement Systems Division	Jacobs

CONTESTED CASE DECISIONS

19	OSP	05895	1/28/2020	Charles A Wooten	v.	Cherry Hospital 1403 W Ash St Goldsboro NC (DHHS)	Overby