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The NORTH CAROLINA REGISTER

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- Agriculture
- Crime Control and Public Safety
- Human Resources
- Insurance
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ISSUE DATE: MARCH 15, 1988

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INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

NORTH CAROLINA REGISTER

The *North Carolina Register* is published monthly and contains information relating to agency, executive, legislative and judicial actions required by or affecting Chapter 150B of the General Statutes. All proposed, administrative rules and amendments filed under Chapter 150B must be published in the Register. The Register will typically comprise approximately one hundred pages per issue of legal text.

State law requires that a copy of each issue be provided free of charge to each county in the state and to various state officials and institutions. The *North Carolina Register* is available by yearly subscription at a cost of ninety-five dollars (\$95.00) for 12 issues.

Requests for subscriptions to the *North Carolina Register* should be directed to the Office of Administrative Hearings, P. O. Drawer 11666, Raleigh, N. C. 27604, Attn: *Subscriptions*.

ADOPTION, AMENDMENT, AND REPEAL OF RULES

An agency intending to adopt, amend, or repeal a rule must first publish notice of the proposed action in the *North Carolina Register*. The notice must include the time and place of the public hearing; a statement of how public comments may be submitted to the agency either at the hearing or otherwise; the text of the proposed rule or amendment; a reference to the Statutory Authority for the action and the proposed effective date.

The Director of the Office of Administrative Hearings has authority to publish a summary, rather than the full text, of any amendment which is considered to be too lengthy. In such case, the full text of the rule containing the proposed amendment will be available for public inspection at the Rules Division of the Office of Administrative Hearings and at the office of the promulgating agency.

Unless a specific statute provides otherwise, at least 30 days must elapse following publication of the proposal in the *North Carolina Register* before the agency may conduct the required public hearing and take action on the proposed adoption, amendment or repeal.

When final action is taken, the promulgating agency must file any adopted or amended rule for approval by the Administrative Rules Review Commission. Upon approval of ARRC, the adopted or amended rule must be filed with the Office of Administrative Hearings. If it differs substantially from the proposed form published as part of the public notice, upon request by the agency, the adopted version will again be published in the *North Carolina Register*.

A rule, or amended rule cannot become effective earlier than the first day of the second calendar month after the adoption is filed with the Office of Administrative Hearings for publication in the NCAC.

Proposed action on rules may be withdrawn by the promulgating agency at any time before final action is taken by the agency.

TEMPORARY RULES

Under certain conditions of an emergency nature, some agencies may issue temporary rules. A temporary rule becomes effective when adopted and remains in

effect for the period specified in the rule or 180 days, whichever is less. An agency adopting a temporary rule must begin normal rule-making procedures on the permanent rule at the same time the temporary rule is adopted.

NORTH CAROLINA ADMINISTRATIVE CODE

The North Carolina Administrative Code (NCAC) is a compilation and index of the administrative rules of 25 state agencies and 38 occupational licensing boards. The NCAC comprises approximately 15,000 letter size, single spaced pages of material of which approximately 35% is changed annually. Compilation and publication of the NCAC is mandated by G.S. 150B-63(b).

The Code is divided into Titles and Chapters. Each state agency is assigned a separate title which is further broken down by chapters. Title 21 is designated for occupational licensing boards.

The NCAC is available in two formats.

- (1) Single pages may be obtained at a minimum cost of two dollars and 50 cents (\$2.50) for 10 pages or less, plus fifteen cents (\$.15) per each additional page.
- (2) The full publication consists of 52 volumes, totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. A one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscriptions for supplements to the initial publication available.

Requests for pages of rules or volumes of the NCAC should be directed to the Office of Administrative Hearings.

NOTE

The foregoing is a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Articles 2 and 5 of Chapter 150B of the General Statutes be examined carefully.

CITATION TO THE NORTH CAROLINA REGISTER

The *North Carolina Register* is cited by volume, issue, page number and date. 1:1 NCR 101-201, April 1, 1986 refers to Volume 1, Issue 1, pages 101 through 201 of the *North Carolina Register* issued on April 1, 1986.

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NORTH CAROLINA REGISTER



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NORTH CAROLINA REGISTER
Publication Deadlines and Schedules
 (January 1988 - March 1989)

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing & Adoption by Agency	* Earliest Effective Date
*****	*****	*****	*****	*****
01/15/88	12/28/87	01/04/88	02/14/88	05/01/88
02/15/88	01/26/88	02/02/88	03/16/88	06/01/88
03/15/88	02/24/88	03/02/88	04/14/88	07/01/88
04/15/88	03/25/88	04/01/88	05/15/88	08/01/88
05/16/88	04/27/88	05/03/88	06/15/88	09/01/88
06/15/88	05/26/88	06/02/88	07/15/88	10/01/88
07/15/88	06/24/88	07/01/88	08/14/88	11/01/88
08/15/88	07/26/88	08/02/88	09/14/88	12/01/88
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10/14/88	09/26/88	10/03/88	11/13/88	02/01/89
11/15/88	10/26/88	11/02/88	12/15/88	03/01/89
12/15/88	11/23/88	12/02/88	01/14/89	04/01/89
01/16/89	12/27/88	01/03/89	02/15/89	05/01/89
02/15/89	01/26/89	02/02/89	03/17/89	06/01/89
03/15/89	02/21/89	03/02/89	04/14/89	07/01/89

* The "Earliest Effective Date" is computed assuming that the public hearing and adoption occur in the calendar month immediately following the "Issue Date", that the agency files the rule with The Administrative Rules Review Commission by the 20th of the same calendar month and that ARRC approves the rule at the next calendar month meeting.

EXECUTIVE ORDER NUMBER 67

GOVERNOR'S TASK FORCE ON THE
SHORTAGE OF NURSES IN NORTH
CAROLINA

The State of North Carolina has made great strides in supplying quality health care to its citizens. Our physical capacity and technological capability to provide the needed care is being met but our supply of a trained labor force is dangerously low.

The shortfall is particularly critical in nursing. North Carolina simply does not have enough trained nurses to meet the growing demands on our health care system. The shortage promises to become increasingly worse and could have a very serious impact on the state's ability to maintain a high level of health services to its people.

In view of this problem and its growing severity, it is important that the state establish a task force to study this issue and prepare a report which shall examine the causes of the shortage, clearly set forth its implications, and recommend possible solutions that can be implemented by both the public and private sectors.

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

Section 1. ESTABLISHMENT

The Governor's Task Force on the Shortage of Nurses in North Carolina is hereby established. The Task Force shall consist of not more than 20 members appointed by the Governor to serve at the pleasure of the Governor. All vacancies shall be filled by the Governor. The Governor shall designate one of its members as chairman. The Secretary of the Department of Human Resources or his designee shall serve as an ex-officio member.

Section 2. MEMBERSHIP

The membership of the task force shall include but not be limited to representatives from the following groups:

1. North Carolina Nurses Association
2. North Carolina Hospital Association
3. North Carolina Community College System

4. The University of North Carolina System
5. North Carolina Medical Society
6. The North Carolina Health Care Facilities Association
7. One member from the North Carolina Senate
8. One member from the North Carolina House
9. North Carolina Licensed Practical Nurses Association
10. North Carolina Association for Home Care
11. North Carolina Department of Public Instruction (Health Occupations Program)

Section 3. FUNCTIONS

1. The Task Force shall meet regularly at the call of the Chairman. The Task Force is authorized to conduct public hearings for the purpose of receiving the comments and suggestions of citizens throughout the state.

2. The duties of the Task Force shall be to conduct a comprehensive study of the availability of adequate skilled nursing care in North Carolina and to prepare a report outlining its findings and making recommendations on how the public and private sectors can best work to alleviate the nursing shortage now and in the future. This report shall be submitted to the Governor no later than September 1, 1988.

Section 4. ADMINISTRATION

1. Administrative support and staff for this task force shall be provided by the Department of Human Resources.

2. Members of the task force may be reimbursed for necessary travel and subsistence expenses as authorized by NCGS 138-5. Funds for reimbursement of such expenses shall be made available from funds authorized by the Department of Human Resources.

3. All other funds for the support of the task force study shall also be made available from funds authorized by the Department of Human Resources.

Section 5. IMPLEMENTATION AND DURATION

1. This order shall be effective immediately.

2. This commission shall dissolve at the pleasure of the Governor but not later than January 1, 1989.

Done in Raleigh, North Carolina, this 18th day of February, 1988.

VOTING RIGHTS ACT FINAL DECISION LETTERS

[G.S. 120-30.9H, effective July 16, 1986, requires that all letters and other documents issued by the Attorney General of the United States in which a final decision is made concerning a "change affecting voting" under Section 5 of the Voting Rights Act of 1965 be published in the North Carolina Register.]

U.S. Department of Justice
Civil Rights Division

WBR:MAP:TGL:gmh
DJ 166-012-3
T0357-0358
T2714

Voting Section
P.O. Box 66128
Washington, D.C. 20035-6128

February 12, 1988

Richard J. Rose, Esq.
Poyner & Spruill
P.O. Box 353
Rocky Mount, North Carolina 27802-0353

Dear Mr. Rose:

This refers to the two annexations (Ordinance Nos. 0-87-51 and 0-87-57) and the designation of the annexed areas to wards for the City of Rocky Mount in Edgecombe and Nash Counties, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on December 15, 1987.

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

By:

Gerald W. Jones
Chief, Voting Section

VOTING RIGHTS ACT FINAL DECISION LETTERS

U.S. Department of Justice
Civil Rights Division

WBR:SSC:DBM:dvs
DJ 166-012-3
T2225-2228
T2858

Voting Section
P.O. Box 66128

Washington, D.C. 20035-6128

February 24, 1988

Michael Crowell, Esq.
Tharrington, Smith & Hargrove
P.O. Box 1151
Raleigh, North Carolina 27602

Dear Mr. Crowell:

This refers to the change in the method of electing the board of commissioners from at large with residency districts to six regular single-member districts and three consolidated single-member districts, the districting plan, the increase in the number of commissioners from six to nine, the implementation schedule, and the candidate filing period for the 1988 election in Pitt County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on February 4, 1988. In accordance with your request, expedited consideration has been given this submission pursuant to the Procedures for the Administration of Section 5 (28 C.F.R. 51.34).

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. In addition, as authorized by Section 5, the Attorney General reserves the right to reexamine this submission if additional information that would otherwise require an objection comes to his attention during the remainder of the sixty-day review period. See also 28 C.F.R. 51.41 and 51.43.

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

By:

Gerald W. Jones
Chief, Voting Section

TITLE 2 - DEPARTMENT OF AGRICULTURE

Notice is hereby given in accordance with G.S. 150B-12 that the NC Department of Agriculture, Structural Pest Control Committee intends to adopt, amend and repeal regulations cited as 2 NCAC 34 .0102, .0204, .0301 - .0302, .0309, .0317 - .0318, .0325, .0328, .0401 - .0402, .0405, .0501 - .0503, .0505 - .0506, .0601, .0603 - .0605, .0701 - .0703, .0803, .0805 - .0806, .0902, .0904, .1103.

The proposed effective date of this action is July 1, 1988.

The public hearing will be conducted at 1:00 p.m. on April 22, 1988 at Board Room, Room 359, Agriculture Building, 1 West Edenton Street, Raleigh, North Carolina.

Comment Procedures: Interested persons may present statements either orally or in writing at the public hearing or in writing prior to the hearing by mail addressed to David S. McLeod, Chairman of the Structural Pest Control Committee, P.O. Box 27647, Raleigh, North Carolina 27611.

CHAPTER 34 - STRUCTURAL PEST CONTROL DIVISION

SECTION .0100 - INTRODUCTION AND DEFINITIONS

.0102 DEFINITIONS

(a) For the purpose of interpretation of the rules, regulations, definitions, and requirements of the North Carolina Structural Pest Control Committee and the Structural Pest Control Law, and unless otherwise required by the context, the following definitions shall prevail, to wit:

- (26) "Infestation of a specific organism" means evidence of recent present activity by that organism, visible in, on, or under a structure, or in or on debris under the structure.
- (35) "Recent" as used in Rule .0102(a)(26) of this Section means that approximate time interval normally required for an insect or similar organism in question to complete one generation.
- (50) "Unauthorized personnel" means any individual or individuals not belonging to, or a part of, the fumigation crew

performing the fumigation operation, given specific authorization by the licensee or certified applicator to areas to which access is restricted by these regulations.

- (56) "To use any pesticide in a manner inconsistent with its labeling" means to use any pesticide in a manner not permitted by the labeling; provided that, the term shall not include:
 - (A) applying a pesticide at any dosage, concentration or frequency less than that specified on the labeling;
 - (B) applying a pesticide against any target pest not specified on the labeling if the application is to the site specified on the labeling, unless the EPA has required that the labeling specifically states that the pesticide may be used only for the pests specified on the labeling;
 - (C) employing any method of application not prohibited by the labeling.
- (57) "Wood-inhabiting fungi" means any fungi that grow on or in wood or wood products including decay (rot), stain and mold fungi.
- (58) "Telephone answering service location" means any location used for the sole purpose of receiving telephone messages.
- (59) "Partial treatment" shall mean the treatment of a specifically defined portion of a structure for the control or prevention of one or more wood-destroying organisms.
 - (b) The terms "animal," "applicant," "attractants," "branch office," "certified applicator," "commissioner," "committee," "device," "employee," "fumigants," "fungi," "insects," "insecticides," "label," "licensee," "person," "pest," "pesticide," "repellents," "registered pesticide," "rodenticides," and "structural pest control" as used in these Rules and Regulations are defined under G.S. 106-65.24.

Statutory Authority G.S. 106-65.29.

SECTION .0200 - STRUCTURAL PEST CONTROL COMMITTEE

.0204 PUBLICATION OF LICENSEE AND CERTIFIED APPLICATOR ROSTERS (REPEALED)

Statutory Authority G.S. 106-65.29.

SECTION .0300 - LICENSING AND CERTIFICATION

.0301 FEES

(a) License, certified applicator's identification card, and operator's identification card fees shall not be prorated. All license, certified applicator's identification card, and operator's identification card fees shall be paid, in full, in advance of the issuance or renewal of the license and cards, and all examination fees shall be paid, in full, in advance of the examination. Fees required under the provisions of the Structural Pest Control Law and these rules and regulations shall be submitted directly to the North Carolina Department of Agriculture, Agriculture Building, Raleigh, North Carolina. In no case shall any fee be collected in the field by an inspector or any other representative of the North Carolina Department of Agriculture.

Statutory Authority G.S. 106-65.29.

.0302 APPLICATION FOR LICENSES AND CARDS: EXAMINATION

(a) Application for License Under the Provisions of G.S. 106-65.26(c). All applicants who qualify for a license or a certified applicator's identification card under the provisions of G.S. 106-65.26 shall demonstrate their competence in the phase(s) of structural pest control for which license or certified applicator's identification card are requested by taking written examinations or both written and oral examinations when recommended by the committee:

(2) To be considered, applications to take an examination for any phase of structural pest control work, shall be received by the committee secretary at least one week prior to the date of the examination. Incomplete examination forms received prior to the deadline date shall be returned to the applicant for completion. Applications received by the committee secretary, complete in all details after the deadline date, shall be held for the next succeeding examination date. Upon approval of the application for examination, the committee secretary shall notify the applicant of said approval and provide the necessary form(s) for the applicant to pre-register for the examination as required to Rule .0302(c).

(8) Such examinations shall be in each of the subjects specified in the license phase relating to the respective applications. Licenses, according to such applications, shall be granted to any

applicant who shall make an average of not less than 70 percent on each of the subjects of such license phases. Any applicant making a score of 70 percent or more on any license examination(s) shall be issued a license in that phase(s) of structural pest control after making proper application therefor.

(13) If an applicant, within 60 days after notification that he has failed the examination, requests in writing to review the examination, the committee shall review the examination at its next meeting. to review the examination(s) the division shall review the examination(s) during the earliest possible regular review session.

(b) Application for certified applicator's identification card under the provisions of G.S. 106-65.26 (a) and (b): ~~and (c):~~

(1) Applications filed pursuant to G.S. 106-65.26 (a) and (b) ~~and (c)~~ shall be on a regular form prescribed by the division.

(2) Applications shall be either typed or printed in ink and sworn to before a notary public or some other official authorized by law to administer oaths. Incomplete applications will be returned to the applicant.

(4) All applications for certified applicator's identification cards under the provisions of G.S. 106-65.26 (a) and (b) ~~and (c)~~ shall be retained by the office of the committee secretary. All documents filed in support of an application shall be kept by the office of the committee secretary; provided, however, that the committee may at its discretion permit such documents to be withdrawn upon substitution of a true copy. All examinations shall remain the property of the committee.

(5) Examinations for certified applicator's identification cards shall be in each of the phases of structural pest control for which the applicant is seeking certification. Certified applicator's identification cards, according to such applications, shall be granted to any applicant who shall make an average of not less than 70 percent on each of the subjects of such certified applicator's phases. Any applicant making a score of 70 percent or more on any certified applicator's examination(s) shall be issued a certified applicator's identification card in that phase of structural pest

control after making proper application therefor.

(8) Upon receipt of the application for examination, the committee secretary shall provide the necessary forms for the applicant to pre-register for the examination as required in Rule .0302(c).

(9) Rule .0302(a)(2), (3), (5), (6), (7), (12) and (13) of this Section shall also apply to all applicants for certified applicator's identification cards.

(c) Pre-registration for license and certified applicator examination applicants.

(1) All applicants for the license and/or certified applicator's examination(s) shall pre-register with the committee secretary for said examination(s) no less than ten days prior to the date of the examination.

(2) Applicants who fail to pre-register shall not be permitted to take the examination.

(3) Pre-registration shall include a properly completed application for examination.

(d) Frequency of examination by license applicant limited.

(1) An applicant who initially fails to pass the license examination may retake the examination at any subsequent regularly scheduled examination.

(2) An applicant who fails to pass the second license examination shall wait a minimum of three months between each subsequent examination.

Statutory Authority G.S. 106-65.29.

.0309 RE-CERTIFICATION

All certified applicator's identification cards shall expire on June 30 of each year and shall be renewed on an annual basis. Certified applicators shall be certified for a five year period. At the end of said five year period, a certified applicator, at his discretion, may be re-certified for another five year period by choosing one of the following options:

(3) licensees and four-digit certified applicators must earn at least one of the required continuing certification units established in Rule .0309(a) in each of four years of the five year recertification period.

(4) non-licensed three-digit certified applicators must earn at least one of the required continuing certification units established in Rule .0309(a) in at least three years of the five year recertification period.

(5) continuing certification units shall not be carried forward beyond the five year recertification period.

Statutory Authority G.S. 106-65.29.

.0317 LICENSE AND/OR CARD ISSUED TO ADDRESS OF BRANCH OFFICE

The license and/or certified applicator's identification card shall be issued to the resident licensee and/or certified applicator at the address of his branch office. ~~The license and/or certified applicator's identification card of the nonresident licensee and/or certified applicator shall be issued to said licensee and/or certified applicator at the business address of his resident agent at the branch office where the license is being used.~~

Statutory Authority G.S. 106-65.29.

.0318 CHANGE IN STATUS OF LICENSEE AND/OR CERTIFIED APPLICATOR

(c) ~~In the event of death of a licensee, the executor or administrator of the deceased person's estate shall have 90 days from the date licensee deceased, or until the next meeting of the committee following the expiration of said 90 day period, to have a qualified licensee to operate said business. During this 90 day period the use of any restricted use pesticide by any person representing said business agent or agency shall be by or under the direct supervision of a person possessing a valid certified applicator's identification card.~~

Statutory Authority G.S. 106-65.29.

.0325 DUTY OF LICENSE HOLDER TO CONTROL ACTIVITIES

(a) ~~If the branch any office or individual employee of a license holder is not within 75 miles of his the licensee's residence, by the nearest public road, the licensee shall submit to the committee, in writing, information to show that he is, in fact, controlling, directing and supervising the structural pest control activities of said branch office or employee. In the event information submitted to the committee by a license holder is insufficient for the committee to determine that said holder is, in fact, controlling, directing and supervising the structural pest control activities of his branch office or employees, the committee shall require said holder to appear before it and set forth, in detail, information to show that he is, in fact, in charge of the structural pest control activities of the his branch office or employees.~~

(b) It shall be a violation of the rules and regulations of the committee for any license holder to fail to adequately control, direct and supervise the structural pest control activities of his branch office or employees.

Statutory Authority G.S. 106-65.29.

.0328 RECORDS: PESTICIDES AND APPLICATION EQUIPMENT USED

All required structural pest control records, required under these Rules and Regulations, of work performed and pesticides and application equipment used by the licensed operator licensee or four-digit certified applicator (who is not an employee of a licensed operator) shall be maintained at the branch office location to which the license or certified applicator's card is issued shown on the operator's license certificate or the administrative business address of the certified applicator, unless prior approval for another location has been granted by the division. In the case of a non-resident licensed operator or certified applicator said records, pesticides and equipment shall be maintained at the branch office shown on the license certificate unless authorization is obtained from the division to keep the records at the place of business of the operator's or applicator's resident agent. All such records, pesticides and equipment shall be made available for inspection during regular business hours upon request by the enforcement agency- division.

Statutory Authority G.S. 106-65.29.

SECTION .0400 - PUBLIC SAFETY

.0401 PUBLIC SAFETY: STORAGE AND HANDLING OF CONTAINERS

(a) All pesticides shall be kept securely, in leakproof containers and labeled as specified in Rule .0402 of this Section. In no cases shall containers of pesticide(s) be left where pets, domestic animals, children or other unauthorized persons might remove or consume the contents. Food containers shall not be used as pesticide containers.

(b) When pesticidal concentrates or acutely toxic poison baits, pesticides are carried in or on a vehicle, a suitable storage space shall be provided thereon. and under no circumstances shall storage space be left unlocked or unattended with pesticidal concentrates or acutely toxic poison baits exposed. Under no circumstances shall toxic baits of Toxicity Category I or pesticidal concentrates be left exposed, unlocked or unattended.

Statutory Authority G.S. 106-65.29.

.0402 LABELING PESTICIDE CONTAINERS

All pesticide containers, except application equipment of less than 30 gallon capacity, shall be labeled to give the following information:

- (1) manufacturer's complete brand name of product;
- (2) dilute or concentrate;
- (3) if diluted, kind of diluent (oil, water, or dust, etc.);
- (4) signal word.

(a) All pesticide concentrates and poison baits stored in containers other than original shall be prominently labeled to give the following information:

- (1) manufacturer's complete brand name of product;
- (2) percentage of each active ingredient;
- (3) EPA registration number;
- (4) signal word (as it appears on the pesticide label);
- (5) use classification, if classified, (as it appears on the label).

(b) All pesticide containers, except those described in Rule .0402(a), including application equipment of ten gallon capacity or more, shall be prominently labeled to give the following information:

- (1) manufacturer's complete brand name of product;
- (2) the word "dilute" if diluted;
- (3) if diluted, kind of diluent (water, oil, dust, etc.); and
- (4) signal word (as it appears on the pesticide label).

Statutory Authority G.S. 106-65.29.

.0405 FOLLOWING PESTICIDE LABEL

(a) Nothing in these Rules and Regulations shall be construed to permit the use, handling, storage, or disposal of pesticide(s) or pesticide container(s) in a manner which is prohibited by EPA.

(b) It shall be a violation of these Rules to use any pesticide in a manner inconsistent with its labeling.

Statutory Authority G.S. 106-65.29.

SECTION .0500 - WOOD-DESTROYING INSECTS

.0501 WOOD-DESTROYING INSECTS: EXCLUDING SUBTERRANEAN TERMITES

(a) Determining Active Infestations of Wood-Destroying Beetles. The licensee, certified applicator, and or their representative(s) making the inspection for wood-destroying beetles shall be responsible for determining the presence or absence of an active infestation(s). All proposals for the treatment of wood-destroying insects under Rule .0501(a) and (b) of these Rules and Regulations shall be in writing and contain the name(s) of the wood-destroying insect(s) to be controlled, that part of the structure to be covered under the agreement (entire structure, understructure only, entire interior of the garage, etc.), and the basis on which the licensee, certified applicator, or their representative(s) determined the infestation to be active or inactive as set forth herein below:

(1) Powder Post Beetle(s) (Anobiidae, Bostrichidae and Lyctidae)

(C) ~~The effectiveness of a pesticide treatment for powder post beetle infestation (Anobiidae and Lyctidae) cannot be accurately determined until at least one complete adult beetle emergence period has occurred after the initial treatment. If a licensee performs a guaranteed or warranted treatment for powder post beetles, the period of the guarantee or warranty shall be a minimum of 18 months.~~

(D) ~~Structures initially treated with a pesticide(s) for powder post beetles (Anobiidae and Lyctidae) during the period from September 1 through April 30 of any given year should not be inspected before September 1 of the following year (5 to 12 months after initial treatment).~~

(E) ~~Structures initially treated with a pesticide(s) for powder post beetle (Anobiidae and Lyctidae) during the period from May 1 through August 31 of any given year should not be inspected before September 1 of the following year (12 to 16 months after initial treatment).~~

(F) ~~The licensee or certified applicator who performs treatment as specified in Paragraph (E), Rule .0501(a)(1), shall be responsible until September 30 of the following year for the control of said infestation.~~

(G) (D) ~~If an active infestation of powder-post beetles (Anobiidae and Lyctidae) is found by the division in any structure treated for said beetles, after one during or after the first complete adult beetle emergence period has oc-~~

~~curred and within the time specified in the contract, in any structure initially treated for said beetles, the licensee or certified applicator responsible for said treatment shall retreat the structure within 30 days of written notice from the enforcement agent. division. Re-treatment shall be made, performed, upon request of the enforcement agency, division, in the presence of a structural pest control inspector.~~

(e) ~~The following pesticides may be used for the control of wood-destroying insects other than subterranean termites: any pesticide approved by EPA which is used in accordance with label instructions.~~

(d) (c) ~~Re-application of Pesticide(s) to Structures for a Specific Wood-Destroying Insect which was Previously Treated for that Wood-Destroying Insect. Any re-application of pesticides under Rule .0501 shall be in accordance with the label of the pesticide used. Re-application of pesticide(s) to structures for the prevention and/or control of a wood-destroying insect after an initial treatment shall not be allowed except under the following conditions:~~

- (1) ~~Visible evidence of an active infestation of the wood-destroying insect; or~~
- (2) ~~Altered conditions in the treated area; or~~
- (3) ~~The structure is not currently under contract for the prevention and/or control of the wood-destroying insect with the licensee re-applying the pesticide(s).~~

Statutory Authority G.S. 106-65.29.

.0502 PESTICIDES FOR SUBTERRANEAN TERMITE CONTROL

~~Any pesticide may be used for the prevention and/or control of subterranean termites provided that it bears an EPA-approved label for such use and the pesticide is applied according to the directions of its label. Any pesticide applied for the control or prevention of subterranean termites shall be applied only at the dosage, concentration and frequency specified on the labeling.~~

Statutory Authority G.S. 106-65.29.

.0503 SUBTERRANEAN TERMITE CONTROL: BUILDINGS AFTER CONSTRUCTED

- (a) Basement or Crawl-Space Construction:
- (5) Eliminate all wooden parts between the building and soil, both outside and in-

side, except those which are determined to be pressure treated:

(F) Where houses or decks are built on pressure treated wood pilings or pillars said pilings and pillars, including wood step supports, shall not be subject to Rule .0503(a)(5)(A), (B) or (C).

(6) Drill and treat above highest soil line on either side of wall in order to treat all voids in multiple masonry foundation and bearing walls: all voids in multiple masonry foundation and bearing walls (including porch walls) and all voids created by their placement.

(A) The distance between drill holes shall not exceed 16 lineal inches and drill holes shall be deep enough to reach the void(s). All multiple masonry foundation and partition walls which are at the level of, in contact with, or extending below the soil shall be drilled and treated: and holes shall be no more than 16 inches above the footing or immediately above the lowest soil level whichever is closest to the footing.

(B) If wall is hollow structural blocks, drill blocks, except those which are four inches thick, at each void in one row above highest soil line on either side of wall, unless blocks are accessible from top, or unless blocks have solid masonry cap consisting of solid poured concrete. The drilling of voids in four inch thick hollow structural block shall not be required under this Rule.

(C) Drill holes shall be treated with a termiticide under sufficient pressure to cover all cracks and voids therein below the level of application. Test drill the main foundation wall behind any porch or slab area to determine if the porch or slab is supported by a wall whose placement creates a void between itself and the main foundation wall. If test reveals that a void exists, drill and treat all voids therein as specified in this Rule.

(7) Drill and treat all voids in all multiple masonry pillars, pilasters, chimneys, and step buttresses, and any void created by their placement: except hollow structural block pillars and pilasters which have solid masonry caps consisting of structural blocks with the wide faces turned down or solid poured concrete:

(A) The distance between drill holes shall not exceed 16 lineal inches and holes

shall be deep enough to reach the center mortar joint: and shall be no more than 16 inches above the footing or immediately above the lowest soil level, whichever is closest to the footing.

~~(B)~~ Drill holes shall be treated with a termiticide under sufficient pressure to cover all cracks and voids therein below the level of application.

~~(C)~~ (B) Drilling shall not be required if solid concrete masonry footings of pillars or pilasters, or chimneys, or steps buttresses extend eight inches or more above top of soil surface.

(C) The drilling of voids in four inch thick hollow structural block shall not be required under this Rule.

(8) If foundation walls of dirt-filled concrete porches, or concrete slabs over dirt-filled areas, have voids, drill and treat with a termiticide all voids therein, as specified for foundation walls, without solid poured concrete caps, for a distance of three feet from the main foundation wall. Where wooden structural members are in contact with the porch floor over joints or cracks, more than three feet from the building foundation wall, the porch or slab area foundation wall(s) shall be drilled and treated, as specified for building foundation walls, for a distance of three feet in both directions from the point of wood contact with the porch or slab area. In crawl-space construction, test drill the building foundation wall abutting the dirt-filled concrete porch or slab area to determine if wall has voids. If test reveals that wall has voids, drill and treat all voids therein as specified for foundation walls.

(9) Where concrete slabs over dirt-filled areas are at the level of, above the level of, or in contact with, wood foundation members treat dirt-filled areas as follows:

(A) Drill vertically one-fourth half of one inch or larger holes in the slab, no more than eight inches from the building foundation, at no more than 16 inch intervals and treat soil below slab; with a termiticide; or

(B) Alternatively Drill horizontally one-fourth half of one inch or larger holes in the foundation wall of the concrete slab, no more than eight inches from the building foundation, and every 16 vertical inches starting immediately be-

low the bottom of the slab and rod treat all soil adjacent to building foundation ~~with a termiticide.~~ from the bottom of the slab to the lowest outside grade.

- (10) ~~Treat trench and or rod soil adjacent to, but not more than eight inches from, all pillars, pilasters, chimneys, pressure treated wood supports and step buttresses; inside of foundation walls; outside of foundation walls; the outside of foundation walls of concrete slabs over dirt-filled areas and the entire outside perimeter of a slab foundation wall. and treat soil with a termiticide. If the footing is exposed, apply the termiticide to the soil adjacent to the footing. Use of trench, depth of trench and distance between rod holes will depend upon type of foundation plantings, type of soil, and depth of footing. Where outside concrete slabs adjacent to the foundation prevent trenching of soil, drill one- fourth half of one inch or larger holes, not more than 16 inches apart and within a foot of the foundation wall, through slabs or through adjoining foundation wall, and treat soil below slabs: with a termiticide. except that three-eighth inch holes may be used if the bottom of the slab is no more than three feet above the top of the footing.~~ The soil immediately around pipes and other utility conduits making contact with soil and wood of the structure, shall be ~~trenched and or rodde~~ and treated. ~~with a termiticide.~~
- (11) ~~Packing around pipes, if not removed, shall be treated with a termiticide after breaking contact between the packing and the ground.~~
- (12) Where stucco on wood or similar type materials extend to or below grade, trench soil to a depth below and under the edge of the stucco or similar type materials and treat soil. ~~with a termiticide.~~ After the soil has been treated, a masonry barrier wall may be erected to hold back the soil from making direct contact with the stucco or similar type materials. Where outside slabs on grade adjacent to foundation prevent trenching of soil, drill one- fourth half of one inch or larger holes through slabs not more than 16 inches apart and within eight inches a foot of the foundation wall, through slab, or through adjoining foundation wall, not more than 16 inches apart and treat soil be-

low slabs; ~~with a termiticide.~~ except that three-eighth inch holes may be used if the bottom of the slab is no more than three feet above the top of the footing.

- (b) Slab-on-Ground Construction:
- (2) Drill vertically one- ~~fourth~~ half inch or larger holes, at all visible or known expansion and construction joints, cracks, and crevices in slab and around all utility conduits in the slab at no more than 16 inch intervals and treat soil below slab; ~~with a termiticide.~~ except that three-eighth inch holes may be used if the bottom of the slab is no more than three feet above the top of the footing. Where wooden structural members are in contact with concrete or masonry floors which have joints or cracks beneath the wooden structural members, including wall plates in utility or storage rooms adjoining the main building, the concrete or masonry shall be drilled and treated ~~with a termiticide~~ in order to achieve treatment of the soil beneath them. As an exception, expansion and construction joints at the perimeter of the exterior wall may be treated by drilling through the foundation wall at no more than 16-inch intervals directly below the bottom of the slab. ~~and applying the termiticide.~~
- (3) Drill, at or near the footing, voids of all multiple masonry chimneys, pillars, pilasters, and step buttresses adjacent to foundation walls, or which penetrate concrete slabs, and treat voids with a termiticide.
- (A) The distance between drill holes shall not exceed 16 inches and holes shall be deep enough to reach the center mortar joint.
- (B) Drill holes shall be treated with a termiticide under sufficient pressure to cover all cracks and voids therein below the level of application.
- (C) Drilling shall not be required if solid concrete masonry footing of multiple masonry structures extend to the top or above the top of slab.
- (4) ~~(3)~~ Rule .0503(a) ~~(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), and (13)~~ of this Section shall be followed, if any or all of the above, apply to existing slab on ground construction.
- (c) Reapplication of Pesticide(s) to a Structure Previously Treated for Subterranean Termite Control. ~~The reapplication of pesticides~~

to a structure or structures for the prevention and/or control of subterranean termites after an initial treatment of said structure or structures for termites shall not be allowed except under the following conditions:

- (1) Visible evidence of an active infestation of subterranean termites; or A reapplication of termiticide shall be required if soil test by the division reveals that the soil is deficient in the termiticide which was applied to the soil.
- (2) Extremely sandy soil permitting percolation of the pesticide(s) out of the treated area; or Any reapplication of pesticides under Rule .0503 shall be in accordance with the label of the pesticide used.
- (3) Altered conditions in the treated area; or
- (4) The structure is not currently under contract for the prevention and/or control of subterranean termites with the licensee or certified applicator reapplying the pesticide(s); or
- (5) Soil test by the department reveals that the soil is deficient in the termiticide which was applied to the soil.

Statutory Authority G.S. 106-65.29.

.0505 SUBTERRANEAN TERMITE PREVENTION FOR BUILDINGS UNDER CONST.

- (a) Basement or Crawl-Space Construction
 - (1) Treat the soil along inside of the main foundation wall; the entire perimeter of all multiple masonry chimney bases, pillars, pilasters, and piers; and both sides of partition or inner walls. with a termiticide. If the footing is exposed, apply the termiticide to the soil adjacent to the footing.
 - (2) After a building or structure has been completed and the excavation filled and leveled, so that the final grade has been reached along the outside of the main foundation wall, trench and treat the soil adjacent to, along and not more than eight inches from, the outside of the main foundation wall. with a termiticide. If the footing is exposed, apply the termiticide to the soil adjacent to the footing.
 - (3) Apply a termiticide to Treat all voids of unit masonry foundation walls, piers, pillars, pilasters, chimneys, and other supporting or attached unit masonry structures. except where voids are to be capped with a solid masonry cap

consisting of solid concrete or masonry. The termiticide shall be applied to voids, under sufficient pressure, to flood all cracks and voids therein below the level of application.

- (4) Apply a termiticide Treat to soil within three feet of the main foundation, under slabs, such as patios, walkways, driveways, terraces, gutters, etc., attached to the building. The termiticide Treatment shall be applied performed before slab is poured, but after fill material has been spread.
- (5) Apply an over-all treatment of a termiticide Treat soil under the entire surface of floor slabs, such as basements, porches, entrance platforms, garages, carports, breezeways, sun rooms, etc. The termiticide treatment shall be applied performed before slab is poured but after fill material has been spread.
- (6) In addition to treatment outlined above, apply a termiticide to and Treat soil around all critical areas such as expansion and construction joints electrical conduits, air conditioning vents, heating and plumbing outlets, pipes, utility lines, etc., at their point of penetration of the slab or floor.

(e) Treatment shall not be made when the soil or fill is excessively wet or immediately after heavy rains, to avoid surface flow of the termiticide from the application site. Unless the treated areas are to be immediately covered, precautions shall be taken to prevent disturbance of the treatment by human or animal contact with the treated surface.

Statutory Authority G.S. 106-65.29.

.0506 WOOD-INHABITING FUNGUS CONTROL

- (a) This Rule shall apply only to licensees or their authorized representatives representing themselves as engaging in the prevention or control of wood-inhabiting fungi.
- (b) Identifying Wood-Inhabiting Fungi:
 - (1) Before placing a structure under contract for the control or prevention of a wood-inhabiting fungus, the licensee, certified applicator and/or their representative(s), shall identify the types of wood-inhabiting fungi in question and inform the property owner, or their authorized representative, in writing of the identity and habits of the fungi, [mold/mildew/stain fungi, water-con-

ducting fungus, wood-decay fungi (brown or white rot)].

- (2) No licensee, certified applicator, or their representative(s) shall represent to a property owner, or his authorized representative, that a wood-decay fungus infestation is active when the moisture content of the wood members in question is below 20 percent on a dry weight basis, as determined with a moisture meter.

(c) Use of Pesticides for the Control or Prevention of Wood-Decay Fungus Infestations.

- (1) Surface application of pesticides may be used in the control or prevention of fungus infestations only when rapid kill of surface fungi is specifically requested by the property owner in writing in the contract. In such instances, moisture control techniques must be used in combination with pesticide treatments.

Statutory Authority G.S. 106-65.29.

SECTION .0600 - WOOD-DESTROYING ORGANISMS AGREEMENTS

.0601 AGREEMENTS

(a) Before any work is started, the licensee or his authorized agent shall be responsible for executing a written agreement with, and informing, in detail, the property owner or his authorized agent as to the type and quality of work that is to be performed under the agreement. ~~on any job whether it meets minimum requirements or not.~~

(b) ~~A written agreement on a job which does not meet minimum requirements shall mean any written agreement, entered into by the licensee or his authorized agent, for the control or prevention of wood-destroying organisms or pests, in which treatment for the control or prevention of such organisms or pests, is not to be performed in accordance with minimum requirements as herein set forth. If a partial treatment is to be performed under Rule .0503, the written agreement shall state: "The treatment proposed by this contract is a partial treatment. Only those areas indicated on the attached foundation diagram will be treated. Treatment of these areas will be performed according to North Carolina minimum requirements for subterranean termite control except as specified by the attached waiver form."~~

Statutory Authority G.S. 106-65.29.

.0603 WAIVERS

(a) ~~If for any reason, there are any deviations or omissions from the minimum requirements for the control and/or prevention of wood-destroying organisms or pests, as hereinbefore set forth, each requirement or item omitted shall be fully explained, in writing, prior to any work being done, on the waiver form(s) prescribed by the committee, bear the written approval of the property owner or his authorized agent, and shall be made a permanent part of the written agreement. or contract. A copy of the above waiver form shall be given to the property owner or his authorized agent within 30 days from the date of the contract covering wood-destroying organisms. A duplicate copy of the waiver form shall be kept in the files of the licensee.~~

Statutory Authority G.S. 106-65.29.

.0604 WOOD-DESTROYING ORGANISMS RECORDS

(a) A duplicate of each written agreement and waiver (if applicable), including wood-destroying insect reports or wood-destroying organism reports, for the control of any wood-destroying organism shall be kept by the licensee at the same location as the license and made available, at the request of the enforcement agency or committee for a minimum of two years beyond the expiration date of the written agreement. The duplicate ~~or licensee's copy,~~ of each written agreement shall contain, in addition to the information specified under Rule .0605(a) ~~(for treatment of an existing building)~~ or Rule .0605(d) ~~(for treatment of a building under construction)~~ of this Section the following:

- (1) EPA approved brand common name (s) of pesticide used; and
- (2) ~~If a restricted-use pesticide is used, That information required by EPA.~~

(b) ~~Each nonresident licensee and each non-resident certified applicator shall maintain with his resident agent in the State of North Carolina a set of structural pest control records as complete as those required by resident licensees and resident certified applicators. These records shall be maintained at the same location as the license unless approved otherwise by the committee.~~

(c) ~~(b) Four-digit certified applicators who are not licensees or acting as authorized representatives of a licensee and who use a restricted-use pesticide for the control of wood-destroying organisms, shall maintain and retain those records required by EPA at the~~

address of the certified applicator or at their administrative business address or the address of their resident agent the following records for two years beyond the last date of treatment:

- (1) EPA approved brand name of all pesticides used;
- (2) Target pest;
- (3) Site of application;
- (4) Date of application; and
- (5) That information required by EPA.

Statutory Authority G.S. 106-65.29.

.0605 CONTRACTUAL AGREEMENTS FOR WOOD-DESTROYING ORGANISMS

(a) All agreements for the control and/or prevention of wood-destroying organisms in existing structures shall be in writing. A copy of the executed written agreement and waiver (if applicable) pertaining to said treatment(s) shall be presented to and furnished the property owner or his authorized agent, for acceptance, and shall clearly set forth or include the following:

- (7) For existing structures the written agreement shall include a foundation diagram ~~or sketch~~ of the structure or structures or portions of such structure or structures inspected. The diagram shall clearly indicate and make full disclosure thereon the location of individual water sources, any visual evidence of wood-destroying organism infestation, whether it be active or inactive, and damaged timbers. If a partial treatment is to be performed the diagram shall clearly indicate all the areas of the structure to be treated.

Statutory Authority G.S. 106-65.29.

SECTION .0700 - HOUSEHOLD PESTICIDES

.0701 PRECAUTIONS

(a) Household pest control servicemen's kits which contain pesticides shall ~~in no case~~ **not** be left where pets, domestic animals, children or other unauthorized persons might remove, contact, or consume the contents. and name of company licensee represents.

Statutory Authority G.S. 106-65.29.

.0702 HOUSEHOLD PESTICIDES: FOGGING

(a) ~~Fogging~~

- (+) (a) Each licensee or his authorized agent, before applying any flammable pesticidal fog produced by thermal, me-

chanical or cold fog generators, shall notify the fire department, having jurisdiction over the location where the fogging material is to be applied, of the: address(es) of property(ies) to be fogged; time fog is to be applied; time of ventilation; and name(s) of pesticide(s) used. Liquefied gas aerosols are exempt.

- (-) (b) A fire extinguisher, in serviceable condition, for Class B and C fires shall be in the immediate possession of the serviceman(men) during the fogging period.
- (-) (c) All fires, flames, and pilot lights shall be extinguished prior to the application of any flammable pesticidal fog. All electrical equipment, which might be activated during application of a flammable fog, shall be disconnected, unless refused by the property owner or his authorized agent. Liquefied gas aerosols are exempt.

(b) ~~Space and Residual Spraying~~

- (+) ~~In areas where treatment is to be made, all open food or foodstuffs, or drug commodities and all utensils or equipment used in the preparation of food or drugs shall be adequately covered or removed before the application of space sprays, or complete, or spot surface residual sprays, to insure against contamination by pesticidal materials, except where such pesticidal materials are approved by EPA and State of North Carolina label registrations for use without such precautions.~~
- (-) ~~Space sprays, or complete surface residual sprays, shall not be applied unless the structure or that portion of the structure to be treated is free of occupants and pets during the treatment and subsequent ventilation period(s), except where such pesticidal materials are approved by EPA and State of North Carolina label registration for use without such precautions.~~

Statutory Authority G.S. 106-65.29.

.0703 WRITTEN RECORDS OF HOUSEHOLD PEST CONTROL

(a) Written records on the treatment for the control of all household pests shall be maintained and made available for inspection anytime during regular business hours upon request from the enforcement agency. Such records shall include the following information:

(5) EPA approved ~~common~~ brand name of pesticide used; and

(6) ~~If a restricted use pesticide is used,~~ That information required by EPA.

(b) ~~For Four-digit certified applicators who are not licensees or acting as authorized representatives of a licensee and who use a restricted use pesticide for the control of household pests all of Rule .0703(a) of this Section shall be followed.~~ shall maintain the following records of pesticides applied:

(1) EPA approved brand name of all pesticides applied;

(2) Target pest;

(3) Exact site of application;

(4) Date of application; and

(5) Any information required by EPA.

(c) Records must be retained ~~at the address of the certified applicator or the licensee or at their administrative business address or the address of their resident agent~~ for two years beyond the last date of treatment.

Statutory Authority G.S. 106-65.29.

SECTION .0800 - FUMIGATION

.0803 WRITTEN RECORDS OF FUMIGATION

(b) ~~For certified applicators who are not licensees or acting as authorized representatives of a licensee and who use a restricted use pesticide all of Rule .0803(a) of this Section shall apply.~~ Four-digit certified applicators shall maintain the following records of pesticides applied:

(1) EPA approved brand name of all pesticides applied;

(2) Target pest;

(3) Exact site of application;

(4) Date of application; and

(5) Any information required by EPA.

(c) Records must be retained ~~at the address of the certified applicator or the licensee or at their administrative business address or the address of their resident agent~~ for two years beyond the last date of treatment ~~warranty~~ or the expiration date of the written agreement, if applicable.

Statutory Authority G.S. 106-65.29.

.0805 FUMIGATION REQUIREMENTS: SAFETY AND SAFETY EQUIPMENT

(b) Each certified applicator or licensed fumigator, when engaged in fumigation work, shall maintain at his business location up-to-date information on the handling and use of fumigants, devices and materials for testing for

the presence of fumigants; and safety and testing devices, such as gas masks, canisters, self-contained breathing devices, gas detectors, which are in serviceable condition, as required by the labeling of the fumigant(s) being used.

(d) Each certified applicator and each licensed fumigator, shall be outfitted with a fumigation safety kit, which shall be maintained in completely serviceable condition and shall be continuously and immediately available at the fumigation site during the fumigation period of each fumigation job in progress. Each member of the fumigation crew shall be familiar with the contents and use of a safety kit. The safety kit shall contain a serviceable gas mask or self-contained breathing apparatus, as required by the label of the fumigant being used, a gas detector and a flashlight. The gas mask or breathing apparatus shall be of a type approved by the United States Mining Enforcement and Safety Administration or National Institute for Occupational Safety and Health with correct canister and gas detector for the type of fumigant used.

Statutory Authority G.S. 106-65.29.

.0806 FUMIGATION REQUIREMENTS FOR FUMIGATION CREW

(c) At least two members of the fumigation crew shall be equipped with a serviceable gas mask or self-contained breathing apparatus of a type approved by the United States Mining Enforcement and Safety Administration or National Institute for Occupational Safety and Health with correct canister for the type of gas used, and shall wear such masks while in the enclosed space during and after liberation of the fumigant, until initial ventilation is completed, except in those cases specifically excluded by label registration.

Statutory Authority G.S. 106-65.29.

SECTION .0900 - DUTIES AND RESPONSIBILITIES OF LICENSEE

.0902 FINANCIAL RESPONSIBILITY

(b) Minimum limits:

Property Damage

~~\$ 10,000~~ \$100,000 Each Occurrence

Bodily Injury

~~\$100,000~~ \$300,000 Each Occurrence

(c) Each applicant for a license in any phase of structural pest control shall show evidence of his financial ability to properly indemnify persons suffering from the use or application of pesticides in the form of a Certificate of Insurance, completed by the insurance company

with the Structural Pest Control division of the North Carolina Department of Agriculture named as a certificate holder.

(d) The Certificate of Insurance shall clearly set forth the type coverage, limits of liability, and any exclusions of the insurance policy and shall have attached a copy of either endorsement GL 04 17 or CG 01 57 or other subsequent "Pesticide or Herbicide Applicator Coverage" endorsement approved by the North Carolina Department of Insurance which provides for pollution and contamination coverage.

(f) The insurance policy(s) shall be with companies licensed, or otherwise approved to do business in North Carolina, by the NC Department of Insurance, by the State of North Carolina. The insurance policy shall be in full force and effect during the entire period covered by the license certificate. The license shall expire at expiration or upon reduction of the policies below minimum requirements or cancellation thereof. Such expired license shall only be reinstated upon satisfactory proof from the licensee that he has obtained the required financial responsibility coverage.

(i) The committee may accept other evidence of financial responsibility. if insurance is not available at reasonable terms.

Statutory Authority G.S. 106-65.29.

.0904 PROHIBITED ACTS

(g) No certified applicator, licensee or his employees shall represent to any property owner or his authorized agent or occupant of any structure that any specific pest is infesting said property, structure, or surrounding areas thereof, if unless strongly supporting visible evidence of such infestation does not exist exists.

Statutory Authority G.S. 106-65.29.

SECTION .1100 - INSPECTION FEES

.1103 RE-INSPECTIONS

(a) If a major discrepancy, as defined by the committee, is found by the enforcement agency, the licensee or certified applicator responsible for said discrepancy shall be notified, in writing, as specified in Rule .1102(c) of this Section of the discrepancy. At the end of 30 days from the date of notification a reinspection shall be made by the enforcement agency to determine if the discrepancy has

been corrected. The licensee or certified applicator responsible for the discrepancy shall be charged a fee of ten dollars (\$10.00) for the reinspection. The disclosure of a major discrepancy by the enforcement agency shall require a reinspection and correction of the major discrepancy before the date of reinspection shall not relieve the licensee or certified applicator of the responsibility to pay the reinspection fee as heretofore set forth. If the major discrepancy is not corrected on the first reinspection date, the licensee or certified applicator shall be notified, in writing, and a second reinspection shall be made at the end of 30 days from the date of notification. A fee of ~~twenty five dollars (\$25.00)~~ fifty dollars (\$50.00) shall be charged the licensee or certified applicator for the second reinspection. If the major discrepancy is not corrected on the second reinspection date, the licensee or certified applicator shall be notified, in writing, and a third reinspection shall be made at the end of 30 days from the date of notification. A fee of ~~fifty dollars (\$50.00)~~ one hundred dollars (\$100.00) shall be charged the licensee or certified applicator for the third reinspection. This reinspection procedure shall be repeated at 30-day intervals thereafter until all major discrepancies have been corrected. A fee of ~~fifty dollars (\$50.00)~~ one hundred dollars (\$100.00) shall be charged the licensee or certified applicator for each reinspection made after the date of the third reinspection. If more than one major discrepancy is found on a job at any time by the enforcement agency or committee, the licensee or certified applicator responsible for the job shall be charged only one reinspection fee for each reinspection of the job. All such reinspection fees, as set forth herein, shall be paid within 30 days of written notice from the enforcement agency or the committee. Failure of the licensee or certified applicator to pay all such fees, within the time specified herein, is a ground for disciplinary action by the committee.

Statutory Authority G.S. 106-65.29.

TITLE 10 - DEPARTMENT OF HUMAN RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Human Resources intends to amend and repeal regulations cited as 10 NCAC 3R .0105 - .0106, .0108, .0208 - .0211, .0303, .0307.

The proposed effective date of this action is July 1, 1988.

The public hearing will be conducted at 9:00 a.m. on April 15, 1988 at Hearing Room, Council Building, 701 Barbour Drive, Raleigh, North Carolina 27603.

Comment Procedures: Address Comments to: Glenn B. Lassiter, Jr., Legal Assistant to the Director, Division of Facility Services, 701 Barbour Drive, Raleigh, NC 27603.

CHAPTER 3 - FACILITY SERVICES

SUBCHAPTER 3R - CERTIFICATE OF NEED REGULATIONS

SECTION .0100 - GENERAL INFORMATION

- .0105 SCOPE AND PURPOSE (REPEALED)
- .0106 DEFINITIONS (REPEALED)
- .0108 QUARTERLY REPORT (REPEALED)

Statutory Authority G.S. 131E-177; 131E-177 (1); 131E-177 (2).

SECTION .0200 - STATE AGENCY FUNCTIONS

- .0208 CAPITAL EXPENDITURE MINIMUM (REPEALED)
- .0209 ANNUAL OPERATING COST EXPENDITURE MINIMUM (REPEALED)
- .0210 ACQUISITION OF MAJOR MEDICAL EQUIPMENT (REPEALED)
- .0211 ACQUISITION OF A HEALTH CARE FACILITY (REPEALED)

Statutory Authority G.S. 131E-176 (16) (b); 131E-176 (16) (f); 131E-176 (16) (j); 131E-176 (16) (n); 131E-177.

SECTION .0300 - FUNCTIONS OF A HEALTH SYSTEMS AGENCY

- .0303 LETTER OF INTENT (REPEALED)

Statutory Authority G.S. 131E-177.

.0307 REVIEW CATEGORIES AND SCHEDULE

(a) The agency will determine the appropriate review category or categories for all applications submitted. For proposals which include more than one of the categories, the agency, if practical, will require the applicant to submit separate applications. If it is not practical to submit separate applications, the

agency will determine in which category the application will be reviewed.

(b) The review of an application for a certificate of need under G.S. 131E-184, "Required Approvals," G.S. 131E-182 will commence in the next review schedule after the application has been determined to be complete. The agency will determine if the proposed activity may be eligible for a certificate of need under G.S. 131E-184, G.S. 131E-183.

(c) ~~Except for those applications eligible for review under Rule .0307 (b), all other~~ Proposals requiring review will be reviewed according to the categories under the schedule set forth in this Rule. The review categories are as follows:

- (1) Category A includes proposals for acute health care facilities, including but not limited to the following types of projects: renovation, construction, major medical equipment and other ancillary and support equipment and services, except those proposals included in Category C and Category D.
- (2) Category B includes proposals for skilled nursing beds and intermediate care beds which are reviewed against the State Medical Facilities Plan.
- (3) Category C includes proposals for the following types of projects:
 - (A) psychiatric facilities;
 - (B) psychiatric services in existing health care facilities;
 - (C) intermediate care facilities for the mentally retarded;
 - (D) intermediate care services for the mentally retarded in existing health care facilities;
 - (E) substance abuse and chemical dependency facilities; and
 - (F) substance abuse and chemical dependency services in existing health care facilities.
- (4) Category D includes proposals for the following types of projects:
 - (A) inpatient rehabilitation facilities;
 - (B) inpatient rehabilitation services in existing health care facilities;
 - (C) comprehensive outpatient rehabilitation facilities;
 - (D) ambulatory surgical facilities; and
 - (E) end stage renal disease treatment facilities.
- (5) Category E includes proposals for the following types of projects:
 - (A) life care facilities;
 - (B) home health agencies;

PROPOSED RULES

(C) nursing home proposals which do not include health care beds; and

(D) any other proposal not included in Categories A through D.

(d) For health service area I, which is the area of Western North Carolina Health Systems Agency, the reviews will commence as follows:

- (1) For Category A on March 1, July 1 and October 1 of each year;
(2) For Category B on April 1, August 1 and November 1 of each year;
(3) For Categories C on May 1, September 1 and December 1 of each year;
(4) For Category D on February 1, June 1 and September 1 of each year; and
(5) For Category E on June 1 and December 1 of each year.

Beginning review dates for the review of Certificate of Need applications in each category by geographical area will appear in the applicable State Medical Facilities Plan.

(e) For health service area II, which is the area of Piedmont Health Systems Agency, the reviews will commence as follows:

- (1) For Category A on May 1, August 1 and December 1 of each year;
(2) For Category B on April 1, July 1 and November 1 of each year;
(3) For Category C on March 1, June 1 and October 1 of each year;
(4) For Category D on February 1, June 1 and September 1 of each year; and
(5) For Category E on March 1 and September 1 of each year.

(f) For health service area III, which is the area of Southern Piedmont Health Systems Agency, the reviews will commence as follows:

- (1) For Category A on April 1, August 1 and November 1 of each year;
(2) For Category B on May 1, September 1 and December 1 of each year;
(3) For Category C on February 1, June 1 and October 1 of each year;
(4) For Category D on March 1, July 1 and October 1 of each year; and
(5) For Category E on June 1 and December 1 of each year.

(g) For health service area IV, which is the area of Capital Health Systems Agency, the reviews will commence as follows:

- (1) For Category A on February 1, June 1 and October 1 of each year;
(2) For Category B on March 1, August 1 and December 1 of each year;
(3) For Category C on April 1, July 1 and November 1 of each year;
(4) For Category D on May 1, September 1 and December 1 of each year; and

(5) For Category E on May 1 and November 1 of each year.

(h) For health service area V, which is the area of the Cardinal Health Systems Agency, the reviews will commence as follows:

- (1) For Category A on March 1, July 1 and October 1 of each year;
(2) For Category B on February 1, June 1 and September 1 of each year;
(3) For Category C on May 1, August 1 and November 1 of each year;
(4) For Category D on April 1, August 1 and December 1 of each year; and
(5) For Category E on April 1 and November 1 of each year.

(i) For health service area VI, which is the area of Eastern Carolina Health Systems Agency, the reviews will commence as follows:

- (1) For Category A on May 1, September 1 and December 1 of each year;
(2) For Category B on February 1, June 1 and October 1 of each year;
(3) For Category C on March 1, July 1 and November 1 of each year;
(4) For Category D on April 1, August 1 and November 1 of each year; and
(5) For Category E on April 1 and October 1 of each year.

(j) The agency may designate specified review schedules for geographic subdivisions within a category or categories to be applied during a calendar year. When the agency designates a review schedule more specific than the categories established by this Rule, the specified review schedule will be included in the applicable State Medical Facilities Plan.

Statutory Authority G.S. 131E-177.

Notice is hereby given in accordance with G.S. 150B-12 that the Division of Health Services intends to amend regulations cited as 10 NCAC 10A .1935, .1943, .1955 - .1956, .1961, .1963.

The proposed effective date of this action is August 1, 1988.

The public hearing will be conducted at 1:30 p.m. on April 15, 1988 at Archdale Building, Hearing Room (G-170), 512 N. Salisbury Street, Raleigh, North Carolina.

Comment Procedures: Any person may request information or copies of the proposed

rules by writing or calling John P. Barkley, Agency Legal Specialist, Division of Health Services, P.O. Box 2091, Raleigh, North Carolina 27602-2091, (919) 733-3134. Written comments on these subjects may be sent to Mr. Barkley at the above address. Written and oral (for no more than ten minutes) comments on these subjects may be presented at the hearing. Notice should be given to Mr. Barkley at least three days prior to the hearing if you desire to speak.

CHAPTER 10 - HEALTH SERVICES:
ENVIRONMENTAL HEALTH

SUBCHAPTER 10A - SANITATION

SECTION .1900 - SEWAGE TREATMENT
AND DISPOSAL SYSTEMS

.1935 DEFINITIONS

The following definitions shall apply throughout this Section:

(16) "Parent material" means the mineral matter that is in its present position through deposition by water, wind, gravity or by decomposition of rock and exposed at the land surface or overlain by soil or saprolite.

~~(26)~~ (27) "Rock" means the consolidated or partially consolidated mineral matter or aggregate, including bedrock or weathered rock, or saprolite, not exhibiting soil the properties of soil and exposed at the land surface or overlain by soil or saprolite.

(29) "Saprolite" means thoroughly decomposed earthy mineral matter, weathered in place from igneous or metamorphic rock and usually overlain by soil and exhibiting some properties of rock.

~~(33)~~ (35) "Soil" for the purposes of subsurface sewage treatment and disposal, means the naturally occurring, unconsolidated mineral and organic material of the land surface, developed from rock or other parent material and it consists of sand, silt, and clay sized particles, minerals and variable amounts of organic materials. Soil does not exhibit properties of rock or parent material. However, zones of transition in which soil characteristics predominate shall be considered soil.

Statutory Authority G.S. 130A-335(e).

.1943 SOIL DEPTH

The depth of soils to rock which are classified as Suitable or Provisionally Suitable as to texture and structure shall be at least 48 inches

when conventional ground absorption systems at conventional depths are to be utilized.

(a) Soil depths to saprolite, rock, or parent material greater than 48 inches shall be considered Suitable as to soil depth. Soil depths to saprolite, rock, or parent material less than 48 inches and greater than between 36 inches and 48 inches shall be considered Provisionally Suitable as to soil depth. Soil depths to saprolite, rock, or parent material less than 36 inches or less shall be classified Unsuitable as to depth. Where special design and installation modifications can be made to provide at least one foot of naturally occurring soil below the bottom of the nitrification trench, such soils may be reclassified Provisionally Suitable as to depth.

(b) Where the site is UNSUITABLE with respect to depth, it may be reclassified PROVISIONALLY SUITABLE after a special investigation indicates that a modified or alternative system can be installed in accordance with Rule .1956 or Rule .1957 of this Section.

Statutory Authority G.S. 130A-335(e).

.1955 DESIGN CRITERIA FOR
CONVENTIONAL SYSTEMS

(m) Nitrification trenches shall be installed with at least one foot of naturally occurring soil between the trench bottom and saprolite, rock, or any soil horizon unsuitable as to texture, structure, soil consistence or drainage.

Statutory Authority G.S. 130A-335(e).

.1956 POSSIBLE MODIFICATIONS TO
CONVENTIONAL SEPTIC TANK
SYSTEMS

Possible modifications to conventional septic tank systems which may be utilized to overcome selected soil and site limitations and must be approved by the local health department include the following:

(3) Modified nitrification trenches or lines, including large diameter pipe (greater than four inches I.D.), and specially designed porous block systems V-type nitrification trenches, shall may be approved permitted on a site-specific basis by the local health department.

(a) Gravelless nitrification trench systems may be substituted for conventional trench systems on any site found to be suitable or provisionally suitable in accordance with Rule .1940 to .1948 to eliminate the need for gravel, minimize

site disturbance, or for other site planning considerations. Gravelless nitrification trench systems shall not be used, however, where wastes contain high amounts of grease and oil, such as restaurants.

(i) Large diameter pipe systems shall consist of eight-inch or ten-inch (inside diameter), corrugated, polyethylene tubing encased in a nylon, polyester, or nylon/polyester blend filter wrap installed in a nitrification trench, 12 or more inches wide and backfilled with soil classified as soil group I, II, or III. Nitrification area requirement shall be determined in accordance with Rule .1955(b) and .1955(c), with eight-inch tubing considered equivalent to a two-foot-wide conventional trench and ten-inch tubing considered equivalent to a three-foot-wide conventional trench. The long-term acceptance rate shall not exceed 0.8 gallons per day per square foot. Tubing and fittings shall comply with the requirements of ASTM F-667. ASTM F-667 has been adopted by reference in accordance with G.S. 150B-14(c). Copies of the standards may be inspected in and copies obtained from the Sanitation Branch, Division of Health Services, P.O. Box 2091, Raleigh, NC 27602-2091. The corrugated tubing shall have two rows of holes, each hole between 3/8's and 1/2-inch in diameter, located 120 degrees apart along the bottom half of the pipe (each 60 degrees from the bottom center line) and staggered so that one hole is present in the valley of each corrugation. The tubing shall be marked with a visible top location indicator, 120 degrees away from each row of holes. Filter wrap shall be spun, bonded, or spunlaced nylon, polyester, or nylon/polyester blend nylon filter wrap meeting the following minimum requirements:

Unit Weight: $Oz/vd^2 = 1.0$

Sheet Grab Tensile: MD - 23 lbs.

SD - 14 lbs.

Trapezoid Tear: MC - 6.2 lbs

XD - 5.1 lbs.

Mullen Burst: PSI = 40

KPa = 276

Frazier Air Perm, CFM ft @ 0.5 "H₂O: 500"

Corrugated tubing shall be covered with filter wrap at the factory and each joint shall be immediately encased in a black polyethylene sleeve which shall continue to encase the large diameter pipe and wrap until just prior to installation in the trench. Large diameter pipe systems shall be installed in accordance with this Rule and the manufacturer's guidelines. The trench bottom and pipe shall be level (with a maximum fall of one inch in 100 feet). Filter wrap encasing the tubing shall not be exposed to sunlight (ultraviolet radiation) for extended periods. Rocks and large soil clumps shall be removed from backfill material prior to being used. Clayey soils (soil group IV) shall not be used for backfill. The near end of the large diameter pipe shall have an eight-inch by four-inch or ten-inch by four-inch offset adaptor (small end opening at top) suitable for receiving the pipe from the septic tank or distribution device and making a mechanical joint in the nitrification trench.

(ii) Prefabricated, permeable block panel system shall consist of a network of 16-inch-high, prefabricated, porous, eight-inch block panels containing horizontal and vertical air chambers, installed approximately six inches apart in a nitrification trench (18 to 24 inches wide) lined with approved sand fill and individual trenches spaced on a minimum center-to-center spacing of nine feet.

(A) Nitrification area requirement shall be determined in accordance with Rule .1955(b) and .1955(c), with each linear foot of panel trench considered equivalent to a three-foot-wide conventional trench. Where a low-pressure distribution system is utilized which is designed to uniformly distribute effluent to each panel, in accordance with Rule .1957(a), total trench length may be reduced by up to 40 percent, when the maximum design sewage flow is 480 gallons per day or less.

(B) Block construction, sand fill material, and system installation shall be in accordance with this Rule and the manufacturer's guidelines.

(b) Other types of nitrification trenches or lines may be approved by the local health department on a site-specific ba-

sis provided substantiating data in accordance with Rule .1948(c) are submitted which indicate that the proposed nitrification trench or line will perform equal to or better than a conventional trench or line.

(4) Sites classified UNSUITABLE as to soil depth, with saprolite present, may be reclassified PROVISIONALLY SUITABLE as to soil depth when the provisions of this Paragraph are met.

(a) An investigation of the site using pits or trenches at locations and to depths specified by the local health department shall be conducted. The following physical properties and characteristics must be present:

(i) the saprolite shall be weathered from acidic (granite, gneiss, or schist) parent rock types of metamorphic or igneous origin;

(ii) the saprolite texture shall be suitable and saprolite shall have less than 20 percent clay;

(iii) clay mineralogy shall be suitable;

(iv) the saprolite consistence shall be loose, friable to very friable when moist as determined in place and nonsticky or nonplastic when wet;

(v) the saprolite shall be overlain by at least one foot of SUITABLE or PROVISIONALLY SUITABLE naturally occurring soil; and

(vi) the saprolite shall have no joints or fractures relic of parent rock to a depth two feet below the proposed trench bottom.

(b) Table III shall be used in determining the long-term acceptance rate for septic tank systems installed pursuant to Paragraph (5). The long-term acceptance rate shall be based on the most hydraulically limiting, naturally occurring saprolite to a depth of two feet below trench bottom.

TABLE III

SAPROLITE GROUP	SAPROLITE TEXTURAL CLASSES	
I	Sands	Sand Loamy
II	Coarse Loams	Sandy
Loam	(with less than 20% clay)	Loam

LONG-TERM ACCEPTANCE RATE

gpd/ft ²
0.6 - 0.5
0.5 - 0.4
0.4 - 0.3
0.3 - 0.2

Saprolite textural classifications shall be determined from disturbed materials and determined by Rule .1941(1). The local health department may require low-pressure distribution in conventional nitrification trenches, or other modifications to provide adequate effluent treatment and disposal.

(c) Only ground absorption systems with a design daily flow of 480 gallons or less shall be installed on sites reclassified pursuant to this Paragraph [Rule .1950(4)].

(d) The nitrification field shall be constructed using nitrification trenches with a maximum width of three feet and a maximum depth of two feet on the downslope side of the nitrification trench. The bottom of a nitrification trench shall be a minimum of two feet above rock. However, where SUITABLE or PROVISIONALLY SUITABLE soil underlies the trench bottom, this separation distance may be reduced by subtracting the actual soil depth beneath the trench bottom from 24 inches to establish the minimum separation distance from the trench bottom to rock.

(e) The bottom of any nitrification trench shall be a minimum of two feet above any wetness condition.

(f) Surface and subsurface interceptor drains may be required.

(g) Exceptions to the provisions of Rule .1950(a) found in Rule .1950 and .1951 shall not apply to systems installed pursuant to this Paragraph [Rule .1956(4)].

Statutory Authority G.S. 130A-335(e).

10 NCAC 10A .1956 has been amended pursuant to a rule-making petition in Subparagraph (3)(a)(i) as follows:

.1956 POSSIBLE MODIFICATIONS TO CONVENTIONAL SEPTIC TANK SYSTEMS

Possible modifications to conventional septic tank systems which may be utilized to over-

come selected soil and site limitations and must be approved by the local health department include the following:

(3) Modified nitrification trenches or lines, including large diameter pipe (greater than four inches I.D.), and specially designed porous block systems, V-type nitrification trenches, shall be approved on a site specific basis by the local health department.

(a) Gravelless nitrification trench systems may be substituted for conventional nitrification trench systems on any site found to be suitable or provisionally suitable in accordance with Rules .1940 to .1948 to eliminate the need for gravel, minimize site disturbance, or for other site planning considerations.

(i) A Prefabricated Porous Block Panel System (PPBPS), utilizes both horizontal and vertical air chambers to promote better quality effluent.

(A) The PPBPS shall consist of the following basic components:

(I) A state approved two-compartment septic tank with a sanitary "T" or other approved pretreatment system.

(II) An effluent distribution device as stated in Rule .1955(1).

(III) A network of panels placed in a nitrification trench as described in Rule .1955(4).

(B) The soil and site criteria for a panel system shall meet the following minimum requirements:

(I) Components of the panel system shall not be located in a depression or areas subject to frequent flooding. Surface water, perched ground water, and other subsurface lateral water movement shall be intercepted or diverted away from all components of the panel system.

(II) There shall be at least 12 inches of separation between the seasonally high water table and the trench bottom.

(III) Location of the septic tank, effluent distribution devices, and panel system nitrification field shall be subjected to the same horizontal setback specified in Rule .1950(a), except as approved by the local health department.

(IV) A panel system should not be installed on slopes in excess of 30 percent. The panel system may

be installed on slopes greater than 30 percent but may require special design to assure proper distribution of the effluent over nitrification field.

(V) There shall be no soil disturbance to an approved site for a panel system except the minimum required for installation.

(C) Application rate - Table II of Rule .1955(b) shall be used in determining the application rate for the panel system.

(D) In calculating the number of square feet for a panel system's nitrification field, design sewage flow shall be divided by the application rate from Table II of Rule .1955(b), then multiplied by the panel system ratio (50 percent for the 16 inch PPBPS or 40 percent for the 24 inch PPBPS) as shown below:

Conventional Systems With

12 Inches of Stone
600 sq. ft.
or
200 linear ft.

16 Inch PPBPS
100 linear ft. of
16 inch high PPBPS
(200 linear ft.
x 0.50)

12 Inch PPBPS
80 linear ft of
24 inch high PPBPS
(200 linear ft
x 0.40)

Using eight feet on center separation of the trenches, except as approved by the local health department.

(E) Installation of the PPBPS shall consist of the following:

(I) Each nitrification line shall be installed on contour. The nitrification trenches shall be constructed as level as possible, but in no case shall the fall in a single trench bottom exceed one-fourth inch in ten feet. The nitrification trench shall be a width of two feet. Earth dams should be used when the slope is to severe to allow for single level construction. Foot traffic on the bare trench bottom should be avoided. The depth of

the trenches should not exceed a depth of 36 inches for the 24 inch panel or 30 inches for the 16 inch panel except as approved by the local health department.

(II) On the bottom of each nitrification trench there shall be a minimum of six inches of medium sand with a fineness modulus of 2.3 to 3.0 (a screened or washed sand), except as approved by the local health department. On top of the six inches of fill sand there shall be a one inch x six inch board laid flat on the six inch side. This board is to assure the proper level and placement of the panels. The panels, with one inch of particle sand (a fine grade of sand blasting sand) placed in the upper-middle chamber, are then placed on the board at a minimum of six inch intervals. The panels should be connected together with two inch diameter schedule 40 or equivalent pipe. The same size and type pipe should connect the distribution devices and the first panel. This pipe should be placed where the effluent discharges into the upper-middle chamber between the air chambers on either side. This pipe shall be sealed at the outer cradle completely, while the inner cradle shall be sealed only to the top radius of the pipe to allow air flow from the air chambers to the upper-middle chamber. This seal shall be made with a tar or butyl seal rope product that is pliable and soft. Once this is completed, there shall be a cap block placed over the air chamber and inlet of the upper-middle chamber. After the placement of the cap block, which may serve as an inspection port at a later date, the nitrification trench shall then be backfilled to the top of the panels with the sand fill as previously specified.

(III) The soil cover over the nitrification trench should be a minimum depth of six inches, except as approved by the local health department. The finished grade over the nitrification field should be landscaped to prevent the

ponding of rain water. Surface water shall be diverted away from the nitrification field.

(IV) Nitrification trenches placed in Group IV soils shall necessitate raking of the sidewalls of the trench to open the pores which were damaged and sealed during excavation.

(F) The PPBPS may also be utilized as a pressure dosed ground absorption system with two to four feet of pressure head.

Statutory Authority G.S. 130A-335(e).

.1961 MAINTENANCE OF SEWAGE SYSTEMS AND SEPTAGE DISPOSAL

(c) Ground absorption Sewage collection, treatment, and disposal systems which create a public health risk, environmental hazard, or nuisance by surfacing of effluent or discharge directly into the ground water or the surface waters shall be repaired within 30 days of notification by the state or local health department unless the notification otherwise specifies in writing. The state or local health department shall investigate any malfunctioning system and use its best professional judgement practical technology consistent with good public health practice in requiring repairs to a malfunctioning ground absorption sewage treatment and disposal system, which will reasonably enable the system to function properly.

Statutory Authority G.S. 130A-294; 130A-335(e).

.1963 DISUSE OF SEWAGE SYSTEM

Notwithstanding the foregoing provisions of Rule .1962 of this Section, if, for any reason, a sewage collection, treatment, and disposal system is nonrepairable in accordance with Rule .1961(c) of this Section, falls into disrepair or has been disconnected, such system shall not be used again unless it meets all of a system can be permitted under the provisions of Rule .1948(c). this Section or unless the local health department determines such reuse will not create a public health hazard.

Statutory Authority G.S. 130A-335(e).

Notice is hereby given in accordance with G.S. 150B-12 that the Commission for Mental Health, Mental Retardation and Substance Abuse Services intends to adopt regulations cited as 10 NCAC 14K .0101 - .0103, .0201 - .0203, .0205 - .0212, .0214 - .0218, .0301 - .0364, .0401 - .0408; 10 NCAC 14L .0101 - .0106, .0201 - .0203, .0301 - .0310, .0401 - .0407, .0501 - .0508, .0601 - .0613, .0701 - .0712; 10 NCAC 14M .0101 - .0113, .0201 - .0210, .0301 - .0304, .0401 - .0410, .0501 - .0512, .0601 - .0616, .0701 - .0716; 10 NCAC 14N .0101 - .0107, .0201 - .0207, .0301 - .0307, .0401 - .0406, .0501 - .0507, .0601 - .0607, .0701 - .0705, .0801 - .0811; 10 NCAC 14O .0101 - .0109, .0201 - .0212, .0301 - .0314, .0401 - .0416, .0501 - .0505, .0601 - .0619; amend regulations cited as 10 NCAC 18I .0120; 10 NCAC 18J .0602, .0709, .0712; 10 NCAC 18L .0333 - .0334, .0337 - .0338, .0429, .0432, .0604, .0702 - .0703, .0705 - .0707, .0804 - .0809, .0903 - .0904, .1002, .1004 - .1006, .1102 - .1107, .1203 - .1206, .1302 - .1305, .1402 - .1403, 10 NCAC 18M .0506, .0607 - .0608, .0701, .0704, .0801 - .0803; 10 NCAC 18Q .0123, .0126, .0284, .0286 - .0287, .0320, .0520 - .0521, .0538 - .0541, .0802 - .0804, .0808, .0810, .0812; and repeal regulations cited as 10 NCAC 18J .0408 - .0409; 10 NCAC 18L .1202; 10 NCAC 18M .0702, .0804 - .0816, .0819 - .0821, .1201 - .1202; 10 NCAC 18O .0104 - .0123, .0218 - .0227, .0311 - .0321, .0405 - .0415, .0638 - .0651; 10 NCAC 18P .0131 - .0143, .0227 - .0244, .0301 - .0313, .0401 - .0407, .0501 - .0508, .0601 - .0603, .0701 - .0707, .0801 - .0807, .0904; 10 NCAC 18Q .0124, .0285, .0321 - .0334, .0421 - .0433, .0522 - .0537, .0601 - .0611, .0701 - .0708, .0806; 10 NCAC 18R .0101 - .0109, .0201 - .0214, .0301 - .0306, .0401 - .0405, .0501 - .0504, .0601 - .0605, .0701 - .0702, .0801 - .0803, .0901 - .0902, .1001 - .1004, .1101 - .1106, .1201 - .1209, .1301 - .1302, .1401 - .1402; 10 NCAC 45H .0119 - .0133.

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Human Resources, Secretary of DHR intends to adopt regulations cited as 10 NCAC 14K .0204, .0213.

The proposed effective date of this action is October 1, 1988.

The public hearing will be conducted at 10:00 a.m. on April 19, 1988 at Holiday Inn State Capital, 320 Hillsborough Street, Raleigh, N.C. 27603.

Comment Procedures: Any interested person may present his/her comments either by oral presentation at the hearing for a maximum of ten minutes or by submitting a written statement. Persons wishing to make oral presentations should contact: Jan Warren, A.P.A. Coordinator, Division of Mental Health, Mental Retardation and Substance Abuse Services, 325 N. Salisbury Street, Raleigh, N.C. 27611, (919) 733-7971 by April 15, 1988. The hearing record will remain open for written comments from March 15, 1988 through April 19, 1988. Written comments must be sent to the A.P.A. Coordinator at the address specified above and must state the proposed rule/rules to which the comments are addressed. Fiscal information on these rules is also available from the address specified above.

CHAPTER 14 - MENTAL HEALTH: GENERAL

SUBCHAPTER 14K - CORE LICENSURE RULES FOR MENTAL HEALTH: MENTAL RETARDATION AND OTHER DEVELOPMENTAL DISABILITIES: AND SUBSTANCE ABUSE FACILITIES

SECTION .0100 - GENERAL INFORMATION

.0101 PURPOSE: SCOPE AND APPLICABILITY OF RULES

(a) Subchapters 14K through 14O of this Chapter set forth licensure rules for mental health, mental retardation and other developmental disabilities and substance abuse facilities. Under the provisions of G.S. 122C-23 and G.S. 122C-24, a facility shall comply with these Rules. Failure to comply with these Rules shall be grounds for the department to deny or revoke a license.

(b) The Rules are codified in this Chapter as follows:

- (1) Subchapter 14K - core rules applicable to all types of facilities licensed under the provisions of G.S. 122C, Article 2;
- (2) Subchapter 14L - rules applicable to mental health facilities;
- (3) Subchapter 14M - rules applicable to mental retardation and other developmental disabilities facilities;
- (4) Subchapter 14N - rules applicable to substance abuse facilities; and
- (5) Subchapter 14O - rules applicable to facilities serving more than one disability.

(c) When a facility contracts with a person for the provision of services, or portions of a service, the facility shall ensure that the con-

tract services are provided in accordance with the applicable rules in this Subchapter and with 10 NCAC 14L, 14M, 14N, or 14O depending upon the type of client population served.

(d) In cases where no specific licensure rules exist for certain types of licensable mental health, mental retardation and other developmental disabilities or substance abuse facilities, the core rules contained in this Subchapter shall apply.

Statutory Authority G.S. 122C-23; 122C-24; 122C-26; 143B-147.

.0102 COPIES OF LICENSURE RULES

(a) The Division of Mental Health, Mental Retardation and Substance Abuse Services (DMH MR SAS) shall distribute a limited number of free copies of licensure rules contained in Subchapters 14K through 14O of this Chapter to area programs for area-operated facilities and for contract agency facilities. (Additional copies may be purchased from DMH MR SAS at a price to cover printing and postage.)

(b) Each area program shall distribute to each of its area-operated and contract agency facilities a copy of these licensure Rules.

(c) The Division of Facility Services (DFS) shall distribute a limited number of free copies of the licensure Rules to private facilities.

Statutory Authority G.S. 122C-26; 143B-147.

.0103 DEFINITIONS

(a) This Rule contains the definitions that apply to all the rules in this Subchapter and Subchapters 14L through 14O of this Chapter.

(b) In addition to the definitions contained in this Rule, the terms defined in G.S. 122C-3 also apply to all the rules in this Subchapter and Subchapters 14L through 14O of this Chapter.

(c) The following terms shall have the meanings specified:

- (1) "Administering medication" means direct application of a drug to the body of a client by injection, inhalation, ingestion, or any other means.
- (2) "Adolescent" means a minor between 13 and 17 years of age.
- (3) "Adult" means a person 18 years of age or older or a person under 18 years of age who has been married or who has been emancipated by a court of competent jurisdiction or is a member of the armed forces.

- (4) "Aftercare" means those services provided to substance abuse clients after discharge from a service which facilitates the client's integration/reintegration into society. Activities may include self-help groups, supportive work programs and staff follow-up contacts and interventions.
- (5) "Alcohol abuse" means psychoactive substance abuse which is a residual category for noting maladaptive patterns of psychoactive substance use that have never met the criteria for dependence for that particular class of substance (criteria delineated in DSM-III-R published by the American Psychiatric Association, 1400 K Street, N.W., Washington, D.C. 20005 at a cost of twenty-nine dollars and ninety-five cents (\$29.95) for the soft cover edition and thirty-nine dollars and ninety-five cents (\$39.95) for the hard cover edition.)
- (6) "Alcohol dependence" means psychoactive substance dependence which is a cluster of cognitive behavioral, and physiologic symptoms that indicate that a person has impaired control of psychoactive substance use and continues use of the substance despite adverse consequences (criteria delineated in DSM-III-R published by the American Psychiatric Association, 1400 K Street, N.W., Washington, D.C. 20005 at a cost of twenty-nine dollars and ninety-five cents (\$29.95) for the soft cover edition and thirty-nine dollars and ninety-five cents (\$39.95) for the hard cover edition.)
- (7) "Applicant" means any person who intends to establish, maintain or operate a licensable facility and who applies to the department for a license to operate a facility under the provisions of G.S. 122C, Article 2.
- (8) "Area program" means a legally constituted public agency providing mental health, mental retardation and substance abuse services for a catchment area designated by the commission.
- (9) "Assessment" means a procedure for determining the nature and extent of the problem for which the individual is seeking service.
- (10) "Certified counselor" means an alcoholism, drug abuse or substance abuse counselor who is certified by the North

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- (11) "Child" means a minor between birth and 12 years of age.
- (12) "Chronically mentally ill adult" means an individual 18 years of age or older who, as a result of a mental disorder, exhibits emotional or behavioral functioning which is so impaired as to interfere substantially with his/her capacity to remain in the community without supportive treatment or services of a long-term or indefinite duration. In these persons, mental disability is severe and persistent, resulting in long-term limitation of their functional capacities for primary activities of daily living such as interpersonal relations, homemaking, self-care, employment and recreation.
- (13) "Client record" means a written account of all services provided a client from the time of formal acceptance of the client by the facility until termination of services. This information is documented on standard forms adopted by the facility which are filed in a standard order.
- (14) "Clinical" means having to do with the direct treatment/habilitation of a client.
- (15) "Clinical staff member" means a professional who provides active treatment/habilitation to a client.
- (16) "Clinical/professional supervision" means regularly scheduled assistance by a qualified mental health professional, a qualified substance abuse professional or a qualified developmental disabilities professional to a staff member who is providing direct, therapeutic intervention to a client or clients. The purpose of clinical supervision is to ensure that each client receives appropriate treatment and/or habilitation which is consistent with accepted standards of practice and the needs of the client.
- (17) "Contested case" means an administrative proceeding under G.S. 150B, Article 3, in which the rights, privileges, or duties of a party(s) are required by law to be determined.
- (18) "Declaratory ruling" means a formal and binding interpretation as to:
 - (A) the validity of a rule; or
 - (B) the applicability to a given state of facts of a statute administered by the Department of Human Resources, or a rule or order of the Department of Human Resources.
- (19) "Detoxification" means the physical withdrawal of an individual from alcohol or other drugs in order that the individual can participate in rehabilitation activities.
- (20) "Developmentally delayed children" means those whose development is delayed in one or more of the following areas: cognitive development, physical development, language/speech, and self-help. The specific level of delay must be:
 - (A) For children from birth to 36 months of age documented by scores $1\frac{1}{2}$ standard deviations below the mean on standardized tests in at least one of the above areas of development or by a 20 percent delay on assessment instruments that yield scores in months; and
 - (B) For children from 36 to 60 months of age documented by test performance two standardized deviations below the mean on standardized tests in one area of development or by performance that is one standard deviation below the norm in two areas of development. Or, it may be documented by a 25 percent delay in two areas on assessment instruments that yield scores in months.
- (21) "DFS" means the Division of Facility Services, 701 Barbour Drive, Raleigh, N.C. 27603.
- (22) "Direct care staff" means an individual who provides care, treatment or rehabilitation/habilitation services to clients on a continuous and regularly scheduled basis.
- (23) "Dispensing medication" means preparing and packaging a prescription drug or device in a container and labeling the container with information required by state and federal law. Filling or refilling drug containers with prescription drugs for subsequent use by a client is "dispensing". Providing quantities of unit dose prescription drugs for subsequent administration is "dispensing".
- (24) "DMH/MR/SAS" means the Division of Mental Health, Mental Retardation and Substance Abuse Services, 325 N. Salisbury Street, Raleigh, N.C. 27611.
- (25) "Documentation" means provision of written, dated and authenticated evidence of the delivery of client services or compliance with statutes or rules,

- e.g., entries in the client record, policies and procedures, minutes of meetings, memoranda, reports, schedules, notices and announcements.
- (26) "Drug abuse" means psychoactive substance abuse which is a residual category for noting maladaptive patterns of psychoactive substance use that have never met the criteria for dependence for that particular class of substance (criteria delineated in DSM-III-R published by the American Psychiatric Association, 1400 K Street, N.W., Washington, D.C. 20005 at a cost of twenty-nine dollars and ninety-five cents (\$29.95) for the soft cover edition and thirty-nine dollars and ninety-five cents (\$39.95) for the hard cover edition.)
- (27) "Drug dependence" means psychoactive substance dependence which is a cluster of cognitive behavioral, and physiologic symptoms that indicate that a person has impaired control of psychoactive substance use and continues use of the substance despite adverse consequences (criteria delineated in DSM-III-R published by the American Psychiatric Association, 1400 K Street, N.W., Washington, D.C. 20005 at a cost of twenty-nine dollars and ninety-five cents (\$29.95) for the soft cover edition and thirty-nine dollars and ninety-five cents (\$39.95) for the hard cover edition.)
- (28) "DWI" means driving while impaired, as defined in G.S. 20-138.1.
- (29) "DWI substance abuse assessment" means a service provided to persons charged with or convicted of DWI to determine the presence of chemical dependency. The "assessment" involves a face-to-face interview with a substance abuse professional.
- (30) "Evaluation" means an assessment service which identifies the nature and extent of an individual's problem through a systematic appraisal of mental, physical, behavioral, functional social, economic and or intellectual resources of the individual, for the purposes of diagnosis and determination of the disability of the individual and the most appropriate plan, if any, for services.
- (31) "First aid" means emergency treatment for injury or sudden illness before regular medical care is available. First aid includes artificial respiration, the Heimlich maneuver, or other Red Cross first aid techniques for relieving airway obstruction, care of wounds and burns, and temporary administering of splints.
- (32) "Governing body" means those persons who by law, charter, articles of incorporation, partnership agreement, or other legally recognized manner have full legal authority for the overall operation of the facility.
- (33) "Hearing" means a contested case hearing under G.S. 150B, Article 3.
- (34) "Hearing officer" means a hearing officer appointed by the secretary or an Office of Administrative Hearings hearing officer.
- (35) "High risk children" means those from birth to 36 months of age who:
- (A) have a diagnosed physical or mental condition which has a high probability of resulting in developmental delay or atypical development;
 - (B) have significantly atypical patterns of development (perceptual, sensory, physical, behavioral, motor anomalies) that have a high probability of resulting in developmental delay or atypical development; or
 - (C) have responded well to intervention efforts but for whom there is evidenced that their continued developmental progress cannot be assured without continued intervention.
- (36) "Hours of operation" means an indication of the minimum operational hours that a service is expected to be available to clients, but not prohibiting the typical closing of a service to accommodate holidays, vacations, staff development activities and weather and facility-related conditions but taking into consideration the type of service being provided.
- (37) "ICF/MR" (Intermediate Care Facility/Mentally Retarded) means a facility certified as having met federal ICF/MR requirements and which provides 24-hour personal care, habilitation, developmental and supportive services to persons with mental retardation or related conditions.
- (38) "Incident" means any happening which is not consistent with the routine operation of the facility or the routine care of a client and that is likely to lead to adverse effects upon a client.

- (39) "Individual goal plan" (for clients with mental retardation or other developmental disabilities) means a written plan which includes measurable, date-specific, short-range objectives which are assessed and developed or restated based on the strengths and needs of the client and which identifies specific staff responsibilities and relates to the annual individual program plan.
- (40) "Individual program plan" (for clients with mental retardation or other developmental disabilities) which is sometimes referred to as an "habilitation plan," means a written plan which includes long-range objectives for the client based on evaluations, observations and other client assessment data and which is implemented following admission of the client, and assessed and redeveloped at least annually from the date of placement. The individual program plan includes a written summary of the client's progress regarding previous program plans.
- (41) "Individual treatment plan" (for mental health/substance abuse clients) means a plan of treatment for the client. The plan contains time-specific short and long term goals and strategies for implementing the goals, and identifies direct care staff responsible for the provision of treatment and rehabilitation services to the client. The individual treatment plan is synonymous with the individual service plan.
- (42) "Infant" means an individual between birth and two years of age.
- (43) "Isolation time-out" means the removal of a client from positive reinforcement to a separate room from which exit is barred but which is not locked and where there is continuous supervision by staff.
- (44) "Legend drug" means a drug that cannot be dispensed without a prescription.
- (45) "License" means a permit to operate a facility which is issued by DFS under G.S. 122C, Article 2. A regular license may be issued for a period not to exceed two years from the date of issue to a facility which is in compliance with all applicable statutes and rules. A provisional license may be issued not to exceed six months to a person who is temporarily unable to comply with a rule or rules.
- (46) "Medication" means a substance recognized in the official "United States Pharmacopoeia" or "National Formulary" intended for use in the diagnosis, mitigation, treatment or prevention of disease.
- (47) "Minor client" means a person under 18 years of age who has not been married or who has not been emancipated by a decree issued by a court of competent jurisdiction or is not a member of the armed forces.
- (48) "Neighborhood" - See "residential setting".
- (49) "Nurse" means a person licensed to practice in the State of North Carolina either as a registered nurse or as a licensed practical nurse.
- (50) "Operator" means the designated agent of the governing body who is responsible for the management of a licensable facility.
- (51) "Parent" means the biological or adoptive mother or father of a minor client.
- (52) "Physical examination" means the procedures used by a physician or physician extender on behalf of a physician to determine the physiological and anatomical condition of the client. Physical examination also means medical examination.
- (53) "Physician extender" means a nurse practitioner or a physician assistant approved to perform medical acts by the Board of Medical Examiners of the State of North Carolina.
- (54) "Private facility" means a facility not operated by or under contract with an area program.
- (55) "Program evaluation" means the systematic documented assessment of program activity to determine the effectiveness, efficiency and scope of the system under investigation, to define its strengths and weaknesses and thereby to provide a basis for informed decision-making.
- (56) "Provider" means an individual, agency or organization that provides mental health, mental retardation or substance abuse services.
- (57) "Psychiatric nurse" means an individual who is licensed to practice as a registered nurse in the State of North Carolina and by the North Carolina Board of Nursing and who is a graduate of an accredited master's level program

- in psychiatric mental health nursing with two years of experience, or has a master's degree in behavioral science with two years of supervised clinical experience, or has four years of experience in psychiatric mental health nursing.
- (58) "Psychiatric social worker" means an individual who holds a master's degree in social work from an accredited school of social work and has two years of clinical social work experience.
- (59) "Psychiatrist" means an individual who is licensed to practice medicine in the State of North Carolina and who has completed an accredited training program in psychiatry.
- (60) "Psychotherapy" means a form of treatment of mental illness or emotional disorders which is based primarily upon verbal or non-verbal communication with the patient. Treatment is provided by a trained professional for the purpose of removing or modifying existing symptoms, of attenuating or reversing disturbed patterns of behavior, and of promoting positive personality growth and development.
- (61) "Psychotropic medication" means medication with the primary function of treating mental illness, personality or behavior disorders. These medications include, but are not limited to, antipsychotics, antidepressants, neuroleptics, lithium and minor tranquilizers.
- (62) "Qualified alcoholism professional" means an individual who is certified by the North Carolina Substance Abuse Professional Certification Board or who is a graduate of a college or university with a baccalaureate or advanced degree in a human service related field with documentation of at least two years of supervised experience in the profession of alcoholism counseling.
- (63) "Qualified developmental disabilities professional" means an individual holding at least a baccalaureate degree in a discipline related to developmental disabilities, and at least two years of supervised habilitative experience in working with the mentally retarded or otherwise developmentally disabled or holding a baccalaureate degree in a field other than one related to developmental disabilities and having three years of supervised experience in working with the mentally retarded or otherwise developmentally disabled.
- (64) "Qualified drug abuse professional" means an individual who is certified by the North Carolina Substance Abuse Professional Certification Board or who is a graduate of a college or university with a baccalaureate or advanced degree in a human service related field with documentation of at least two years of supervised experience in the profession of drug abuse counseling.
- (65) "Qualified mental health professional" means any one of the following: psychiatrist, psychiatric nurse, practicing psychologist, psychiatric social worker, an individual with at least a master's degree in a related human service field and two years of supervised clinical experience in mental health services or an individual with a baccalaureate degree in a related human service field and four years of supervised clinical experience in mental health services.
- (66) "Qualified nutritionist" means an individual who has a Master's degree in nutrition, nutrition education or public health nutrition and who may or may not be a registered dietitian.
- (67) "Qualified substance abuse professional" means an individual who is:
- (A) certified by the North Carolina Substance Abuse Professional Certification Board; or
- (B) a graduate of a college or university with a baccalaureate or advanced degree in a human service related field with documentation of at least two years of supervised experience in the profession of alcoholism and drug abuse counseling and at least 80 percent of whose time is in the profession of alcoholism and drug abuse counseling.
- (68) "Registered dietitian" means an individual who has successfully completed a national examination for the Commission on Dietetic Registration and maintains registration with that commission through approved continuing education activities events.
- (69) "Rehabilitation" means training, care and specialized therapies undertaken to assist a client to reacquire or maximize lost skills and or functional abilities.
- (70) "Research" means inquiry involving a trial or special observation made under conditions determined by the investigator to confirm or disprove an hy-

- pothesis, or to explicate some principle or effect. The term "research" as used in this document means research which is not standard or conventional; involves a trial or special observation which would place the subject at risk for injury (physical, psychological or social injury), or increase the chance of disclosure of treatment; utilizes elements or steps not ordinarily employed by qualified professionals treating similar disorders of this population; or is a type of procedure that serves the purpose of the research only and does not include treatment designed primarily to benefit the individual.
- (71) "Residential setting" means a living area or zone in which the primary purpose is family residential living and which may be located in an area zoned either urban residential or rural.
- (72) "Respite discharge" means that point in time when no additional incidents of respite service are anticipated and the client record is closed.
- (73) "Respite episode" means an uninterrupted period of time during which a client receives respite services. The episode may vary in length from one hour or less to one month.
- (74) "Restraint" means the limitation of a client's freedom of movement by:
- (A) physical hold for the purpose of subduing the client;
- (B) "mechanical restraint" which is the use of mechanical devices for the purpose of controlling behavior including, but not limited to, cuffs, ankle straps, sheets, or restraining shirts; or
- (C) "protective restraint" which is the use of protective devices to provide support and safety for weak and feeble clients, or to prevent medically ill clients from removing intravenous tubes, indwelling catheters, cardiac monitor electrodes, etc. Such devices may include posey vests, geri-chairs, table top chairs or soft ties.
- (75) "Restrictive facility" means a facility which employs the use of mechanical restraint or seclusion in order to restrict a client's freedom of movement. A judicial determination as specified in G.S. 122C-223 and G.S. 122C-232 is required for minor clients and incompetent adult clients who are admitted to a restrictive facility.
- (76) "Screening" means an assessment service which provides for a brief face-to-face appraisal of each individual who presents himself/herself for services, in order to determine the nature of the individual's problem and his/her need for services. Screening may also include referral to other appropriate community resources.
- (77) "Seclusion" means isolating a client in a separate locked room for the purpose of controlling a client's behavior.
- (78) "Secretary" means the Secretary of the Department of Human Resources or designee.
- (79) "Severely physically disabled person" means for the purpose of ADAP (Adult Developmental Activity Program) a person:
- (A) who has a severe physical disability which seriously limits his functional capabilities (mobility, communication, self-care, self-direction, work tolerance or work skills);
- (B) who has one or more physical disabilities resulting from amputation, arthritis, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia and end stage renal disease; and
- (C) whose habilitation or rehabilitation can be expected to require multiple habilitation or rehabilitation services over an extended period of time.
- (80) "Sheltered employment" means a facility's provision of work and work training by:
- (A) subcontracting from industries in the community and bringing work to the facility to be performed; or
- (B) manufacturing its own products in the facility. Clients served in a sheltered employment model are those who consistently achieve earning levels exceeding one-half of the minimum wage but who are not ready for independent employment activities.
- (81) "Staff member" means any individual who is employed by the facility.
- (82) "Substantially mentally retarded person" means for the purpose of ADAP a person who is mentally retarded to the

degree of seriously limiting his functional capabilities, whose habilitation or rehabilitation can be expected to extend over a period of time, and including:

- (A) moderately mentally retarded persons;
 - (B) severely mentally retarded persons;
 - (C) profoundly mentally retarded persons; or
 - (D) mentally retarded persons with a handicapping condition so severe as to lack the potential for employment at this time, either in a sheltered or competitive setting. In addition, such individuals must have a deficit in self-help, communication, socialization or occupational skills and be recommended by the vocational rehabilitation counselor for consideration of placement in an ADAP.
- (83) "Support services" means services provided to enhance an individual's progress in his primary treatment habilitation program.
- (84) "Supported employment" means a day night service which involves paid work in a job which would otherwise be done by a non-disabled worker. Supported employment is carried out in an integrated work site where a small number of people with disabilities work together and where the work site is not immediately adjacent to another program serving persons with disabilities. It includes intensive involvement of staff working with the individuals in these integrated settings.
- (85) "Treatment" means the process of providing for the physical, emotional, psychological and social needs of clients through services.
- (86) "Twenty-four hour facility in which medical care is an integral component" means a facility in which:
- (A) the medication needs of clients may be evaluated, medication prescribed and laboratory tests ordered to assist in the diagnosis, treatment and/or monitoring of problems associated with the mental health, mental retardation or other developmental disabilities or substance abuse disorder(s) of clients; and
 - (B) proper referral of the client is made to medical specialists when needed.

Statutory Authority G.S. 122C-3; 122C-26; 143B-147.

SECTION .0200 - LICENSURE

.0201 LICENSE REQUIRED

No person shall establish, maintain or operate a licensable facility for the mentally ill, mentally retarded or otherwise developmentally disabled or substance abusers without first obtaining a license from the Division of Facility Services, 701 Barbour Drive, Raleigh, N.C. 27603.

Statutory Authority G.S. 122C-3(28); 122C-23(a); 122C-26; 143B-147.

.0202 EXCLUSIONS FROM LICENSURE

Those facilities and persons delineated in G.S. 122C-22(a) shall not be subject to licensure under the provisions of G.S. 122C, Article 2.

Statutory Authority G.S. 122C-22(a); 122C-26; 143B-147.

.0203 APPLICATION FOR LICENSE

(a) Any person as defined in G.S. 122C-3(28) intending to establish, maintain or operate a licensable facility for the mentally ill, mentally retarded or otherwise developmentally disabled or substance abusers shall apply to DFS for a license.

(b) The person shall submit a completed licensure application to the Licensure Section of DFS at least 30 days prior to the planned date of operation of the facility. In emergency situations involving therapeutic homes operated by either area programs or their contract agencies, application and processing time may be accelerated to seven days or less.

(c) The person shall be in compliance with all applicable Certificate of Need and local zoning requirements.

(d) In addition, the person shall notify DFS of any change in ownership, construction or other alteration to the physical plant, (such as relocation of walls, doors or change in finishes), or addition or change of services, and submit a new application upon request.

Statutory Authority G.S. 122C-3(28); 122C-23; 122C-26; 143B-147.

.0204 CONTENT OF LICENSE APPLICATION FORMS

The content of license application forms shall include the following:

- (1) name of the person as defined in G.S. 122C-3(28) submitting the application;
- (2) business name used by the facility, if applicable;

- (3) street location of the facility (include multiple addresses if more than one building at one site);
- (4) name and title of the operator of the facility;
- (5) type of facility; services offered; ages served; and, when applicable, capacity and a floor plan showing bed locations and room numbers, any unlocked time-out rooms, and any locked interior or exterior doors which would prohibit free egress of clients; and
- (6) indication of whether the facility is operated by an area program, under contract with an area program or is a private facility.

Statutory Authority G.S. 122C-3(28); 122C-23(c); 122C-27.

.0205 TYPES OF LICENSE

Each facility shall have either a provisional or a regular license.

Statutory Authority G.S. 122C-23; 122C-26; 143B-147.

.0206 PROVISIONAL LICENSE

(a) A provisional license may be granted when a facility is found to be temporarily unable to comply with a rule or rules and there is no immediate threat to the health, safety or welfare of the individuals served.

(b) Provisional licensure shall not exceed six months.

(c) During the provisional licensure period, the person shall submit a statement for review and approval by DFS describing the corrective action(s) taken.

(d) When all out-of-compliance issues are fully resolved and documented, a regular license shall be issued.

(e) A facility shall not receive two consecutive provisional licenses.

Statutory Authority G.S. 122C-23(e); 122C-26; 143B-147.

.0207 REGULAR LICENSE

(a) A regular license shall be issued only when a facility is in compliance with all applicable rules and statutes.

(b) A regular license shall be valid for a period not to exceed two years from the date on which the license is issued.

Statutory Authority G.S. 122C-23; 122C-26; 143B-147.

.0208 ISSUANCE OF LICENSE

(a) In accordance with the provisions of Rules .0206 and .0207 of this Section, DFS shall issue a license after completion of the following:

- (1) DFS determines that the applicant is in compliance with all Certificate of Need rules as codified in 10 NCAC 3R .2600 when applicable;
- (2) DFS approves the architectural drawings, physical plant changes, construction and room usage of the facility;
- (3) DFS determines that the applicant is in compliance with all fire safety, sanitation and waste disposal requirements;
- (4) DFS conducts an on-site inspection; and
- (5) DFS reviews the facility to determine compliance with licensure rules and applicable statutes.

(b) No license shall be issued when DFS determines that there is an immediate threat to the health, safety or welfare of an individual in the facility.

(c) A license shall be issued to the applicant for the specific premises and types of approved licensed services indicated on the application.

(d) DFS shall issue a corrected license in cases of administrative or clerical error by the applicant or DFS. Such corrected license shall not be considered amendment of a license.

Statutory Authority G.S. 122C-23; 122C-26; 122C-27(5); 143B-147.

.0209 POSTING OF LICENSE

(a) For all facilities providing periodic and day services, the license shall be posted in a prominent location and accessible to public view within the licensed premises.

(b) For 24-hour facilities for the mentally ill or mentally retarded/developmentally disabled, the license shall be readily available for review upon request.

(c) For 24-hour facilities for substance abusers, the license shall be posted in a prominent location and accessible to public view within the licensed premises.

(d) Additional copies of the license shall be available or posted in accordance with (a), (b) and (c) of this Rule when there are multiple buildings at the licensed location.

Statutory Authority G.S. 122C-26; 143B-147.

.0210 LICENSE RENEWAL

(a) Renewal of regular licenses shall be as specified in G.S. 122C-23(e).

(b) Prior to license renewal, the licensee shall submit to DFS the following information:

- (1) application for license renewal;
- (2) local fire and sanitation inspection reports which shall be submitted on an annual basis; and
- (3) a brief description of any changes in the facility since the most recent initial or renewal application form was completed.

(c) Failure of the licensee to supply the required information may result in revocation of the license to operate the facility.

(d) DFS shall obtain any other information necessary for proper administration and enforcement of all applicable licensure requirements.

Statutory Authority G.S. 122C-23(e); 122C-26; 143B-147.

.0211 SEPARATE LICENSE

(a) A single license shall be issued to each facility with each separate and distinct service listed individually on the license.

(b) Separate licenses shall be required for facilities which are maintained on separate sites even though they are under the same ownership or management.

Statutory Authority G.S. 122C-23(b); 122C-26; 143B-147.

.0212 LICENSED CAPACITY

A facility shall accept no more clients than the number for which it is licensed.

Statutory Authority G.S. 122C-26; 143B-147.

.0213 LICENSURE INSPECTION

(a) DFS shall inspect all facilities prior to licensure. If a facility is provisionally licensed, DFS shall re-inspect the facility prior to expiration of the provisional license to assure correction of findings of non-compliance. Once a regular license has been issued to a facility, the facility shall receive an on-site licensure inspection at least once every two years, and more frequently if necessary, to determine compliance with all applicable licensure requirements.

(b) All facility inspections shall be conducted in accordance with the provisions of G.S. 122C-25.

(c) Inspections conducted as a result of a complaint alleging the violation of any licen-

sure requirement shall not be announced more than 24 hours in advance and may be conducted at any time of the day without advance notice when warranted.

Statutory Authority G.S. 122C-25(c); 122C-27(4).

.0214 CLOSURE OF A FACILITY OR DISCONTINUATION OF A SERVICE

When a licensee plans to close a facility or discontinue a service, written notice at least 30 days in advance shall be provided to DFS. This notice shall address continuity of services to clients in the facility.

Statutory Authority G.S. 122C-26; 143B-147.

.0215 DENIAL: SUSPENSION: REVOCATION OR AMENDMENT OF LICENSE

(a) DFS may deny, revoke, suspend or amend a license when there is substantial failure to meet any of the requirements of G.S. 122C, Article 2 or other applicable statutes or any applicable rule adopted to meet the provisions of these statutes.

(b) When an application for initial license is denied, DFS shall give the applicant written notice of intent to deny the license and the reasons for the denial. The written notice shall also advise the applicant of the right to request a contested case hearing according to the procedures in Rule .0219 of this Section. Despite any appeal action, the facility shall not operate until a decision is made to issue a license.

(c) Except for summary suspensions which are governed by (d) of this Rule, DFS shall give the licensee written notice of intent to revoke, suspend or amend the license; the reasons for the proposed action; and the right to request a contested case hearing according to the procedures in Rule .0219 of this Section. If the licensee does not request a contested case hearing within the prescribed time, DFS may revoke, suspend or amend the license immediately. If the licensee petitions for a hearing, the existing license does not expire and no action may be taken until the last day for applying for judicial review of the order under G.S. 150B-3 and 150B-45.

(d) Should findings show that public health, safety or welfare considerations require emergency action, DFS shall issue an order of summary suspension and include the findings in its order. At the time the order is issued, DFS shall also petition the Office of Administrative Hearings for a contested case hearing in the matter according to G.S. 150B-23(a). The

order shall suspend only those privileges or services as necessary to protect the public interest. Examples of specific services or privileges include suspension of admissions, removal of all clients or a certain category of at-risk clients from the facility, suspension of on-site laboratory services, and suspension of privileges to use a certain building or portion of a building. An order of summary suspension shall be effective on the date specified in the order or on service of the order at the last known address of the licensee, whichever is later, and shall be in full force and effect during any contested case hearing as provided for in G.S. 150B-3(c). The order may also set a date by which the licensee shall remove the cause for the emergency action. If the order for summary suspension includes a date by which the licensee shall remove the cause for emergency action and the licensee fails to meet that deadline, DFS may take action to revoke or amend the facility's license according to (c) of this Rule.

(e) When all appeal opportunities have been exhausted or the time for such appeals has expired and a final decision is made to deny, revoke or amend a license, an applicant or licensee may not re-apply for the licensed service or privilege until at least six months following the date of the final decision, and shall meet all requirements of initial licensure.

Statutory Authority G.S. 122C-24; 122C-26; 122C-27; 143B-147; 150B-3; 150B-12(a); 150B-23(a); 150B-45.

.0216 WAIVER OF LICENSURE RULES

(a) The Director of DFS may waive any licensure rule contained in 10 NCAC 14K through 14O provided the issuance of the waiver is for good cause and will not affect the health, safety or welfare of individuals within the facility.

(b) Requests for waivers shall be sent to the Director of DFS, 701 Barbour Drive, Raleigh, North Carolina 27603.

(c) The request shall be in writing and shall contain:

- (1) the name, address and telephone number of the requester;
- (2) the name, address and telephone number of the facility for which the waiver is requested;
- (3) the rule number and title of the rule(s) or requirements for which waiver is being sought;

(4) a statement of facts necessitating the request with supporting documents as appropriate; and

(5) documentation of area board approval, if and when requests are from area programs and contract agencies of area programs, or documentation of governing body approval when requests are from private facilities not contracting with area programs.

(d) Prior to issuing a decision on the waiver request, the Director of DFS shall consult with the Director of DMH/MR/SAS; and may also request additional information or consult with additional parties as appropriate.

(c) A decision regarding the waiver request shall be issued in writing by the Director of DFS and shall state the reasons why the request was granted or denied and any special conditions relating to the request. A copy of the decision shall be sent to the Director of DMH/MR/SAS. If the rule(s) in question was adopted by the commission, the Director of DMH/MR/SAS shall send a copy of the decision to all commission members.

(f) The decision of the Director of DFS regarding a waiver request may be appealed to the commission through the contested case process set out in 10 NCAC 14B .0300. The appeal shall be in writing and shall be filed within 30 days of receipt of the decision regarding the waiver request.

(g) Waivers shall not exceed the expiration date of the current license and shall be subject to renewal consideration upon the request of the licensee.

Statutory Authority G.S. 122C-23(f); 122C-26(4); 122C-27(9); 143B-147.

.0217 DECLARATORY RULINGS

(a) The commission shall have the authority to issue all declaratory rulings arising under G.S. 122C, Article 2, and 10 NCAC 14K through 14O.

(b) Requests for declaratory rulings shall be initiated by the filing of a petition with the commission at 325 N. Salisbury Street, Raleigh, N.C. 27611 in care of the division director. The petition shall contain the following information:

- (1) the name, address, and telephone number of the petitioner;
- (2) the statute(s) or rule(s) to which the petition relates;
- (3) a concise statement of the facts giving rise to the petition and the impact or potential impact of the statute(s) or

rule(s) on the petitioner, with supporting documentation as appropriate;

- (4) a specific request for a declaratory ruling; and
- (5) the consequences of a failure to issue the declaratory ruling.

(c) The declaratory ruling process may consist of written submissions, hearings or other procedures deemed appropriate by the chairman of the commission or designee. The chairman or designee may notify persons who might be affected by the issuance of the declaratory ruling of any opportunity that exists to submit written statements or make oral presentations at a hearing.

(d) A record of all declaratory ruling proceedings shall be maintained by the agency legal specialist of the division and shall be available for public inspection during regular business hours. The record shall contain the following information:

- (1) the petition requesting the declaratory ruling;
- (2) all of the memoranda and written submissions relating to the declaratory ruling;
- (3) a recording or transcript of any hearing that is held pursuant to the petition for the declaratory ruling; and
- (4) the declaratory ruling or a statement of the reasons for refusal to issue the declaratory ruling.

(e) The commission may decline to issue a declaratory ruling if it has good cause to believe that the issuance of a declaratory ruling would be undesirable. Good cause for declining to issue a declaratory ruling may include the following instances:

- (1) the petition for the declaratory ruling addresses a situation or set of facts similar to one that was considered during the rule-making process, unless the petitioner can show a change in circumstances sufficient to warrant issuance of the declaratory ruling; or
- (2) the facts contained in the petition reveal the existence of a factual dispute, and a contested case would be more appropriate.

(f) The commission shall issue the declaratory ruling or notify the petitioner of its refusal to issue the declaratory ruling and the reasons for that refusal within 60 days of the receipt of the petition by the commission.

Statutory Authority G.S. 122C-26; 143B-10; 143B-147; 150B-17.

.0218 CONTESTED CASES

(a) Appeals Procedure.

(1) Except for contested cases regarding summary suspensions which shall be initiated in accordance with Rule .0215(d) of this Section, a licensee or an applicant for a license who has been notified by DFS of its intent to take adverse action on a license or application for license may petition for a hearing prior to the issuance of the final decision on the adverse action in accordance with G.S. 150B-3.

(2) The petition shall be filed with the Office of Administrative Hearings within 20 days after receipt of the notification concerning the adverse action.

(3) In accordance with G.S. 1A-1, Rule 4(j)4, a copy of the petition shall be served on a registered agent for service of process for the department. A list of registered agents may be obtained from the Office of Legislative and Legal Affairs, Department of Human Resources, 325 North Salisbury Street, Raleigh, North Carolina 27611.

(b) Recommended Decision.

(1) The administrative law judge in the Office of Administrative Hearings shall issue a recommended decision on the contested case in accordance with G.S. 150B-34.

(2) Prior to the issuing of the recommended decision, the chairman of the commission or members designated by the chairman or any party to the contested case may submit written arguments to the administrative law judge. A copy of these arguments shall be included in the official record.

(c) Final Decision. The secretary shall make the final agency decision in contested cases processed under this Rule in accordance with G.S. 150B-36.

Statutory Authority G.S. 122C-24; 122C-26; 143B-147; 150B-3; 150B, Article 3.

SECTION .0300 - FACILITY AND PROGRAM MANAGEMENT

.0301 GOVERNING BODY

The governing body shall establish policies, rules and a table of organization to guide relationships between itself and the operator and staff. Written policies regarding authority and responsibility shall be required.

Statutory Authority G.S. 122C-26; 143B-147.

.0302 OPERATOR

(a) The governing body shall designate in writing an operator to be responsible for the management of the facility. An individual shall not serve concurrently as the operator of more than one licensed facility except under the following conditions:

- (1) the facilities under the management authority of the operator shall only be those which are owned or leased by the same governing body for whom the operator is functioning as a full-time employee; and
- (2) when multiple facilities are operated under the management authority of a single operator, all such facilities shall be within a 50-mile radius of the operator's primary work location.

(b) A 24-hour facility licensed for more than six clients shall not be included under the shared management authority authorized in this Rule.

(c) Should the position of the operator become vacant, the governing body shall notify DFS in writing of:

- (1) the name of the temporary replacement within seven days of such vacancy; and
- (2) the name of the permanent replacement within seven days of such designation.

Statutory Authority G.S. 122C-26; 143B-147.

.0303 DISCLOSURE OF CONVICTIONS

All facilities shall require that applicants for employment disclose any conviction of an offense against the law other than a minor traffic violation.

Statutory Authority G.S. 122C-26; 143B-147.

.0304 PROFESSIONAL STAFF QUALIFICATIONS

The professional staff of a facility shall be currently licensed, registered or certified, as appropriate, in accordance with applicable N.C. State Laws and shall meet the individual qualifications established by the governing body of the facility for each position.

Statutory Authority G.S. 122C-26; 143B-147.

.0305 PERSONNEL RECORD

A separate personnel record shall be maintained on each individual employed indicating the training, experience and other qualifications for the position, including verification of

this information. In cases where professional licensure, registration or certification is required, annual documentation shall be included in the individual's personnel record.

Statutory Authority G.S. 122C-26; 143B-147.

.0306 JOB DESCRIPTION

Each employee shall be furnished a copy of his/her job description.

Statutory Authority G.S. 122C-26; 143B-147.

.0307 EMPLOYEE EDUCATION AND TRAINING

(a) Each facility shall provide or secure orientation programs and annual continuing education and training for employees to enhance their competencies and knowledge needed to administer, manage and deliver quality services.

(b) Each facility shall assure the maintenance of an ongoing record of all education and training activities provided or secured for employees.

Statutory Authority G.S. 122C-26; 143B-147.

.0308 ORGANIZATION OF POLICIES AND PROCEDURES

Each facility shall maintain its policies and procedures at an accessible location in an indexed, organized manner.

Statutory Authority G.S. 122C-26; 143B-147.

.0309 CLIENT FEE FOR SERVICE

The governing body shall develop written policies for client fee assessment and collection practices.

Statutory Authority G.S. 122C-26; 122C-146; 143B-147.

.0310 INFORMATION FOR CLIENTS

The facility shall make available information regarding rates, services, client rights, and other client-specific policies and rules to each client, potential client and legally responsible person.

Statutory Authority G.S. 122C-26; 122C-146; 143B-147.

.0311 MANAGING CLIENTS' FUNDS IN RESIDENTIAL FACILITIES

(a) Each governing body shall develop and implement written policies regarding the management of funds of clients in residential facilities.

(b) Each client shall manage his her own funds whenever possible.

(c) The provider shall manage client funds only upon written request by the client or legally responsible person and shall provide the client at least monthly an accurate accounting of monies received and disbursed and the balance on hand.

Statutory Authority G.S. 122C-26; 143B-147.

.0312 SCREENING

(a) The governing body shall develop written policies establishing a systematic means of screening each individual's need for services or whether he/she shall be referred to another service.

(b) The policy shall designate who is deemed qualified based on education and experience to make screening determinations.

(c) When possible and appropriate, and with client consent, family members or other persons significantly involved with the client's life shall be encouraged to participate in the screening of the client.

(d) Screening shall include:

- (1) assessment of the individual's presenting problem(s) in relation to the services offered by the facility; and
- (2) disposition (referrals and or recommendations).

Statutory Authority G.S. 122C-26; 143B-147.

.0313 ADMISSION

(a) The governing body shall develop written admission policies and procedures for each facility which shall include at least the following:

- (1) designation of staff who are deemed qualified to admit clients;
- (2) admission criteria;
- (3) procedures for compliance with Article 5 of Chapter 122C of the N.C. General Statutes, Parts 2, 3, 4, 5, 7 and 8 as applicable; and
- (4) in residential facilities, except for respite services, requirements for an agreement between the facility and the client or his her legally responsible person which shall delineate the responsibilities of both parties for the provision of medical and dental services, education and other needs.

(b) For voluntary admissions each application for admission and consent for treatment habilitation shall be signed by the client or legally responsible person upon admission to a facility. For involuntary admis-

sions, documentation of the commitment process shall be maintained by the facility.

Statutory Authority G.S. 122C-26; 143B-147.

.0314 ASSESSMENT

(a) The governing body shall develop written policies and procedures relative to assessment requirements for individuals served by the facility.

(b) Mental Health Facilities:

- (1) Inpatient psychiatric; residential acute treatment; partial hospitalization; residential treatment for children and youth; and day treatment facilities for children and youth shall complete:

(A) An individual admission assessment within 24 hours of admission, mental status, admitting diagnosis, and determination of need for additional information, diagnostic tests or evaluations;

(B) A preliminary individual treatment plan within 72 hours of admission; and

(C) Current social, medical, psychiatric, educational and vocational histories and assessments such as substance abuse, developmental, legal, nutritional, etc., completed or obtained within 30 days if appropriate.

- (2) Psychosocial rehabilitation programs and group homes for adult and elderly clients shall complete an admission note within 24 hours for each client who is admitted to the facility. The admission note shall include the present condition of the client reported in objective, behavioral terms; the name of the mental health professional(s) who is responsible for the treatment and/or case management of the client; and the reason for admission.

(c) Mental Retardation Developmental Disability Facilities and Sheltered Workshops:

- (1) Within 30 days following admission, the following assessment information shall be completed:

(A) the present condition of the client reported in objective, behavioral terms, and where possible a description of the client's condition by family members;

(B) social, developmental and medical histories and assessments. Additional histories and assessments shall be completed as appropriate (e.g., vocational, psychiatric, legal, educational and nutritional). Histories and assessments generated by other facilities/service

providers may be used for respite programs;

- (C) determination of, and request for, additional referrals for special diagnostic tests, assessments or evaluations, if needed;
 - (D) results of other standardized and non-standardized evaluations in the areas identified in (c)(1)(B) of this Rule;
 - (E) summary of client and, if appropriate, family strengths and weaknesses;
 - (F) copies of relevant evaluations from other agencies or service providers.
- (2) An ADAP which operates within a sheltered workshop that meets the requirements of the Division of Vocational Rehabilitation Services shall be considered to have an approved ADAP evaluation program which may provide the information for the evaluation report.
- (3) Within 30 days prior to admission to a facility, a medical assessment shall be completed indicating the client's ability to participate in the program, absence of communicable disease and immunization status. If the client has specific medical problems, the physician's assessment shall include a written statement regarding precautions to be taken. The physician's assessment shall be updated at least annually during the client's placement in the facility except for ADAP, alternative family living and supervised independent living.
- (d) Substance Abuse Facilities:
- (1) Substance abuse facilities, with the exception of supervised independent living, alternative family living and halfway houses, shall conduct an assessment of the client after admission as follows:
 - (A) admission assessment to be done within 24 hours of admission which includes reason for admission, mental status including suicide potential, admitting diagnosis, medical history and general physical condition, activities assessment, history of or assessment of potential for physical abuse of family members or others, a family assessment when minors are served, legal status and substance use history;
 - (B) in inpatient hospital treatment, residential treatment rehabilitation, non-hospital medical detoxification, and outpatient detoxification facilities, a

medical examination shall be completed within 24 hours of admission; and

- (C) except in detoxification facilities, historical material including social, legal, psychiatric, educational and vocational assessments shall be completed within 30 days of admission.
- (2) In halfway houses, a thorough review shall be made to determine appropriateness of continued service in the facility within 30 days of admission and at least every three months thereafter.
- (e) Facilities Serving More Than One Disability (except for sheltered workshops):
- (1) An admission note shall be completed for each client within 24 hours of admission which includes at least the following:
 - (A) the present condition of the client reported in objective, behavioral terms;
 - (B) the reason for admission; and
 - (C) the name of the qualified mental health professional, qualified developmental disabilities professional or qualified substance abuse professional as appropriate, who has designated responsibility for the client's treatment/program or case management plan.
 - (2) The facility shall obtain assessment information judged to be essential to serving the client in the facility, from the qualified mental health professional, qualified developmental disabilities professional or qualified substance abuse professional who has designated responsibility for the client's treatment/program or case management plan.
 - (3) Any other assessment information required by the facility's own policies shall be completed or obtained as required by those policies.

Statutory Authority G.S. 122C-26; 143B-147.

.0315 INDIVIDUAL TREATMENT/PROGRAM PLAN

- (a) The governing body shall have written policies and procedures for the development of individual treatment/program plans and the assignment of staff responsibilities for implementation of such plans.
- (b) Individual plans for each client shall be based upon an evaluation of the client's condition, assets and needs and the resources to meet these needs. This plan shall provide a systematic approach to the

treatment/habilitation of the client and substantiate the appropriateness of the treatment or habilitation goals. The plan shall be developed in partnership with the client or individual acting in behalf of the client. Clinical responsibility for the development and implementation of the plan shall be designated.

(c) Mental Health Facilities:

(1) Inpatient psychiatric; residential acute treatment; partial hospitalization; residential treatment for children and youth; and day treatment for children and youth facilities shall comply with the following requirements:

(A) A comprehensive treatment plan, based on information gathered during the assessment process, shall be developed in cooperation with the client and implemented within 30 days of admission, with the exception of inpatient psychiatric and residential acute treatment facilities wherein the plan shall be implemented within ten days of admission. The comprehensive plan shall include at least the following: diagnosis and time-specific short and long-term measurable goals, strategies for reaching goals and staff responsibility for plan implementation.

(B) Progress notes shall be completed on at least a weekly basis and reflect the client's progress or lack of progress toward meeting goals, staff interventions and information which may have a significant impact on the client's condition.

(C) A thorough review of the comprehensive treatment plan shall be carried out and documented in the plan at least every six months or more frequently if medically or clinically indicated.

(2) Group homes for adult and elderly individuals who are mentally ill shall comply with the following requirements:

(A) Individual client plans shall be developed in cooperation with the client, the facility staff and the mental health professional who is responsible for the treatment and or case management of the client within 30 days of the client's admission to the facility. The plan shall include at least the following: time-specific short and long-term goals to be addressed by the client and the facility staff; documentation of coordination of the plan for the client with the comprehensive treatment plan and the des-

ignated treatment responsibilities of the mental health professional providing treatment and the responsibilities of the facility staff.

(B) Progress notes shall be completed on a monthly basis which reflect the client's progress or lack of progress toward meeting goals; documentation of coordination between the facility staff and the mental health professional who is responsible for treatment; and any other information which may have a significant impact on the client's condition.

(C) A thorough review of the plan shall be carried out and documented in the plan at least annually or more frequently if medically or clinically indicated.

(3) Psychosocial rehabilitation programs shall comply with the following requirements:

(A) A plan shall be developed in cooperation with the client within 30 days of the client's admission to the facility. The plan shall include at least the following:

(i) Assessment of client's strengths and weaknesses.

(ii) Individual service goals and activities in which the client will participate.

(iii) Designation of staff responsibility for coordination with goals contained in the client's comprehensive treatment plan.

(B) Progress notes shall be completed on a monthly basis which document the client's progress toward goal achievement and other significant information regarding the client's situation.

(C) The plan shall be reviewed and changes documented at least every six months or more frequently if indicated based on client functioning.

(4) Any facility which serves individuals on a drop-in basis shall maintain a daily attendance log, a daily activity plan, and documentation of referrals to other service providers.

(d) Mental Retardation/Developmental Disability Facilities and Sheltered Workshops:

(1) Individual program plans shall be developed and implemented within 30 days of admission to all facilities with the exception of respite care programs. The plan shall be reviewed at least quarterly and assessed and redeveloped at least annually. For clients in ADAP

and sheltered workshop placements, the annual assessment shall include a review to determine the need for referral to Vocational Rehabilitation or other services. Program plans shall provide the basis for the development of individual goal plans. Program plans shall provide a systematic approach to the habilitation of the client and substantiate the appropriateness of the habilitation goals. Program plans shall be developed in partnership with clients or individuals acting in behalf of clients. Clinical responsibility for the development and implementation of program plans shall be designated.

- (2) Individual goal plans shall be developed in the appropriate developmental and vocational skill areas. Goal plans shall be assessed on a quarterly basis in all facilities with the exception of developmental disability/behavior disorder group homes wherein goal plans shall be assessed on a monthly basis. Such assessment shall address the client's progress or lack of progress toward meeting the plan and review of the plan for appropriateness of established goals. Individual goal plans are not required for clients in supervised independent living, alternative family living, sheltered workshops and ADAP clients in supported employment.
- (3) In specialized community residential centers, nursing care plans shall be developed and implemented in addition to the individual program plan. The nursing care plan must address medical needs and nursing care. Such plans shall be integrated with individual goal plans.
- (4) In developmental disability/behavior disorder group homes, the individual program plan shall specify a time-specific admission of less than six months, to be extended as needed on a six-month basis, and shall emphasize programming objectives that assist the client in exiting to a less restrictive setting.
- (5) Progress notes shall be completed which reflect the client's progress or lack of progress toward meeting program plan goals, staff interventions and any information which may have a significant impact on the client's condition. Documentation shall be made of any con-

ferences or involvements with the client's family or involved agencies.

- (A) Progress notes for respite services shall be completed after each respite episode.
 - (B) Progress notes for developmental disability/behavior disorder group homes shall be completed at least monthly.
 - (C) Progress notes in all other services shall be on at least a quarterly basis.
 - (D) Except for respite services, when the client is a minor, progress reports regarding the program plan shall be given to the legally responsible person on a quarterly basis.
- (e) Substance Abuse Facilities:
- (1) The preliminary treatment plan or detoxification instructions shall be initiated within 24 hours of admission and shall be based upon information gathered during the admission assessment.
 - (2) The comprehensive treatment plan for clients in residential treatment /habilitation facilities, therapeutic homes and outpatient treatment facilities shall be implemented within 30 days of admission. The comprehensive treatment plan for clients in inpatient hospital treatment programs shall be implemented within ten days of admission. Such plan shall include diagnosis, time-specific short and long-term measurable goals, and strategies for reaching goals. The treatment plan shall be reviewed and revised whenever medically or clinically indicated or at least every six months.
 - (3) Progress notes shall be written to reflect the client's progress or lack of progress toward meeting the treatment plan goals and shall reflect staff interventions and any information which may have a significant impact on the client's status. Documentation shall be made of any conference or involvements with the client's family or involved agencies and any major events related to the client.
 - (A) Progress notes in outpatient services, including outpatient detoxification services, shall be completed after each client visit.
 - (B) Progress notes shall be completed weekly in residential treatment /habilitation facilities and therapeutic homes.
 - (C) Progress notes shall be completed on each client in social setting and non-

hospital medical detoxification facilities at least every eight hours.

(D) In inpatient hospital treatment facilities, progress notes shall be completed on each shift.

(E) A weekly summary note shall be completed in halfway houses, supervised independent living and alternative family living.

(f) Facilities Serving More Than One Disability (Except for Sheltered Workshops):

(1) An individual client plan for services to be provided by the facility shall be developed jointly by the client, facility staff and the qualified mental health professional, qualified developmental disabilities professional or the qualified substance abuse professional, as appropriate, who is responsible for the client's treatment/program or case management plan within 30 days of admission to the facility. This plan shall include at least the following:

(A) Specified goals and strategies to be carried out by the facility staff to support the attainment of goals specified by the qualified mental health professional, qualified developmental disabilities professional or qualified substance abuse professional who has designated responsibility for the client's treatment/program or case management plan.

(B) Documentation of joint development of the individual client plan by the client or legally responsible person, the facility staff and the professional who has designated responsibility for the client's treatment/program or case management plan.

(2) Progress notes shall be completed on at least a monthly basis which reflect:

(A) The client's progress or lack of progress in relation to his/her goals and strategies within the client plan; and

(B) Documentation of coordination between the facility and the professional who has designated responsibility for the client's treatment/program or case management plan.

(3) A thorough review of the individual client plan shall be carried out annually or more frequently if medically or clinically indicated. The review of the individual client plan shall be conducted cooperatively by the client or legally responsible person, the facility staff and the professional who has designated re-

sponsibility for the client's treatment/program or case management plan.

Statutory Authority G.S. 122C-26; 143B-147.

.0316 DISCHARGE/AFTERCARE

(a) The governing body shall develop written policies and procedures for each facility which shall include at least the following:

(1) discharge criteria; and

(2) in 24-hour facilities, procedures for developing an individual discharge plan in accordance with G.S. 122C-61(2).

(b) Mental Health Facilities:

(1) Inpatient psychiatric; residential acute treatment; partial hospitalization; residential treatment for children and youth, and day treatment for children and youth facilities shall complete a discharge summary within 15 days following discharge which shall include at least the following:

(A) reason for admission;

(B) significant findings;

(C) course and progress of the client with regard to each identified need;

(D) condition of client at discharge;

(E) recommendations and arrangements for further services; treatment; and

(F) final diagnosis.

(2) All other mental health facilities shall complete, within 15 days following discharge, a discharge note which reflects the status of the client at the time of discharge from the facility and which documents notification of the mental health professional who is responsible for the treatment and/or case management of the client.

(c) Mental Retardation/Developmental Disability Facilities and Sheltered Workshops:

(1) Each facility shall develop a written discharge summary.

(2) A non-respite discharge summary shall be completed within 15 days of the client's discharge which includes at least the following information:

(A) reason for admission;

(B) significant findings;

(C) course and progress of the client with regard to each identified need;

(D) final assessment, including the general observations and understanding of the client's condition initially, during and at discharge;

(E) recommendations and arrangements for further services; treatment; and

- (F) final diagnosis.
- (3) A respite discharge summary shall be completed within 15 days of the respite discharge and shall include as a minimum:
- (A) summary of the services provided; and
 - (B) general observations and understanding of the client's condition initially, during and at discharge.
- (d) Substance Abuse Facilities:
- (1) Substance abuse facilities which provide active treatment shall have a written plan for aftercare services which minimally includes:
 - (A) philosophy and policies of aftercare;
 - (B) plan for delivering aftercare services, including the aftercare services which are provided;
 - (C) provision for written agreements with individuals or organizations if aftercare services are not provided directly by the facility; and
 - (D) referral procedures.
 - (2) Substance abuse facilities, with the exception of day activity, supervised independent living, alternative family living and halfway houses, shall complete a discharge summary within 15 days following discharge of a client which shall include at least the following information:
 - (A) reason for admission;
 - (B) significant findings;
 - (C) condition of client at time of discharge;
 - (D) final diagnosis; and
 - (E) recommendations or referrals for other services.
- (e) Facilities Serving More Than One Disability (Except for Sheltered Workshops): A discharge summary shall be completed within 15 days of the client's discharge from the facility. The discharge summary shall include at least the following:
- (1) reason for admission;
 - (2) course and progress of the client in relation to the goals and strategies in the individual client plan;
 - (3) condition of the client at discharge; and
 - (4) documentation of notification of the professional who has designated responsibility for the client's treatment/program or case management plan.

Statutory Authority G.S. 122C-26; 143B-147.

.0317 CLIENT RECORDS

- (a) Facilities shall maintain a client record for each individual admitted to the facility.
- (b) Each client record shall contain an identification face sheet which includes at least the following identifying information:
- (1) client name (last, first, middle, maiden);
 - (2) client record number;
 - (3) client address;
 - (4) also known as;
 - (5) date of birth;
 - (6) race, sex and marital status;
 - (7) social security number;
 - (8) home telephone number;
 - (9) work telephone number;
 - (10) name, address and telephone number of legally responsible person and/or next of kin;
 - (11) admission date; and
 - (12) discharge date.
- (c) Client-specific requirements delineated in Rules .0312 through .0316 of this Subchapter shall be documented in the client record.
- (d) Information required in other rules in this Subchapter (such as, but not limited to, medication prescribing, administering medication, medication education, restraint or seclusion and laboratory services) shall be documented in the client record.
- (e) Additional information which shall be included in the client record may include the following:
- (1) diagnostic tests, assessments, evaluations, consultations, referrals, support services or medical services provided;
 - (2) known allergies and/or hypersensitivities;
 - (3) major events, accidents or medical emergencies involving the client;
 - (4) consent for, and documentation of, release of information;
 - (5) documentation of applied behavior modification which includes at risk or other intrusive interventions, including authorization, duration, summaries of observation and justification;
 - (6) conferences or involvements with the client's family, significant others or involved agencies/service providers;
 - (7) documentation of attempts to ascertain why a client is not attending a service in accordance with his/her established schedule; and
 - (8) documentation of attendance in services other than residential services.
- (f) All client record entries shall include the date of entry and authentication by the individual making the entry. Time shall be re-

corded based upon the nature of services (e.g., shift notes, medication administration, accidents, injuries, at risk procedures).

(g) All client record entries shall be legible and made in permanent ink or typewritten.

(h) Alterations in client records, which are necessary in order to correct recording errors or inaccuracies, shall be made as follows:

(1) Alterations shall be made by the individual who recorded the entry.

(2) A single, thin line shall be drawn through the error or inaccurate entry with the original entry still legible.

(3) The corrected entry shall be legibly recorded above or near the original entry and/or an explanation as to the type of documentation error or inaccuracy shall be recorded.

(4) Alterations include the date of correction and initials of recorder.

(i) Each page in client records originated within the facility shall include the client's name and client record number, when assigned.

(j) Client records shall contain only symbols and abbreviations included on an abbreviation list approved by the facility.

(k) Notations in a client's record shall not personally identify other clients.

(l) Each facility shall designate in writing those individuals authorized to document in client records.

(m) Forms and court orders relative to the admission commitment of clients shall be incorporated into the client record.

Statutory Authority G.S. 122C-26; 143B-147.

.0318 SERVICE COORDINATION

(a) Coordination shall be maintained among all staff members contributing to the evaluation, planning and treatment habilitation effort for each client. This may be accomplished in a variety of ways, such as interdisciplinary team meetings, inter-agency meetings and case management.

(b) Each facility utilizing shifts or relief staff shall develop mechanisms to ensure adequate communication among staff regarding clients.

Statutory Authority G.S. 122C-26; 143B-147.

.0319 QUALITY ASSURANCE

(a) Each governing body shall assure the establishment and implementation of a written quality assurance plan which shall describe quality assurance activities and how they will

be carried out. Quality assurance activities shall include the following:

(1) an objective and systematic system for monitoring and evaluating the quality and appropriateness of client care;

(2) a written plan of professional/clinical supervision describing such activities and how they shall be carried out;

(3) the establishment and implementation of program evaluation activities;

(4) the strategies for improving client care; and

(5) the resolution of identified problems.

(b) For those facilities providing treatment/habilitation, supervision of staff of a facility shall be conducted as follows:

(1) Each clinical staff member of a mental health facility who is not a qualified mental health professional shall receive professional supervision from a qualified mental health professional.

(2) Each direct care staff member of a mental retardation facility who is not a qualified developmental disabilities professional shall be supervised by, or have access to the professional supervision of, a qualified developmental disabilities professional. Such access shall be documented by a written agreement for consultation on issues related to the habilitative process for persons with mental retardation or other developmental disabilities.

(3) Each clinical staff member of an alcoholism treatment facility who is not a qualified alcoholism or substance abuse professional shall receive professional supervision from a qualified alcoholism or substance abuse professional.

(4) Each clinical staff member of a drug treatment facility who is not a qualified drug abuse or substance abuse professional shall receive professional supervision from a qualified drug abuse or substance abuse professional.

(5) Each clinical staff member of a facility which provides both alcohol and drug abuse treatment who is not a qualified substance abuse professional shall be supervised by a qualified substance abuse professional.

(c) Privileging of professional staff of a facility shall be conducted as follows:

(1) Each facility shall implement written policies and procedures by which the qualifications of each professional are examined and a determination made as

to treatment/habilitation privileges granted and supervision needed.

- (2) Delineation of privileges shall be based on documented verification of the individual's competence, training, experience and licensure, certification or registration.

Statutory Authority G.S. 122C-26; 143B-47.

.0320 INCIDENT REPORTING

Each facility shall have and implement a written policy for reporting all incidents regarding clients. The policy shall provide for the following:

- (1) prompt reporting of the incident to appropriate persons within the facility and prompt emergency care when indicated;
- (2) documentation of the essential facts surrounding the incident with such documentation maintained in administrative files;
- (3) periodic review of incident reports by staff members to determine the cause of such incidents and to recommend preventive measures and corrective actions; and
- (4) evidence of corrective action(s) taken, as appropriate, to implement recommendations.

Statutory Authority G.S. 122C-26; 143B-147.

.0321 GROUPING OF CLIENTS

Each facility shall have and implement a policy to ensure that each client is served appropriately in relation to age, developmental level, sex, and nature and severity of clinical problems.

Statutory Authority G.S. 122C-26; 143B-147.

.0322 FIRE AND DISASTER PLAN

A written fire and disaster plan for each facility shall be developed with the assistance of appropriate experts in fire and safety and shall be approved by the local fire authority. The plan shall be made available to all staff and evacuation procedures and routes and shall be posted in the facility. The plan shall include at least the following:

- (1) assignments of personnel to specific tasks and responsibilities;
- (2) instructions on the use of alarm systems and signals;
- (3) information on methods of fire containment;
- (4) a system for notification of the fire department and occupants of the building;

- (5) location of fire-fighting equipment; evacuation procedures and routes;
- (6) procedures for prompt transfer of clients and records to an appropriate facility; and
- (7) other provisions as the local situation dictates.

Statutory Authority G.S. 122C-26; 143B-147.

.0323 FIRE DRILLS FOR 24-HOUR FACILITIES

(a) Fire and disaster drills in a 24-hour facility shall be held at least quarterly and shall either be repeated for each shift or be conducted when personnel from all shifts are present. Drills shall be conducted under conditions that simulate fire emergencies in order to:

- (1) acquaint staff and clients with a means of evacuating buildings that will ensure orderly and controlled exit without panic;
- (2) ensure that all staff members on all shifts are trained to perform assigned tasks;
- (3) ensure that all staff members on all shifts are familiar with the operation of fire-fighting equipment in the facility; and
- (4) provide documentation of problems that occurred during the drill and what was done to correct these problems.

(b) Responsibility for the planning and conducting of drills shall be assigned to individuals who have a demonstrated ability to exercise leadership.

(c) In conducting drills, emphasis shall be placed upon orderly evacuation rather than upon speed.

(d) The facility shall have a policy requiring that staff participate in fire drills.

(e) Special provisions, such as fire chutes, shall be made for the evacuation of non-ambulatory clients.

(f) Fire alarm systems, where available, shall be used regularly in fire drills.

Statutory Authority G.S. 122C-26; 143B-147.

.0324 EQUIPMENT AND FURNISHINGS

All residential facilities shall equip and furnish the bathroom, living room/den, kitchen and other areas of the facility in such a way as to provide a comfortable and normalized living environment.

Statutory Authority G.S. 122C-26; 143B-147.

.0325 INDOOR LIVING SPACE FOR

RESIDENTIAL AND RESPITE FACILITIES

Except for residential therapeutic (habilitative) camps, the following requirements apply to residential and respite facilities:

- (1) Each facility, except for a private home, shall have a reception area for clients and visitors and private space for interviews and conferences with clients.
- (2) The living room den, kitchen and dining space shall be available to meet the clients' needs.
- (3) Each facility shall have indoor space for group activities and social gatherings.
- (4) The area in which therapeutic and habilitative activities are routinely conducted shall be separate from sleeping areas.
- (5) In facilities with overnight accommodations for persons other than clients, such accommodations shall be separate from client bedrooms.
- (6) No client shall be permitted to sleep in an unfinished basement or in an attic.
- (7) In a residential facility licensed under residential building code standards and without elevators, bedrooms above or below the ground level shall be used only for individuals who are capable of moving up and down the steps independently.
- (8) Minimum furnishings for client bedrooms shall include a separate bed, bedding, pillow, bedside table, and storage for personal belongings for each client.
- (9) Only clients of the same sex may share a bedroom except for children age six or below and for married couples.
- (10) Children and adolescents shall not share a bedroom with an adult client.

Statutory Authority G.S. 122C-26; 143B-147.

.0326 OUTDOOR ACTIVITY SPACE/EQUIPMENT

(a) Facilities that provide structured outdoor activities for clients shall provide space that is suitable for the ages and treatment habilitation needs of the clients served.

(b) Outdoor equipment shall be maintained in good repair, safe for use and shall be age appropriate.

Statutory Authority G.S. 122C-26; 143B-147.

.0327 COMPLIANCE WITH CLIENTS' RIGHTS STATUTES

Each facility shall have and implement policies and procedures to ensure the rights of clients. These procedures shall be in accordance with the following statutes, as applicable:

- (1) G.S. 122C-51. Declaration of policy on clients' rights;
- (2) G.S. 122C-52. Right to confidentiality;
- (3) G.S. 122C-53. Exceptions; client;
- (4) G.S. 122C-54. Exceptions; abuse reports and court proceedings;
- (5) G.S. 122C-55. Exceptions; care and treatment;
- (6) G.S. 122C-56. Exceptions; research and planning;
- (7) G.S. 122C-57. Right to treatment and consent to treatment;
- (8) G.S. 122C-58. Civil rights and civil remedies;
- (9) G.S. 122C-59. Use of corporal punishment;
- (10) G.S. 122C-60. Use of physical restraints or seclusion;
- (11) G.S. 122C-61. Treatment rights in 24-hour facilities;
- (12) G.S. 122C-62. Additional rights in 24-hour facilities;
- (13) G.S. 122C-65. Offenses relating to clients; and
- (14) G.S. 122C-66. Protection from abuse and exploitation; reporting.

Statutory Authority G.S. 122C-26; 122C-51 through 122C-62; 122C-65; 122C-66; 143B-147.

.0328 CLIENT GRIEVANCE POLICY

The governing body shall develop and implement a written client grievance policy which identifies procedures for review and disposition of client grievances.

Statutory Authority G.S. 122C-26; 143B-147.

.0329 VOLUNTARY NON-COMPENSATED WORK

The governing body shall establish a policy regarding voluntary non-compensated work performed by the client. This policy shall specify whether voluntary non-compensated work is allowed at the facility or whether it is prohibited by state or federal laws or by decision of the governing body.

Statutory Authority G.S. 122C-26; 122C-51; 143B-147.

.0330 USE OF MECHANICAL RESTRAINT OR SECLUSION

(a) Those facilities which intend to employ the use of mechanical restraint or seclusion of a client shall be designated as a restrictive facility by the Division of Facility Services.

PROPOSED RULES

(b) The use of mechanical restraint and seclusion shall be limited to those instances specified in G.S. 122C-60. Those procedures shall be administered only by staff whose credentials, training and experience have been examined and determined by the governing body to be adequate to qualify staff to employ such procedures.

(c) The governing body shall determine which forms of mechanical restraint and/or seclusion may be utilized by the facility. There shall be written policies and procedures that govern mechanical restraint and seclusion to include the following:

- (1) training of all staff who are authorized to use mechanical restraint or seclusion and documentation of such training; and
- (2) requirements for documentation regarding the use of mechanical restraint or seclusion in the client record to include, but not be limited to:
 - (A) a description of the mechanical restraint or seclusion procedures and the date and time of its use;
 - (B) the rationale for mechanical restraint or seclusion which addresses the inadequacy of less restrictive intervention techniques;
 - (C) a description of the client's behavior indicating imminent danger of abuse or injury to himself/herself or others, or substantial property damage;
 - (D) the frequency, intensity, and duration of the behavior and any precipitating circumstances contributing to the onset of the behavior; and
 - (E) the signature and title of the employee responsible for the use of the procedure.
- (d) Mechanical restraint or seclusion shall not be employed as retaliatory punishment or for the convenience of staff or used in a manner that causes harm or undue physical discomfort or pain to a client. When mechanical restraint or seclusion is used as a part of a behavior modification program, positive alternatives shall always accompany these procedures.
- (e) Any room used for seclusion shall meet the following criteria:
 - (1) The room shall be designed and constructed to ensure the health, safety and well-being of the client.
 - (2) The floor space shall not be less than 60 square feet, with a ceiling height of not less than eight feet.
 - (3) Floor and wall coverings, as well as any contents of the room, shall have a one-

hour fire rating and shall not produce toxic fumes if burned.

- (4) The walls shall be kept completely free of objects.
- (5) A lighting fixture, equipped with a minimum of a 75 watt bulb, shall be mounted in the ceiling and be screened to prevent tampering by the client.
- (6) One door of the room shall be equipped with a window mounted in a manner which allows inspection of the entire room. Glass in any windows shall be impact-resistant and shatterproof.
- (7) The room shall be adequately ventilated either by natural or mechanical means.
- (8) The room temperature shall be compatible with the rest of the facility.
- (9) In a room where the door is not under direct observation by staff and if a staff person is not assigned to continuously observe the area during the duration of the confinement, the lock on the room shall be interlocked with the fire alarm system so that the door automatically unlocks when the fire alarm is activated.
- (f) A staff member determined qualified to administer mechanical restraint and seclusion may employ such procedures for periods up to one hour without the order of a physician.
- (g) In order to continue the use of mechanical restraint or seclusion for longer than one hour, a physician shall be consulted. The physician shall conduct a clinical assessment of the client in order to ascertain that the procedure is justified. If the physician concurs that mechanical restraint or seclusion is needed for longer than one hour, he shall write an order to continue the procedure. The physician's order shall be written within 12 hours from the time of initial employment of the procedure.
- (h) If a physician is not immediately available to the facility, a qualified professional, who has experience and training in the use of mechanical restraints and seclusion and who has been deemed qualified to employ such procedures, shall be consulted as an interim measure. The qualified professional shall observe and assess the client before ordering continued use of mechanical restraint or seclusion. If it is not possible for the qualified professional to assess the client prior to issuing the order, he/she shall observe and assess the client within one hour after ordering continuation of the procedure. The order written by the qualified professional shall be considered a temporary order which is valid only until a physician conducts an assessment and writes

an order. However, the qualified professional's order is valid for no more than 12 hours.

(i) Whenever mechanical restraint or seclusion is ordered, the following requirements shall be met:

- (1) The order shall specify the reason(s) for restraining and/or secluding the client and the estimated amount of time needed.
- (2) Written orders shall be time-limited:
 - (A) Physician's orders shall not exceed 24 hours from initial employment of the procedure.
 - (B) Qualified professional's orders shall not exceed 12 hours from initial employment of the procedure.
- (3) If the client is unable to gain self-control within the time-frame specified in the written order, a new order shall be obtained.
- (4) Standing orders or PRN orders shall not be used to authorize the use of mechanical restraint or seclusion.

(j) While the client is in mechanical restraint or seclusion, the following precautions shall be followed:

- (1) Periodic observation of a client shall occur at least every 15 minutes, or more often as necessary, to assure the safety and physical well-being of the client. Appropriate attention shall be paid to the provision of regular meals, bathing, and the use of the toilet. Such observation and attention shall be documented in the client record.
- (2) When mechanical restraint is used in the absence of seclusion and the client may be subject to injury, a staff member shall remain present with the client continuously.
- (k) The client shall be removed from restraint or seclusion when he, she no longer demonstrates dangerous behavior. In no case shall the client remain in mechanical restraint or seclusion longer than one hour after gaining behavioral control unless the client is asleep during regularly scheduled sleeping hours.

(l) Reviews and reports on the use of mechanical restraint and seclusion shall be conducted as follows:

- (1) All uses shall be reported daily to the facility director or his/her designee.
- (2) The facility director or his/her designee shall review daily all uses and investigate unusual or possibly unwarranted patterns of utilization.
- (3) Each facility director or his/her designee shall maintain a statistical record of the

use of these procedures which shall be available on a monthly basis to the governing body and to the licensing agency, upon request, and shall be retained by the facility for a minimum of 24 months.

Statutory Authority G.S. 122C-26; 122C-51; 122C-53; 122C-60; 131E-67; 143B-147.

.0331 USE OF ISOLATION TIME-OUT

(a) Isolation time-out may be used in non-restrictive facilities. This procedure shall be employed only when there is imminent danger of abuse or injury to the client or others, when substantial property damage is occurring, or when isolation time-out is necessary as a measure of therapeutic treatment.

(b) Isolation time-out shall be administered only by staff whose credentials, training and experience have been examined and determined by the governing body to be adequate to qualify staff to employ such procedure.

(c) The governing body shall determine acceptable procedures for employing isolation time-out. There shall be written policies and procedures that govern isolation time-out to include the following:

- (1) training of all staff who are authorized to use isolation time-out and documentation of such training; and
- (2) requirements for documentation regarding the use of isolation time-out in the client record to include, but not be limited to:
 - (A) a description of the isolation time-out procedure and the date and time of its use;
 - (B) the rationale for isolation time-out which addresses the inadequacy of less restrictive intervention techniques;
 - (C) a description of the client's behavior indicating imminent danger of abuse or injury to himself/herself or others, or substantial property damage;
 - (D) the frequency, intensity, and duration of the behavior and any precipitating circumstances contributing to the onset of the behavior; and
 - (E) signature and title of the employee responsible for the use of the procedure.
- (d) Isolation time-out shall not be employed as a retaliatory punishment or for the convenience of staff or used in a manner that causes harm to a client. When isolation time-out is used as part of a behavior modification program, positive alternatives shall always accompany these procedures.

(c) Any room used for isolation time-out shall meet the following criteria:

- (1) The room shall be designed and constructed to ensure the health, safety and well-being of the client.
 - (2) The floor space shall not be less than 60 square feet, with a ceiling height of not less than eight feet.
 - (3) Floor and wall coverings, as well as any contents of the room, shall have a one-hour fire rating and shall not produce toxic fumes if burned.
 - (4) The walls shall be kept completely free of objects.
 - (5) A lighting fixture, equipped with a minimum of a 75 watt bulb, shall be mounted in the ceiling and be screened to prevent tampering by the client.
 - (6) One door of the room shall be equipped with a window mounted in a manner which allows inspection of the entire room. Glass in any windows shall be impact-resistant and shatterproof.
 - (7) The room shall be adequately ventilated either by natural or mechanical means.
 - (8) The room temperature shall be compatible with the rest of the facility.
- (f) A staff member determined qualified to administer isolation time-out shall authorize each use of isolation time-out, up to two hours within any 24 hour period. The qualified professional shall observe and assess the client before authorizing the use of isolation time-out. Each authorization shall be for no more than one hour's duration. Whenever a client is placed in isolation time-out for more than two hours in any 24 hour period, the director of the facility or his/her designee shall assess the client in order to ascertain that the procedure is justified. If the facility director or his/her designee agrees with the qualified professional, he/she shall be responsible for authorizing each additional placement in isolation time-out during that 24 hour period.
- (g) Whenever isolation time-out is authorized, the following requirements shall be met:
- (1) The authorization shall specify the reason(s) for isolation time-out and the estimated amount of time needed.
 - (2) Authorization shall be time-limited and shall not exceed one hour per authorization, or two hours within any 24 hour period.
 - (3) If the client is unable to gain self-control within the time-frame specified in the authorization, the facility director or his/her designee shall be consulted.

(h) While the client is in isolation time-out, there shall be a staff person in attendance with no other immediate responsibility than to monitor the client who is placed in isolation time-out. There shall be continuous observation and verbal interaction with the client. Such observations shall be documented in the client record.

(i) The client shall be removed from isolation time-out when he/she no longer demonstrates dangerous behavior.

(j) Reviews and reports on the use of isolation time-out shall be conducted as follows:

- (1) All uses shall be reported daily to the facility director or his/her designee.
- (2) The facility director or his/her designee shall review daily all uses and investigate unusual or possibly unwarranted patterns of utilization.
- (3) Each facility director or his/her designee shall maintain a statistical record of the use of this procedure which shall be available on a monthly basis to the governing body. Such records shall be retained by the facility for a minimum of 24 months.

Statutory Authority G.S. 122C-26; 122C-51; 122C-53; 122C-60; 131E-67; 143B-147.

.0332 USE OF PROTECTIVE RESTRAINT

Whenever protective restraint is used, the governing body shall ensure that:

- (1) the necessity for the protective devices has been assessed and the device applied by an individual who has been trained and clinically privileged in the utilization of protective devices;
- (2) the client is frequently observed and provided opportunities for such activities as toileting and exercise, as needed, but no less often than every two hours;
- (3) whenever a client is restrained and subject to injury by another client, a staff member shall remain present with the client continuously;
- (4) observations and interventions shall be documented in the client's record; and
- (5) documentation of the utilization of protective devices in the client's nursing care plan, when applicable, and treatment/habilitation plan.

Statutory Authority G.S. 122C-26; 122C-51; 122C-53; 122C-60; 131E-67; 143B-147.

.0333 RESEARCH REVIEW BOARD

(a) Each research activity of each facility which involves clients in research activities shall be reviewed and approved by a research review board prior to the initiation of the research project. The research review board is a group comprised of at least five members which has the authority to approve, require modification, or disapprove proposed research projects subject to the approval of the facility director. Individuals not directly associated with research projects under consideration shall comprise a majority of the review board. The review board may be established by the facility conducting research activities or by another public or private agency, institution or organization.

(b) Each proposed research project shall be presented to a research review board as a written protocol containing the following information:

- (1) identification of project and investigator;
- (2) abstract, containing a short description of the project;
- (3) statement of objectives and rationale; and
- (4) description of methodology, including informed consent if necessary.

(c) Prior to the initiation of each research project, a research review board shall conduct an initial review of the project; shall state the frequency with which it will review the project after it has been initiated; and shall hold a review prior to any major changes being made in research procedures.

(d) Written minutes of each research board's meeting shall be maintained and contain documentation that risks to subjects were minimal and reasonable for the benefits to be accrued; that unnecessary intrusion on subjects was eliminated; that informed consent was appropriately provided for; and that confidentiality of subjects was protected.

Statutory Authority G.S. 122C-26; 122C-52; 143B-147.

.0334 SUBJECT PARTICIPATION IN RESEARCH PROJECTS

Informed written consent shall be obtained from each subject in a research project, or from the legally responsible person if a subject is incapable of providing informed written consent as follows:

- (1) subjects shall be informed of any potential dangers or risks that may exist as a result of participation;
- (2) subjects shall be informed as to what their participation will entail as related to

time and effort, future follow-up, contacts with other people about them, and alterations of regular procedures;

- (3) documentation shall be made that the participants have been informed of any potential dangers that may exist and that they understand the conditions of participation;
- (4) each individual participating in a research project shall have the right to terminate participation at any time without prejudicing the treatment he/she is receiving or his/her employment in the agency; and
- (5) a copy of the dated, signed consent form shall be kept on file by the facility staff.

Statutory Authority G.S. 122C-26; 122C-52; 143B-147.

.0335 MEDICAL EMERGENCIES

The governing body shall develop and implement a written plan to be utilized in medical emergencies involving clients.

Statutory Authority G.S. 122C-26; 143B-147.

.0336 EMERGENCY INFORMATION

Each facility shall maintain emergency information for each client which includes the name, address and telephone number of the person to be contacted in case of sudden illness or accident and the name, address and telephone number of the client's preferred physician.

Statutory Authority G.S. 122C-26; 143B-147.

.0337 EMERGENCY CARE PERMISSION

Upon the client's admission, each facility shall secure a signed statement from the client or legally responsible person granting permission to seek emergency care from a hospital or physician.

Statutory Authority G.S. 122C-26; 143B-147.

.0338 STAFF TRAINING FOR MEDICAL EMERGENCIES

During hours of operation of each treatment, habilitation facility, at least one staff member shall be available who is trained in basic first aid, cardio-pulmonary resuscitation, seizure management, and the Heimlich maneuver or other approved Red Cross first aid techniques for relieving airway obstruction.

Statutory Authority G.S. 122C-26; 143B-147.

.0339 PHYSICIAN RESPONSIBLE FOR

PROVISION OF MEDICAL SERVICES

A physician shall have responsibility for the provision of medical services associated with the mental health, mental retardation and substance abuse needs of clients.

Statutory Authority G.S. 122C-26; 143B-147.

.0340 PRIVACY FOR PHYSICAL EXAMINATIONS/MEDICAL PROCEDURES

When physical examinations or medical procedures are performed, the examination area shall afford privacy for the client.

Statutory Authority G.S. 122C-26; 143B-147.

.0341 FIRST AID SUPPLIES

Each facility shall have access to first aid supplies.

Statutory Authority G.S. 122C-26; 143B-147.

.0342 EDUCATIONAL REQUIREMENTS FOR CHILDREN/ADOLESCENTS

(a) Each facility serving children and adolescents shall ensure that the public education requirements of the N.C. Department of Public Instruction are met for each client.

(b) Each facility serving children and adolescents shall develop and implement written policies regarding transition of educational services between the lead education agency (LEA) and the facility.

(c) Each facility serving children and adolescents shall be responsible for coordinating each child's/adolescent's individual treatment plan with his/her individualized education program.

Statutory Authority G.S. 122C-26; 143B-147.

.0343 RESPONSIBILITY FOR WATER SAFETY

Each facility which makes water activities available shall assure that an individual holding a current certificate in life saving from a nationally recognized recreation program is on site and providing direct supervision of water activities.

Statutory Authority G.S. 122C-26; 143B-147.

.0344 SPECIALIZED THERAPIES

Medical care, physical therapy, occupational therapy, language and communication therapy, and nursing care shall be provided by, or under the direct supervision of, individuals licensed/registered to perform these activities.

Statutory Authority G.S. 122C-26; 143B-147.

.0345 TESTING SERVICES

Psychological, developmental, educational and intelligence testing shall be performed by staff or evaluators who are appropriately licensed, certified or trained to utilize the particular testing instrument being administered.

Statutory Authority G.S. 122C-26; 143B-147.

.0346 LABORATORY POLICIES AND PROCEDURES

The governing body of each facility which orders laboratory tests shall develop a written policy which specifies the procedures to be followed including authorization for, and follow-up of, these tests. The policy shall specify who shall bear the financial responsibility for these laboratory procedures.

Statutory Authority G.S. 122C-26; 143B-147.

.0347 LABORATORY ACCREDITATION

The governing body shall assure that laboratory tests, if ordered, are performed by a laboratory accredited by at least one recognized accrediting agency such as the Joint Commission on Accreditation of Hospitals, the U.S. Department of Health and Human Services, National Institute of Mental Health, or the College of American Pathologists.

.0348 DOCUMENTATION OF LABORATORY TESTS

(a) Each facility shall document in the client record the following information regarding each laboratory test administered:

- (1) name and date of any laboratory test(s) ordered;
- (2) name of physician ordering test; and
- (3) date and time specimen obtained.

(b) The original copy of the report of laboratory test results shall be included in the client record.

Statutory Authority G.S. 122C-26; 143B-147.

.0349 PRESCRIBING OF MEDICATION

(a) Only a physician or person authorized by state law shall be permitted to prescribe legend drugs. A written evaluation of the client's need for medication shall be made in conjunction with the prescription of medication.

(b) A physician or person authorized to prescribe legend drugs shall approve in writing the use of over-the-counter (non-prescription) medication for clients in inpatient psychiatric

facilities and for minors and incompetent adults in residential facilities. The legally responsible person of minors and incompetent adults shall approve in writing the use of over-the-counter (non-prescription) medication in all other facilities. A physician or person authorized to prescribe legend drugs shall approve the use of over-the-counter (non-prescription) medication for minors seeking treatment without parental consent.

(c) A physician assistant shall not prescribe psychotropic medication unless authorized by the N.C. Board of Medical Examiners.

(d) A nurse practitioner shall not prescribe psychotropic medication unless authorized by the N.C. Board of Medical Examiners and the Board of Nursing.

(e) Each medication prescribed for a client by a physician shall be documented in the client's record and signed by the prescriber.

(f) The client's drug therapy regimen shall be assessed by a physician for appropriateness at least every six months.

Statutory Authority G.S. 122C-26; 143B-147.

.0350 DISPENSING OF MEDICATION

(a) Medication shall be dispensed by a pharmacist or physician in a properly labeled container in accordance with state and federal law. Nurse practitioners and physicians' assistants may dispense medications in accordance with G.S. 90-18.1, 90-18.2 and rules adopted by the North Carolina Board of Pharmacy and codified in 21 NCAC 46 .1700. However, methadone for take home purposes may be supplied to a bonafide client of a methadone treatment service in a properly labeled container by a registered nurse employed by the service pursuant to the requirements of 10 NCAC 45G .0306; SUPPLYING OF METHADONE IN TREATMENT PROGRAMS BY RN.

(b) The medication container shall protect medication from light and moisture and shall be in a child-proof container.

(c) The medication container label shall include the following:

- (1) client's name;
- (2) date issued or refilled;
- (3) directions for administration;
- (4) medication name and strength (strength optional with methadone);
- (5) name, address and telephone number of dispensing site;
- (6) prescriber's name;
- (7) dispenser's or supplier's name; and

- (8) ancillary cautionary labeling (if appropriate).

Statutory Authority G.S. 90-18.1; 90-18.2; 90-68; 90-85.2; 122C-26; 143B-147.

.0351 ADMINISTRATION OF MEDICATION

(a) Prescription medication shall be administered only on the written or verbal order of an authorized prescriber.

(b) Over-the-counter (non-prescription) medication shall be administered in inpatient facilities and to minors and incompetent adults in residential facilities only on the written approval of a physician or person authorized to prescribe legend drugs.

(c) Over-the-counter (non-prescription) medication shall be administered to minors or incompetent adults in all other facilities only on the written approval of the legally responsible person. Over-the-counter (non-prescription) medication shall be administered to a minor seeking treatment without parental consent only on the written approval of a physician.

(d) Only properly labeled and dispensed medication shall be administered.

(e) Medication shall be administered in inpatient facilities only by a physician, physician assistant or nurse. In other facilities, medication may be administered by, or self-administration supervised by, program staff who have received instruction about each medication, dosage, time of administration, side effects and contraindications from either the facility's physician, or his/her designee, or the legally responsible person. A list of persons approved to administer medication shall be maintained by the facility.

(f) A physician shall approve in writing the self-administration of prescription and over-the-counter (non-prescription) medication by clients in inpatient facilities or minors or incompetent adults in residential facilities. A minor or the legally responsible person of a minor or incompetent client shall obtain physician consent in writing for the self-administration of prescription or over-the-counter (non-prescription) medication in outpatient, day night facilities. The competent adult client may self-administer prescription or over-the-counter (non-prescription) medication in outpatient, day night or residential facilities. Where applicable, clients should receive training in the self-administration of medication.

(g) The administration of medication by staff shall be documented in the client record on a facility-maintained individualized medication

administration record. The medication administration record shall contain documentation of doses administered.

(h) Medication administration errors and adverse drug reactions shall be recorded in the client record and reported to the prescribing physician immediately.

Statutory Authority G.S. 90-21.5; 90-171.20(7), (8); 90-177.44; 122C-26; 143B-147.

.0352 STORAGE OF MEDICATION

(a) In facilities where medication is administered by staff, all medication shall be stored as follows:

- (1) Medication shall be stored under proper conditions of sanitation, temperature, light, moisture and ventilation.
- (2) Medication shall be stored in a securely locked cabinet except that this shall not apply to services provided in private homes.
- (3) Only those persons authorized to prescribe or administer medication shall have access to stored medication.
- (4) Medication for external use shall be segregated from medication for internal use.
- (5) Medication stored in a refrigerator used for other purposes shall be kept in a separate, securely locked compartment.
- (6) Space for medication storage shall be of sufficient size to allow separate storage of each client's medication and to prevent overcrowding.

(b) In facilities where clients self-medicate, all clients shall receive instructions on how to properly store medication and be provided separate space, when appropriate, for the storage of medication in a secure manner.

Statutory Authority G.S. 122C-26; 143B-147.

.0353 DISPOSAL OF MEDICATION

Medications shall be disposed of in the following manner:

- (1) Controlled substances. In consultation with the facility's providing or consulting pharmacist, the facility shall adopt procedures for the disposal of controlled substances consistent with state and federal laws.
- (2) Non-controlled substances (prescription medication):
 - (a) Any facility disposing of prescription medication shall do so in a manner that guards against diversion and accidental

ingestion. Acceptable methods of disposal include the following:

- (i) transfer of medication to a local pharmacy or regional psychiatric hospital pharmacy for destruction;
 - (ii) flush into a sewer system; or
 - (iii) preferably by incineration.
- (b) A record of medication disposal shall be maintained. The record shall include the following:
- (i) client's name (if applicable);
 - (ii) name and strength of medication;
 - (iii) drugstore name and prescription number (if applicable);
 - (iv) quantity to be disposed;
 - (v) method of disposal;
 - (vi) date of disposal;
 - (vii) signature of employee disposing of the medication; and
 - (viii) signature of employee witnessing the disposal.

Statutory Authority G.S. 122C-26; 21 C.F.R. 1307.21; 143B-147.

.0354 MEDICATION EDUCATION

(a) Each client to be started or maintained on prescription medication shall receive individual or group education regarding prescribed medication.

(b) The physician or his designee shall assess each client's ability to self-administer medication as well as other factors that may affect drug therapy. In instances where the ability of the client to understand the medication education is questionable, a responsible person shall be provided with the opportunity to receive both written and oral instructions on behalf of the client.

(c) The prescribing physician or other person approved by the physician shall provide the following written and oral information to the client or responsible person at a time deemed appropriate by the physician:

- (1) the name, appearance and dosage regimen, intended use and common side effects of the medication;
- (2) adverse reactions or uncomfortable side effects that should prompt calling a physician;
- (3) food, drugs or beverages that should be avoided/taken with medication;
- (4) an alternative dosage regimen if a dose is missed;
- (5) the expected length of the medication treatment;
- (6) refill instructions;

- (7) the proper place to store medication; and
 - (8) the need to communicate and coordinate with other physicians of the client regarding prescription medications.
- (d) The medication education assessment and information provided shall be individualized for each client and documented in the client record.
- (e) Medication education shall be coordinated with the discharging or receiving program.

Statutory Authority G.S. 122C-26; 130A-361; 143B-147.

.0355 COMPLIANCE WITH N.C. CONTROLLED SUBSTANCES ACT

Each facility that maintains stocks of controlled substances shall be currently registered under the North Carolina Controlled Substances Act and shall be in compliance with Chapter 90 of the North Carolina General Statutes Article 5, N.C. CSA. These rules are available free of charge from DMII MR SAS.

Statutory Authority G.S. 90-101; 122C-26; 143B-147.

.0356 FOOD SERVICE MENUS

Each facility which serves or makes available meals for clients shall:

- (1) comply with the recommended Dietary Allowance of the Food and Nutrition Board of the National Academy of Sciences 9th rev. ed. 1980 available at a cost of six dollars (\$6.00) from the Office of Publications, National Academy Press, 2101 Constitution Avenue N.W., Washington, D.C. 20418; and
- (2) provide food in keeping with general cultural, ethnic and life-style patterns of the clients served.

Statutory Authority G.S. 122C-26; 130A-361; 143B-147.

.0357 MODIFIED DIETS

Each facility which serves or makes available meals for clients shall provide modified diets in accordance with a physician's prescription and with a menu pattern approved by a registered dietitian.

Statutory Authority G.S. 122C-26; 130A-361; 143B-147.

.0358 STAFFING FOR FOOD SERVICE

Each facility which serves or makes available more than one meal daily shall designate the staff responsible for procurement, preparation and serving of meals and for the maintenance of equipment and sanitary work space.

Statutory Authority G.S. 122C-26; 143B-147.

.0359 FOOD SERVICE EQUIPMENT AND SPACE

Each facility which serves or makes available more than one meal daily shall:

- (1) provide equipment and space to store food separately from other items;
- (2) provide equipment and space to prepare and serve meals including all modified diet menu items; and
- (3) designate areas for dining which shall be equipped and arranged to meet the needs of the population served.

Statutory Authority G.S. 122C-26; 143B-147.

.0360 VOLUNTEER SERVICES

In facilities where volunteer services are utilized:

- (1) The objectives and scope of the volunteer service shall be clearly stated in writing.
- (2) An orientation program shall be conducted to familiarize volunteers with the facility's goals and services and to provide appropriate clinical orientation regarding the facility's clients.
- (3) The work of volunteers shall be supervised by appropriate staff of the facility.

Statutory Authority G.S. 122C-26; 143B-147.

.0361 TRANSPORTATION POLICY

The governing body of each facility providing transportation for clients shall develop and implement a written transportation policy which shall address at least the following:

- (1) eligibility of clients for transportation services;
- (2) the means by which the facility shall provide transportation;
- (3) procedures to be employed in emergency situations occurring during the transportation of clients;
- (4) qualifications and training of vehicle drivers and aides; and
- (5) fees, if any, for transportation.

Statutory Authority G.S. 122C-26; 143B-147.

.0362 LICENSED DRIVER

Each driver providing transportation for clients shall hold a current license to operate the type of vehicle(s) to which he is assigned.

Statutory Authority G.S. 122C-26; 143B-147.

.0363 SAFETY PRECAUTIONS

(a) A seat and a seat belt shall be provided for each individual being transported in a vehicle except that the provision of seat belts shall not be required for individuals being transported in a bus for which the manufacturing code does not recommend the installation of seat belts.

(b) When physically handicapped individuals are transported, the vehicle shall provide secure storage for adaptive equipment.

Statutory Authority G.S. 122C-26; 143B-147.

.0364 TRANSPORTATION OF MINORS

(a) Each child six years of age and under shall be transported in a child passenger restraint system (car safety seat or seat belts) which met applicable federal standards when the equipment was manufactured. Children three years of age and under shall be transported in a car safety seat.

(b) When four or more preschool children are transported in the same vehicle, at least two adults shall be present in the vehicle.

(c) When two or more preschool children who require special assistance while boarding or riding in a vehicle are transported in the same vehicle, there shall be one adult, other than the driver, to assist in supervision of the children.

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0400 - PHYSICAL PLANT

.0401 CURRENTLY LICENSED FACILITIES

Facilities subject to licensure under G.S. 122C, Article 2 which are legally operating under a current license issued by DFS upon the effective date of this Rule shall be in compliance with all applicable portions of the North Carolina State Building Code in effect at the time the facility was constructed or last renovated. However, if alterations or additions are made to a facility, such alterations or additions shall be made in compliance with the provisions of Rules .0402 and .0403 of this Section.

Statutory Authority G.S. 122C-26; 143B-147.

.0402 FACILITY CONSTRUCTION/

ALTERATIONS/ADDITIONS

When construction of a new facility is planned or when alterations or additions are planned for an existing facility, work shall begin only after consultation with DFS.

Statutory Authority G.S. 122C-26; 143B-147.

.0403 COMPLIANCE WITH BUILDING CODE REQUIREMENTS

(a) As used in this Rule the term "new facility" refers to a facility which has not been licensed previously and for which an initial license is being sought. The term does not refer only to a "new" building but will apply to an "old" building if the building houses a facility for which an initial license is being sought.

(b) Each new facility specified in (d), (e), (f), (g), (h) and (i) of this Rule, with the exception of private home respite, alternative family living and apartment models, in supervised independent living, shall be in compliance with the current edition of Section 11X of Volume I of the N.C. State Building Code.

(c) Each new facility specified in (d), (e), (f), (g), (h) and (i) of this Rule, with the exception of private home respite, alternative family living and apartment models shall be in compliance with the current edition of Volume II, III and IV of the N.C. State Building Code.

(d) In addition to Building Code requirements specified in (b) of this Rule, new facilities specified in (1), (2), and (3) of this Paragraph shall meet the requirements of the current edition of Volume I-B of the N.C. State Building Code as follows:

(1) Mental retardation/developmental disability facilities:

(A) group homes for individuals with mental retardation or other developmental disabilities and with behavior disorders serving five or fewer clients who are ambulatory and able to respond on their own and evacuate the facility without assistance; and

(B) community center-based respite for individuals with mental retardation, other developmental disabilities, developmental delays or at risk for these conditions serving five or fewer clients who are ambulatory and able to respond on their own and evacuate the facility without assistance.

(2) Mental health facilities:

(A) group homes and residential acute treatment for adult and elderly individuals who are mentally ill serving six or fewer clients who are ambulatory and

able to respond on their own and evacuate the facility without assistance; and

- (B) residential treatment for children and adolescents serving six or fewer clients who are ambulatory and able to respond on their own and evacuate the facility without assistance.

(3) Substance abuse facilities:

- (A) non-hospital medical detoxification for individuals who are substance abusers serving six or fewer clients who are ambulatory and able to respond on their own and evacuate the facility without assistance;

- (B) social setting detoxification for individuals who are alcoholics serving six or fewer clients who are ambulatory and able to respond on their own and evacuate the facility without assistance; and

- (C) halfway houses for individuals who are substance abusers serving six or fewer clients who are ambulatory and able to respond on their own and evacuate the facility without assistance.

(e) In addition to Building Code requirements specified in (b) and (c) of this Rule, new facilities specified in (1) and (2) of this Paragraph shall meet the requirements of the current edition of Volume I, Section 510 of the N.C. State Building Code as follows:

(1) Mental retardation/developmental disability facilities:

- (A) group homes for adults with mental retardation or other developmental disabilities serving more than six residents and fewer than ten residents who are ambulatory and able to respond on their own to emergency conditions;

- (B) group homes for adults with mental retardation or other developmental disabilities serving six or fewer clients of whom one, two or three are non-ambulatory or unable to respond on their own to emergency conditions;

- (C) group homes for children with mental retardation or other developmental disabilities serving five or fewer residents of whom one, two or three are non-ambulatory or unable to respond on their own to emergency conditions;

- (D) group homes for individuals with mental retardation or other developmental disabilities and with behavior disorders serving five or fewer of whom one, two or three are non-ambulatory or unable to respond on their own to emergency conditions;

- (E) supervised independent living boarding homes for adults with mental retardation or other developmental disabilities serving more than six residents and fewer than ten residents who are ambulatory and able to respond on their own to emergency conditions;

- (F) community center-based respite for individuals with mental retardation, other developmental disabilities, developmental delays or at risk for these conditions serving six or fewer clients of whom one, two or three are non-ambulatory or unable to respond on their own to emergency conditions.

(2) Mental health facilities: residential treatment for individuals serving seven to nine clients who are ambulatory and able to respond on their own and evacuate the facility without assistance.

(f) In addition to Building Code requirements specified in (b) and (c) of this Rule, new facilities specified in (1), (2) and (3) of this Paragraph shall meet the requirements of the current edition of Volume I, Section 409, Institutional Occupancy (I) of the N.C. State Building Code as follows:

(1) Mental retardation/developmental disability facilities:

- (A) specialized community residential services for individuals with mental retardation or other developmental disabilities;

- (B) group homes for adults with mental retardation or other developmental disabilities serving six or fewer residents of whom more than three are non-ambulatory and unable to respond on their own to emergency conditions;

- (C) group homes for individuals with mental retardation or other developmental disabilities and with behavior disorders with more than three clients who are non-ambulatory or unable to respond on their own to emergency conditions;

- (D) group homes for children with mental retardation or other developmental disabilities with more than three clients who are non-ambulatory; and

- (E) community center-based respite for individuals with mental retardation, other developmental disabilities, developmental delays or at risk for these conditions serving five or fewer clients of whom more than three are non-ambulatory or unable to respond on their own to emergency conditions.

PROPOSED RULES

- (2) Mental health facilities:
- (A) inpatient psychiatric facilities for individuals who are mentally ill;
 - (B) residential acute treatment for adult and elderly individuals who are mentally ill; and
 - (C) residential treatment for children and adolescents serving ten or more clients.
- (3) Substance abuse facilities:
- (A) inpatient hospital treatment for individuals who are substance abusers; and
 - (B) nonhospital medical detoxification for individuals who are substance abusers.
- (g) In addition to Building Code requirements specified in (b) and (c) of this Rule, new facilities specified in (1), (2), (3) and (4) of this Paragraph shall meet the requirements of the current edition of Volume I, Section 405, Business Occupancy (B) of the N.C. State Building Code as follows:
- (1) Mental retardation developmental disability facilities: adult developmental activity programs for individuals with substantial mental retardation, severe physical disabilities or other substantial developmental disabilities;
 - (2) Mental health facilities:
 - (A) psychosocial rehabilitation programs for individuals who are chronically mentally ill;
 - (B) day treatment for children and adolescents who are emotionally disturbed; and
 - (C) partial hospitalization programs (PHP) for adult and elderly individuals who are acutely mentally ill;
 - (3) Substance abuse facilities:
 - (A) outpatient treatment for individuals who are substance abusers;
 - (B) outpatient detoxification for individuals who are substance abusers; and
 - (C) outpatient methadone services for individuals who are narcotic abusers;
 - (4) Facilities serving one or more disability:
 - (A) sheltered workshops; and
 - (B) day activity facilities for adult and elderly individuals who are mentally ill and/or substance abusers.
- (h) In addition to Building Code requirements specified in (b) and (c) of this Rule, new facilities specified in (1) and (2) of this Paragraph shall meet the requirements of the current edition of Volume I, Section 406, Educational Occupancy (E) of the N.C. State Building Code as follows:
- (1) Mental retardation/developmental disability facilities: before/after school and

summer developmental day services for children with mental retardation or other developmental disabilities; and

- (2) Mental health facilities: day treatment for children and adolescents who are emotionally disturbed.
 - (i) In addition to Building Code requirements specified in (b) and (c) of this Rule, new facilities specified in (1) and (2) of this Paragraph shall meet the requirements of the current edition of Volume I, General Construction, Section 411, Residential Occupancy (R) of the N.C. State Building Code as follows:
 - (1) Substance abuse facilities:
 - (A) social setting detoxification for more than six individuals who are alcoholics;
 - (B) residential treatment/rehabilitation for more than six individuals who are substance abusers; and
 - (C) halfway houses for more than six individuals who are substance abusers.
 - (2) Facilities serving one or more disability: residential therapeutic (habilitative) camps for children and adolescents.
 - (j) Volume I (General Construction) is available at a cost of ten dollars (\$10.00); Volume I-B (Uniform Residential Building Code) at a cost of two dollars (\$2.00); Volume II (Plumbing) at a cost of three dollars (\$3.00); Volume III (Heating and Air Conditioning) at a cost of four dollars and fifty cents (\$4.50); and Volume IV (Electrical) at a cost of fifteen dollars (\$15.00) from the N.C. Department of Insurance, P.O. Box 26387, Raleigh, N.C. 27611.
 - (k) This Rule is adopted in accordance with the provisions of Subsection (c) of G.S. 150B-14.
- Statutory Authority G.S. 122C-26; 143B-147; 150B-14(c).*
- .0404 LOCATION OF FACILITY**
- (a) Each facility shall be located on a site where:
 - (1) fire protection is available;
 - (2) safe water supply and acceptable sewage and solid waste disposal services are established;
 - (3) occupants are not exposed to undue hazards and pollutants; and
 - (4) local ordinances and zoning laws are met.
 - (b) The site at which a 24-hour facility is located shall have sufficient outdoor area to permit clients to exercise their right to outdoor

activity in accordance with the provisions of G.S. 122C-62.

(c) Each new residential facility shall be located in a residential (urban or rural) setting. Access to schools, shopping sites and recreational sites shall be considered in selecting the location.

Statutory Authority G.S. 122C-26; 122C-62; 143B-147.

.0405 FACILITY DESIGN AND EQUIPMENT

(a) Each facility shall be planned and equipped to provide the services offered, or to be offered, to clients in the facility.

(b) Facilities shall be designed and constructed in a manner that will provide clients privacy while bathing, dressing or using toilet facilities.

Statutory Authority G.S. 122C-26; 143B-147.

.0406 MAINTENANCE OF FACILITIES AND GROUNDS

Each facility and its grounds shall be maintained in a safe, clean, attractive and orderly manner and shall be kept free from offensive odor. Buildings shall be kept free from insects and rodents.

Statutory Authority G.S. 122C-26; 143B-147.

**.0407 SAFETY PRECAUTIONS/
REQUIREMENTS**

(a) Each facility shall have and implement specific policies which address usage, maintenance, supervision of, and safety precautions for, special client activity areas.

(b) Each facility shall be designed, constructed and equipped in a manner that ensures the physical safety of clients, staff and visitors.

(c) Each facility shall be kept free of hazards such as warped or damaged floors or floor coverings, cracked plaster, broken windows, damaged or worn stair treads or loose handrails.

(d) All hallways, doorways, entrances, ramps, steps and corridors shall be kept clear and unobstructed at all times.

(e) All mattresses purchased for existing or new facilities shall be fire retardant.

(f) Electrical, mechanical and water systems shall be maintained in operating condition.

(g) Except for therapeutic (habilitative) camps, in each 24-hour facility, heating and air conditioning shall be provided to maintain a comfort range between 68 and 80 degrees Fahrenheit.

(h) All indoor areas to which clients have routine access shall be well-lighted. Lighting shall be adequate to permit occupants to comfortably engage in normal and appropriate daily activities such as reading, writing, working, sewing and grooming.

Statutory Authority G.S. 122C-26; 143B-147.

.0408 INDOOR SPACE REQUIREMENTS FOR RESIDENTIAL FACILITIES

(a) Except for those mental health, mental retardation or other developmental disability or substance abuse facilities licensed as of the effective date of these Rules, residential facilities shall meet the following indoor space requirements:

(1) Client bedrooms shall have at least 100 square feet for single occupancy and 80 square feet per client when more than one client occupies the bedroom.

(2) Where bassinets and portable cribs for infants are used, a minimum of 40 square feet per bassinet or portable crib shall be provided.

(3) Except for specialized community residential centers for individuals with mental retardation or other developmental disabilities, no more than two clients may share an individual bedroom regardless of bedroom size.

(4) At least one full bathroom for each five or fewer persons including staff of the facility and their family shall be included in each facility.

(b) Existing structures already licensed at the time of the adoption of these Rules shall satisfy the minimum square footage requirements in effect at the time of the facility's initial licensure.

Statutory Authority G.S. 122C-26; 143B-147.

SUBCHAPTER 14L - LICENSURE RULES FOR MENTAL HEALTH FACILITIES

SECTION .0100 - INPATIENT PSYCHIATRIC SERVICES FOR INDIVIDUALS WHO ARE MENTALLY ILL

.0101 INTRODUCTION

(a) Inpatient psychiatric service is an inpatient service for the mentally ill which provides intensive 24-hour per day treatment in a hospital setting. Supportive nursing and medical care are provided under the supervision of a psychiatrist. This service is designed to provide continuous treatment for individuals with acute psychiatric problems. Services may in-

clude psychological and medical diagnostic procedures; observation; treatment modalities including medication, psychotherapy, group therapy, occupational therapy, industrial therapy, vocational rehabilitation, recreation therapy and milieu treatment; medical care and treatment as needed; supportive services including education; and room and board. Inpatient psychiatric service is the most intensive and restrictive type of service for mentally ill individuals.

(b) The service shall be designed to serve individuals who require continuous treatment for mental illness. Individuals who, in addition to mental illness, have other disorders, such as mental retardation or substance abuse, shall be eligible for admission if primarily in need of treatment for mental illness.

(c) The Rules in this Section apply to free standing psychiatric hospitals licensed under G.S. 122C, Article 2.

Statutory Authority G.S. 122C-26; 143B-147.

.0102 HOURS OF OPERATION

Each facility providing inpatient psychiatric services shall operate 24 hours per day, seven days per week, 12 months per year.

Statutory Authority G.S. 122C-26; 143B-147.

.0103 STAFF REQUIRED

(a) Staff coverage shall include at least one of each of the following: psychiatrist, licensed practicing psychologist, psychiatric social worker and psychiatric nurse.

(b) Physician coverage and the services of a qualified mental health professional shall be readily available by telephone or page and able to reach the facility within 30 minutes on a 24-hour per day basis.

Statutory Authority G.S. 122C-26; 143B-147.

.0104 PROFESSIONAL STAFF ORGANIZATION

(a) There shall be an organized professional staff that has overall responsibility for the quality of care provided.

(b) There shall be professional staff by-laws that require, unless otherwise provided by law, that a licensed physician be responsible for diagnosis and all medical care and treatment.

(c) The professional staff by-laws shall establish a process for delineation and reappraisal of clinical privileges.

(d) The professional staff by-laws shall describe the specific role of each discipline re-

presented on the professional staff or exercising clinical privileges.

(c) The professional by-laws shall specify mechanisms for the regular review, evaluation and monitoring of professional staff practices.

Statutory Authority G.S. 122C-26; 143B-147.

.0105 PLAN FOR SERVICES AND STAFF COMPOSITION

(a) Each facility shall have a written plan which clearly delineates the numbers and qualifications of its personnel as determined by at least the following:

- (1) size of the facility;
- (2) characteristics of the client population, such as whether children, adolescents, adults, elderly;
- (3) clinical characteristics of the client population; and
- (4) fundamental needs of the clients.

(b) The facility shall have a sufficient number of appropriately qualified clinical, administrative and support staff to assess and address the clinical needs of clients.

(c) Staff members shall have training and/or experience in the provision of care to mentally ill individuals in each of the age categories accepted for treatment, such as child, adolescent, adult, elderly.

Statutory Authority G.S. 122C-26; 143B-147.

.0106 STAFF DEVELOPMENT

Ongoing professional education shall be provided to keep the professional staff informed of significant clinical and administrative developments and skills.

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0200 - RESIDENTIAL ACUTE TREATMENT FOR ADULT AND ELDERLY INDIVIDUALS WHO ARE MENTALLY ILL

.0201 INTRODUCTION

(a) A residential acute treatment program for adult and elderly individuals who are mentally ill is a residential service which provides psychiatric care and treatment on a 24-hour basis in a non-hospital setting for individuals in crisis who need short-term intensive evaluation, and/or treatment intervention or behavioral management to stabilize acute/crisis situations.

(b) This service is designed as a time-limited alternative to hospitalization for individuals in crisis.

Statutory Authority G.S. 122C-26; 143B-147.

.0202 HOURS OF OPERATION

Services shall be provided 24 hours per day, seven days per week, 12 months per year.

Statutory Authority G.S. 122C-26; 143B-147.

.0203 STAFF REQUIRED

(a) Staff supervision shall be provided by a qualified mental health professional.

(b) Staff with training and experience in the provision of care to acutely mentally ill persons shall be present at all times.

(c) A physician, preferably a psychiatrist, shall be available or on-call on a 24-hour per day basis.

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0300 - PARTIAL HOSPITALIZATION FOR INDIVIDUALS WHO ARE ACUTELY MENTALLY ILL

.0301 INTRODUCTION

(a) A partial hospitalization program is a day night service which provides a broad range of intensive therapeutic approaches which may include group therapy, individual therapy, occupational, activity and recreational therapies, training in community living and specific coping skills, and medical services as needed primarily for acutely mentally ill individuals. This service may be designed to prevent hospitalization or to serve as an interim step for those leaving a regional hospital. It may also be designed to increase the individual's ability to relate to others and function appropriately. This service provides a medical component in a less restrictive setting than a hospital or a residential treatment rehabilitation facility.

(b) Rules contained in this Section apply to all partial hospitalization programs with the exception of Rules .0308 through .0310 of this Section which apply only to programs serving minors.

Statutory Authority G.S. 122C-26; 143B-147.

.0302 HOURS OF OPERATION

Each partial hospitalization program shall operate for a minimum of four hours per day (exclusive of transportation time), five days per week, 12 months per year.

Statutory Authority G.S. 122C-26; 143B-147.

.0303 PROVISION FOR CLASSROOM SPACE

Each program offering on-site educational programming shall have designated space for classroom activities.

Statutory Authority G.S. 122C-26; 143B-147.

.0304 STAFF REQUIRED: ADULTS AND MINORS

(a) Staff shall include at least one qualified mental health professional.

(b) Each program serving minors shall have a program director who has a minimum of two years' experience in child/adolescent services and who has educational preparation in administration, education, social work, nursing, psychology or a related field.

Statutory Authority G.S. 122C-26; 143B-147.

.0305 CLIENT/STAFF RATIO: MINORS

(a) A minimum of two staff members shall be present with minor clients at all times and a minimum ratio of one staff member to each eight or fewer minor clients shall be maintained.

(b) In the event that only one minor client is in the program, only one staff member is required to be present.

Statutory Authority G.S. 122C-26; 143B-147.

.0306 ROLE OF PHYSICIAN

A physician, preferably a psychiatrist, shall participate in diagnosis, treatment planning, and admission and discharge decisions.

Statutory Authority G.S. 122C-26; 143B-147.

.0307 GROUP THERAPY

Group therapy shall be provided in each program by a qualified mental health professional.

Statutory Authority G.S. 122C-26; 143B-147.

.0308 TRAINING OF STAFF: PROGRAMS SERVING MINORS

(a) Each program serving minors shall provide or secure preservice training for all staff.

(b) Each direct care staff assigned to the program shall be trained to manage the clients individually and as a group.

Statutory Authority G.S. 122C-26; 143B-147.

.0309 ROLE OF PARENTS/LEGALLY RESPONSIBLE PERSON

(a) Parents or the legally responsible person shall have the opportunity to participate in the

development and implementation of the client's individual treatment plan.

(b) A report shall be given to parents or the legally responsible person when feasible at least every three months. Reports may be in writing or take the form of a conference and shall focus on the client's progress.

Statutory Authority G.S. 122C-26; 143B-147.

**.0310 SCHEDULE OF DAILY ACTIVITIES:
PROGRAMS SERVING MINORS**

Each program serving minors shall have a written schedule of daily activities posted in a place accessible to patients and staff.

Statutory Authority G.S. 122C-26; 143B-147.

**SECTION .0400 - PSYCHOSOCIAL
REHABILITATION PROGRAMS FOR
INDIVIDUALS WHO ARE CHRONICALLY
MENTALLY ILL**

.0401 INTRODUCTION

A psychosocial rehabilitation program is a day/night service which provides skill development activities, educational services, and prevocational training and transitional employment services to individuals. Each program is preferably organized around a separate and distinct community-based facility. Services are designed primarily to serve individuals who have impaired role functioning that adversely affects at least two of the following: employment, management of financial affairs, ability to procure needed public support services, appropriateness of social behavior, or activities of daily living. Assistance is also provided to members in organizing and developing their strengths and in establishing peer groups and community relationships.

Statutory Authority G.S. 122C-26; 143B-147.

.0402 HOURS OF OPERATION

Each facility shall operate for a minimum of five hours per day, five days per week, (exclusive of transportation time), 12 months per year.

Statutory Authority G.S. 122C-26; 143B-147.

.0403 STAFF REQUIRED

(a) Each facility shall have a designated program director.

(b) A minimum of one staff member to each eight or fewer clients in average attendance shall be maintained.

Statutory Authority G.S. 122C-26; 143B-147.

.0404 SKILLS DEVELOPMENT

Each facility shall provide skills development activities which include:

- (1) community living, such as housekeeping, shopping, cooking, use of transportation facilities, money management;
- (2) personal care such as health care, medication management, grooming;
- (3) social relationships; and
- (4) use of leisure time.

Statutory Authority G.S. 122C-26; 143B-147.

.0405 EDUCATIONAL SERVICES

(a) Each facility shall assist clients in securing needed education services such as adult basic education and special interest courses.

(b) Each facility offering on-site educational programming shall have designated space for classroom activities.

Statutory Authority G.S. 122C-26; 143B-147.

.0406 PREVOCATIONAL SERVICES

Each facility shall provide or secure prevocational services which focus on the development of positive work habits and participation in work activities.

Statutory Authority G.S. 122C-26; 143B-147.

.0407 EMPLOYMENT SERVICES

(a) Each facility shall provide or secure transitional or supported employment services to facilitate client entry into competitive employment.

(b) When supported employment services are provided, the following requirements shall be met:

- (1) Each client shall be one for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of severe mental illness.
- (2) Each client shall be employed in an integrated work setting for twenty or more hours per week.
- (3) Supported employment may be provided through:
 - (A) work stations for a group of eight or fewer workers trained and supervised in an industry or business;
 - (B) job coaching and supervision of individuals in an industry or business;
 - (C) mobile crew service jobs by a group of eight or fewer workers in the com-

munity under the training and supervision of a crew leader; and

(D) small business enterprises operated with eight or fewer workers with training and supervision provided on site.

(c) When transitional employment services are provided, the following requirements shall be met:

(1) There shall be contract(s) between the facility and employer for specific job(s) and the job(s) shall first be performed by a facility staff member to determine the technical requirements of the job(s).

(2) The selection of clients to fill placement(s) is the responsibility of the facility and individual clients.

(3) Each client participating in transitional employment shall be evaluated at the end of six months to determine the appropriateness of continuing to receive transitional employment services.

(d) Wages shall be paid in accordance with the Fair Labor Standards Act for all clients receiving supported employment and transitional employment services.

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0500 - GROUP HOMES FOR ADULT AND ELDERLY INDIVIDUALS WHO ARE MENTALLY ILL

.0501 INTRODUCTION

(a) Group homes for individuals who are mentally ill is a residential service designed to provide a home within which staff assistance is available to develop community living skills, appropriate social behavior, vocational functioning, leisure time activities and use of community resources. These group homes may be provided by the following models:

(1) transitional residence programs providing limited to moderate levels of supervision; and

(2) supervised group homes which provide moderate to intensive supervision for individuals who need assistance with activities of daily living or to develop community living skills.

(b) This service is designed to assist individuals to progress toward specific sub-goals related to their individual treatment plan and is designed primarily to serve mentally ill persons who are 18 or older.

Statutory Authority G.S. 122C-26; 143B-147.

.0502 CAPACITY

Each home shall have a capacity of nine or fewer individuals.

Statutory Authority G.S. 122C-26; 143B-147.

.0503 HOURS OF OPERATION

Each home shall operate 24 hours per day, seven days per week, 12 months per year unless all clients are, by choice, out of the program for a 24-hour period or more.

Statutory Authority G.S. 122C-26; 143B-147.

.0504 STAFF REQUIRED

(a) Supervised group homes shall have at least one staff member on site at all times when clients are present.

(b) In transitional residence programs, staff should not be required to be present at all times.

(c) The governing body shall ensure that additional staff is present if needed to meet temporary needs of individual clients and to protect the health and safety of all clients.

Statutory Authority G.S. 122C-26; 143B-147.

.0505 TREATMENT COORDINATION

(a) Coordination shall be maintained between the group home operator and the qualified mental health professional who is responsible for treatment and/or case management.

(b) Each home shall have a written agreement documenting:

(1) access to psychiatric, medical and clinical consultation and emergency psychiatric services; and

(2) the responsibility of the group home staff to implement specific portions of each individual client's treatment plan.

Statutory Authority G.S. 122C-26; 143B-147.

.0506 PROGRAM ACTIVITIES

(a) Clients shall participate in the overall operation of the residence including participation in routine activities such as maintenance and meal preparation.

(b) Each home shall establish a resident council that meets on a regularly scheduled basis to discuss clients' responsibilities and issues related to group home activities.

(c) Clients shall be involved in treatment, rehabilitation, vocational, educational, or employment activities outside the residential program on a regular basis as specified in clients' individual treatment plans.

Statutory Authority G.S. 122C-26; 143B-147.

.0507 LEVELS OF CLIENT SUPERVISION

(a) Each client of a transitional residence program shall have a treatment plan developed by a mental health professional which contains documentation that the individual needs a residential service with fewer than 24-hour per day supervision and that the intensity of supervision provided by the program is consistent with the needs identified in the individual's treatment plan.

(b) Each client of a supervised group home shall have a treatment plan developed by a qualified mental health professional which documents that the intensity of supervision provided by the program is consistent with the needs identified in the individual's treatment plan.

Statutory Authority G.S. 122C-26; 143B-147.

.0508 CLIENT TRAINING IN HEALTH AND SAFETY

(a) Each client shall receive training concerning safe and proper methods of using kitchen and housekeeping equipment such as knives, range, exhaust fan and other electrical appliances.

(b) Each client shall have access to first aid supplies located in each home and shall receive training in the use of these supplies.

(c) Each client shall receive instruction in obtaining services in emergency situations.

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0600 - RESIDENTIAL TREATMENT FOR CHILDREN AND ADOLESCENTS WHO ARE MENTALLY ILL

.0601 INTRODUCTION

(a) A residential treatment program for children and adolescents is a residential service which provides a structured living environment for children and adolescents who are primarily mentally ill and who may also be multi-handicapped and for whom removal from home is essential to facilitate treatment. The service is designed to address the functioning level of the child/adolescent and includes training in language/communication skills, social relationships, and recreational skills. Some children/adolescents may be able to receive services in a day treatment program, have a job placement, or attend public schools; for others, special education services may need to be offered within the residential setting. Different

levels of residential treatment programs are provided to meet the individual needs of the children and adolescents placed in the program.

(b) If the adolescent has his/her 18th birthday while receiving treatment in a residential program, he/she may continue in the program for six months or until the end of the state fiscal year, whichever is longer.

Statutory Authority G.S. 122C-26; 143B-147.

.0602 STAFF REQUIRED

Each program shall have a director who has a minimum of two years' experience in child/adolescent services and who has educational preparation in administration, education, social work, nursing, psychology or a related field.

Statutory Authority G.S. 122C-26; 143B-147.

.0603 CLIENT/STAFF RATIO

(a) At all times, the following minimum child/staff ratios shall be in effect:

(1) one direct care staff member shall be present with each four children/adolescents; and

(2) if children/adolescents are cared for in separate buildings, the ratios shall apply to each building.

(b) When two or more clients are in the program during waking and sleeping hours, the emergency on-call staff shall be readily available by telephone or page and able to reach the program within 30 minutes.

(c) When only one child/adolescent is in the program, a minimum of one staff member shall be on duty during waking and sleeping hours.

Statutory Authority G.S. 122C-26; 143B-147.

.0604 TRAINING OF STAFF

(a) Each program shall provide or secure pre-service training for all staff.

(b) Each direct care staff member assigned to the program shall be trained to manage the children/adolescents individually and as a group.

Statutory Authority G.S. 122C-26; 143B-147.

.0605 TREATMENT PROGRAM

Each treatment program shall:

(1) address the functioning level of the child/adolescent and shall include training in language/communication skills, fine

and gross motor skills, social relationship skills and recreation skills; and

- (2) include treatment and habilitation programming based on client needs.

Statutory Authority G.S. 122C-26; 143B-147.

.0606 EDUCATIONAL PROGRAMS

(a) Where clinically indicated, children/adolescents shall attend educational programs.

(b) Staff shall have conferences, at least quarterly, with teachers or principals regarding each child/adolescent.

(c) The child's/adolescent's entrance into different educational programs, or phases of programs, shall be considered in terms of the timing of changes and the potentially disruptive effects such changes may have upon the child/adolescent.

Statutory Authority G.S. 122C-26; 143B-147.

.0607 SUMMER PROGRAM

Staff shall provide or secure day programming for children/adolescents whose educational service does not extend through the summer months.

Statutory Authority G.S. 122C-26; 143B-147.

.0608 ROLE OF PARENTS/LEGALLY RESPONSIBLE PERSON

(a) Parents or the legally responsible person shall have the opportunity to participate in the development and implementation of the client's individual treatment plan.

(b) A report shall be given to parents or the legally responsible person when feasible at least every three months. Reports may be in writing or take the form of a conference and shall focus on the client's progress.

Statutory Authority G.S. 122C-26; 143B-147.

.0609 PSYCHIATRIC/CLINICAL CONSULTATION

(a) Psychiatric consultation shall be available on an as needed basis to each client in the program.

(b) Clinical consultation shall be provided by a qualified mental health professional to each program at least twice a month.

Statutory Authority G.S. 122C-26; 143B-147.

.0610 SCHEDULE OF DAILY ACTIVITIES

(a) Each program shall have a written schedule of daily activities posted in a place accessible to children/adolescents and staff.

(b) Both free play and organized outdoor recreational activities shall be provided.

(c) Field trips and community experiences shall be coordinated with individual treatment plans.

Statutory Authority G.S. 122C-26; 143B-147.

.0611 RESIDENTS' PARTICIPATION IN HOUSEKEEPING ACTIVITIES

Children/adolescents in the program shall be involved in routine maintenance activities as is appropriate to their clinical need.

Statutory Authority G.S. 122C-26; 143B-147.

.0612 PERSONAL HYGIENE

Instruction shall be provided in good health practices pertaining to personal hygiene and grooming.

Statutory Authority G.S. 122C-26; 143B-147.

.0613 CLOTHING

Each child/adolescent shall have his/her own clothing and shall have training and help in its selection and care.

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0700 - DAY TREATMENT FOR CHILDREN AND ADOLESCENTS WHO ARE EMOTIONALLY DISTURBED

.0701 INTRODUCTION

(a) Day treatment is a day/night service for children and adolescents who are emotionally disturbed which coordinates educational activities and intensive treatment while allowing the individual to live at home or in the community. This service is designed to increase ability of the child or adolescent to relate to others and function appropriately within the community while serving as an intervention to prevent hospitalization or placement outside the home or community. It provides a therapeutic environment as well as other activities which may include individual therapy, group therapy, recreational therapy, language communication skills development, social skills development, pre-vocational service, vocational training, service to parents, and individual advocacy. The client's educational activities may be provided in this program or in another educational setting, such as regular classes or special education programs within a normal school setting.

(b) If the adolescent has his 18th birthday while receiving treatment in a day treatment

program, he/she may continue in the program for six months or until the end of the state fiscal year, whichever is longer. If an older client presents with needs developmentally characteristic of this age group, he/she may be considered for admission.

(c) Day treatment programs may include before/after school and summer programs, and early intervention programs.

Statutory Authority G.S. 122C-26; 143B-147.

.0702 EXCLUSIONS FROM LICENSURE

A day treatment service shall be subject to licensure under G.S. 122C, Article 2, unless excluded from licensure thereunder.

Statutory Authority G.S. 122C-22; 122C-26; 143B-147.

.0703 INDOOR ACTIVITY SPACE

The facility shall have indoor activity space.

Statutory Authority G.S. 122C-26; 143B-147.

.0704 OUTDOOR ACTIVITY SPACE

Outdoor activity space shall be provided. The outdoor space shall either be enclosed or offer protection through natural barriers or distance from potential dangerous conditions or situations.

Statutory Authority G.S. 122C-26; 143B-147.

.0705 STAFF REQUIRED

Each program shall have a program director who has a minimum of two years' experience in child/adolescent services and who has educational preparation in administration, education, social work, nursing, psychology or a related field.

Statutory Authority G.S. 122C-26; 143B-147.

.0706 CLIENT/STAFF RATIO

(a) A minimum of two staff members shall be present with clients at all times except on occasions when only one client is in the program in which case only one staff member is required to be present.

(b) A minimum ratio of one staff member to each eight clients shall be maintained at all times.

Statutory Authority G.S. 122C-26; 143B-147.

.0707 TRAINING OF STAFF

(a) Each program shall provide or secure pre-service training for all staff.

(b) Each direct care staff assigned to the program shall be trained to manage the clients individually and as a group.

Statutory Authority G.S. 122C-26; 143B-147.

.0708 TREATMENT PROGRAM

Each program shall address the functioning level of the client and shall include at least training in language/communication skills, fine and gross motor skills, social relationship skills and recreational skills.

Statutory Authority G.S. 122C-26; 143B-147.

.0709 EDUCATIONAL PLACEMENT

The responsible local education agency shall approve the placement if the program is a designated educational placement of school age clients.

Statutory Authority G.S. 122C-26; 143B-147.

.0710 ROLE OF PARENTS/LEGALLY RESPONSIBLE PERSON

(a) Parents or the legally responsible person shall have the opportunity to participate in the development and implementation of the client's individual treatment plan.

(b) A report shall be given to parents or the legally responsible person when feasible at least every three months. Reports may be in writing or take the form of a conference and shall focus on the client's progress.

Statutory Authority G.S. 122C-26; 143B-147.

.0711 PSYCHIATRIC CONSULTATION

Psychiatric consultation shall be available on an as needed basis to each client.

Statutory Authority G.S. 122C-26; 143B-147.

.0712 SCHEDULE OF DAILY ACTIVITIES

Each program shall have a written schedule of daily activities posted in a place accessible to clients and staff.

Statutory Authority G.S. 122C-26; 143B-147.

**SUBCHAPTER 14M - LICENSURE RULES
FOR MENTAL
RETARDATION/DEVELOPMENTAL
DISABILITIES FACILITIES**

**SECTION .0100 - SPECIALIZED
COMMUNITY RESIDENTIAL CENTERS FOR
INDIVIDUALS WITH MENTAL
RETARDATION OR OTHER
DEVELOPMENTAL DISABILITIES**

.0101 INTRODUCTION

A specialized community residential service is a residential service which provides care, treatment and developmental training for mentally retarded or otherwise developmentally disabled, multi-handicapped individuals, children or adults, over an extended period of time. Through integration of medical services and close supervision, it is designed to assist each individual to attain his/her highest level of independent living skills while receiving care for his/her physical needs. This service may be certified for Medicaid as an Intermediate Care Facility for the Mentally Retarded (ICF/MR).

Statutory Authority G.S. 122C-26; 143B-147.

.0102 CAPACITY

Facilities beginning operation subsequent to the effective date of these Rules shall be designed to serve no more than 30 clients at one location.

Statutory Authority G.S. 122C-26; 143B-147.

.0103 HOURS OF OPERATION

Each specialized community residential center shall operate 24 hours per day, seven days per week, 12 months per year.

Statutory Authority G.S. 122C-26; 143B-147.

.0104 BEDROOM SPACE

No more than six infants or children and no more than four adults may share an individual bedroom regardless of bedroom size.

Statutory Authority G.S. 122C-26; 143B-147.

.0105 QUALIFICATIONS OF DIRECTOR

Each program shall designate a director who holds a baccalaureate level degree with specialization in administration, education, social work, nursing, psychology or a related field or who has comparable experience and education.

Statutory Authority G.S. 122C-26; 143B-147.

.0106 NURSING STAFF

(a) At least one registered nurse or person certified as a licensed practical nurse shall be in the immediate area at all times.

(b) Each program shall have access to the services of at least one registered nurse.

Statutory Authority G.S. 122C-26; 143B-147.

.0107 CLIENT/STAFF RATIOS

(a) During waking hours, the following minimum client/staff ratios shall be in effect:

- (1) regardless of the number of clients, a minimum of two direct care staff members shall be on duty in the building at all times;
- (2) a minimum of one direct care staff member shall be on duty for each five clients; and
- (3) if clients are cared for in separate buildings, the ratios shall apply to each building.

(b) During sleeping hours, the following minimum client/staff ratios shall be in effect:

- (1) one direct care staff member shall be awake and on duty at all times and one other staff member shall be on call in the building;
- (2) a minimum of one direct care staff member shall be on duty for each ten clients; and
- (3) if clients are cared for in separate buildings, the ratios shall apply to each building.

Statutory Authority G.S. 122C-26; 143B-147.

.0108 MEDICAL CARE

Medical care shall be available on a 24-hour basis for each client. Such care shall be provided by a program-designated physician or by the client's private physician.

Statutory Authority G.S. 122C-26; 143B-147.

.0109 PERSONAL CARE

(a) Each client's personal hygiene needs shall be met daily.

(b) Toilet articles shall be made available to each client.

(c) Each client shall have a complete change of personal clothing at least daily.

Statutory Authority G.S. 122C-26; 143B-147.

.0110 DAILY TRAINING ACTIVITIES

(a) Daily training activities shall be scheduled to meet the developmental needs of each client.

(b) Activities shall take into consideration the length of time each client should be scheduled for needed rest periods, his/her need for individual attention, and special limitation of activities and diets.

(c) Both free play and organized recreational activities shall be provided as appropriate to individual needs.

(d) Field trips and community experiences shall be provided for individual clients.

(e) Daily routines common to non-handicapped clients shall be followed.

(f) Daily outdoor activities shall be planned in acceptable weather when appropriate to the health and physical needs of the client.

(g) When adults are served, vocational services shall be provided unless there is documentation of medical contraindication.

Statutory Authority G.S. 122C-26; 143B-147.

.0111 MEDICAL STATEMENT

(a) Each staff member who works directly and on a regularly scheduled basis with clients shall submit a medical statement from a licensed physician or an authorized health professional under the supervision of a physician to the program at the time of initial approval and annually thereafter.

(b) The medical statement shall be in any written form but shall indicate the general physical and mental health of the individual and the lack of evidence of active tuberculosis and/or other communicable diseases.

(c) The program shall keep the most recent medical statement on file.

Statutory Authority G.S. 122C-26; 143B-147.

.0112 PROVISION FOR INTERDISCIPLINARY SERVICES

Interdisciplinary services, including medical, nursing, dental, social work, physical therapy, language/communication therapy, education and psychology, shall be available to the facility.

Statutory Authority G.S. 122C-26; 143B-147.

.0113 PARTICIPATION OF THE FAMILY OR LEGALLY RESPONSIBLE PERSON

(a) Facility staff shall help the family or legally responsible person in understanding mental retardation and other developmental disabilities, their child's development, and the extent of the child's handicap.

(b) Individual goal plans shall be developed jointly between the facility staff and the child's parent(s) or legally responsible person when feasible.

(c) Family members or the legally responsible person shall be provided with the opportunity to participate in training seminars.

(d) Families or the legally responsible person shall be encouraged to maintain an ongoing relationship with their child through such me-

ans as visits to the facility and the child's visits with the parent(s) or the legally responsible person outside the facility.

(e) Reports to parent(s) or the legally responsible person shall be submitted at least annually. Reports may be in writing or take the form of a conference and shall focus on the child's progress toward meeting individual goals.

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0200 - GROUP HOMES FOR INDIVIDUALS WITH MENTAL RETARDATION OR OTHER DEVELOPMENTAL DISABILITIES AND WITH BEHAVIOR DISORDERS

.0201 INTRODUCTION

Group homes for individuals with mental retardation or other developmental disabilities and behavior disorders is a residential service which provides intensive behavioral treatment in a homelike environment. This program is designed to ameliorate the specific behavior problem which is preventing the individual's integration into habilitative programs in the individual's home community. This service may be certified for Medicaid as an Intermediate Care Facility for the Mentally Retarded (ICF/MR).

Statutory Authority G.S. 122C-26; 143B-147.

.0202 CAPACITY

(a) The home shall serve a maximum of five clients.

(b) No home shall designate any bed for the continuous provision of respite services.

Statutory Authority G.S. 122C-26; 143B-147.

.0203 HOURS OF OPERATION

Each group home shall operate 24 hours per day, seven days per week, 12 months per year.

Statutory Authority G.S. 122C-26; 143B-147.

.0204 STAFF REQUIRED

(a) The home shall have a designated program director/coordinator.

(b) At least one staff member, in addition to the director, shall have received training in the area of behavior modification through educational preparation in special education, psychology or a closely related field.

(c) Written policies and procedures for utilization of relief staff shall be developed and implemented.

(d) Staff shall be employed to implement habilitative programming, including provisions for accompanying clients on visits to their home communities, and to conduct routine cooking, cleaning and maintenance of the home.

(e) The home shall provide or secure support services of professionals as documented in each individual goal plan.

Statutory Authority G.S. 122C-26; 143B-147.

.0205 CLIENT/STAFF RATIOS

(a) When there are two or more clients in the home, a minimum of two staff members shall be on duty at all times.

(b) On occasions when only one client is in the home, a minimum of one staff member shall be on duty.

Statutory Authority G.S. 122C-26; 143B-147.

.0206 DAY SERVICES

Day services outside the home, such as educational and vocational training, shall be secured for each client as specified in the individual goal plan.

Statutory Authority G.S. 122C-26; 143B-147.

.0207 MEDICAL STATEMENT

(a) Each staff member who works directly and on a regularly scheduled basis with clients shall submit a medical statement from a licensed physician or an authorized health professional under the supervision of a physician to the program at the time of initial approval and annually thereafter.

(b) The medical statement shall be in any written form but shall indicate the general physical and mental health of the individual and the lack of evidence of active tuberculosis and or other communicable diseases.

(c) The program shall keep the most recent medical statement on file.

Statutory Authority G.S. 122C-26; 143B-147.

.0208 BEHAVIORAL PROGRAMMING

The primary emphasis in goal planning shall be on the elimination of the specific problem behaviors which precipitated the admission to the group home. Other developmental and habilitative goals shall also be addressed during the client's stay at the group home.

Statutory Authority G.S. 122C-26; 143B-147.

.0209 COMMUNITY RESOURCES

In accordance with each client's individual program plan, community resources shall be utilized for each client including recreational, medical, dental and religious resources.

Statutory Authority G.S. 122C-26; 143B-147.

.0210 PARTICIPATION OF THE FAMILY OR LEGALLY RESPONSIBLE PERSON

Each group home shall make efforts to involve the family or legally responsible person of each client in the planning and implementation of his individual goal plan.

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0300 - GROUP HOMES FOR ADULTS WITH MENTAL RETARDATION OR OTHER DEVELOPMENTAL DISABILITIES

.0301 INTRODUCTION

Group homes for adults with mental retardation or other developmental disabilities is a residential service which provides a normalized home environment in which to incorporate developmental training and habilitative programming. This program is designed to promote independence of the residents in order for them to live in a community-based setting. Although group home residents may possess basic self-help, socialization and other community living skills, they have not achieved the degree of independence in these skill areas required for the supervised independent living models such as a boarding home or apartment living. Therefore, a group home is a more restrictive type of service than an apartment living program. This service may be certified for Medicaid as an Intermediate Care Facility for the Mentally Retarded (ICF, MR).

Statutory Authority G.S. 122C-26; 143B-147.

.0302 CAPACITY

The home shall have a capacity of nine or fewer clients.

Statutory Authority G.S. 122C-26; 143B-147.

.0303 COMPLIANCE WITH GROUP HOME STANDARDS

(a) The standards for private group homes for developmentally disabled adults as defined in the manual titled "Minimum and Desired Standards and Regulations for Group Homes for Developmentally Disabled Adults" (10 NCAC 42B .0900 - .2300) published by the N.C. Department of Human Resources shall

also apply to area operated group homes operated by a public agency except for Sections .1000, .2200 and .2300 of Subchapter 10 NCAC 42B and with the exception outlined in (b) of this Rule. This publication is available free of charge from the N.C. Department of Human Resources, Division of Social Services, 325 N. Salisbury Street, Raleigh, N.C. 27611.

(b) The provision in 10 NCAC 42C .2401 (which is cross-referenced in 10 NCAC 42B .1701) that prohibits the admission of people "with disease in a communicable stage or carrier state" shall not prohibit the admission of residents who are hepatitis B carriers to a home operated by a public agency if the home is in compliance with the Rules codified in 10 NCAC 1811 .0107 through .0115; HEPATITIS B SCREENING AND VACCINATION OF RESIDENTS AND DIRECT CARE EMPLOYEES IN GROUP HOMES FOR MENTALLY RETARDED ADULTS.

Statutory Authority G.S. 122C-26; 143B-147.

.0304 MEDICAL STATEMENT

(a) Each staff member who works directly and on a regularly scheduled basis with clients shall submit a medical statement from a licensed physician or an authorized health professional under the supervision of a physician to the program at the time of initial approval and annually thereafter.

(b) The medical statement shall be in any written form but shall indicate the general physical and mental health of the individual and the lack of evidence of active tuberculosis and/or other communicable diseases.

(c) The program shall keep the most recent medical statement on file.

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0400 - GROUP HOMES FOR CHILDREN WITH MENTAL RETARDATION OR OTHER DEVELOPMENTAL DISABILITIES

.0401 INTRODUCTION

Group homes for children with mental retardation or other developmental disabilities is a residential service which provides a normalized home environment for children who are not living with their families. This program is designed to assist each child in residence to attain his highest level of independent living skills through developmental training integrated with family and community activities to prepare the child for residence with his own family or other less restrictive environment.

Statutory Authority G.S. 122C-26; 143B-147.

.0402 CAPACITY

(a) The home shall serve no more than five children at any one time.

(b) No home shall designate any bed for the continuous provision of respite services.

Statutory Authority G.S. 122C-26; 143B-147.

.0403 HOURS OF OPERATION

Each group home shall operate 24 hours per day, seven days per week, 12 months per year.

Statutory Authority G.S. 122C-26; 143B-147.

.0404 STAFF REQUIRED

(a) The home shall have a designated program director/coordinator.

(b) A minimum of one staff member shall have educational preparation in at least one of the following areas: special education, social work, psychology, child development, nursing, recreational therapy, occupational therapy, or language and communication therapy.

(c) Written policies and procedures for utilization of relief staff shall be developed and implemented.

(d) The home shall provide or secure the services of support professionals as needed including a psychologist, social worker, physician, dentist, physical therapist and language/communication specialist.

Statutory Authority G.S. 122C-26; 143B-147.

.0405 CHILD/STAFF RATIOS

(a) During waking hours when children are in the home, a minimum of two staff members shall be on duty.

(b) During sleeping hours, a minimum of two staff members shall be in the immediate area unless emergency backup procedures are sufficient to allow only one staff member on duty. In such instances, minimum acceptable emergency procedures include written agreements with emergency medical transport services; the availability of on-call emergency backup that can arrive at the home within twenty minutes; and notification to parent(s) or legally responsible person that one staff member may be on duty during sleeping hours.

(c) On occasion when only one child is in home, a minimum of one staff member shall be on duty during waking and sleeping hours.

Statutory Authority G.S. 122C-26; 143B-147.

.0406 PERSONAL CARE

- (a) Each child's personal hygiene needs shall be met daily.
- (b) Toilet articles shall be made available to each child.
- (c) Each child shall have a complete change of personal clothing at least daily.

Statutory Authority G.S. 122C-26; 143B-147.

.0407 DAILY TRAINING ACTIVITIES

- (a) Staff shall provide daily training activities in the home which are designed to meet the developmental needs of each child.
 - (1) Activities shall take into consideration the length of time each child needs rest periods, his need for individual attention, and special limitations of activities and diets.
 - (2) Both free play and organized recreational activities shall be provided.
 - (3) Field trips and community experiences shall be provided.
 - (4) Daily routines common to non-handicapped children shall be followed.
- (b) The staff shall provide or secure day programming for children whose educational programming does not extend through the summer months.

Statutory Authority G.S. 122C-26; 143B-147.

.0408 MEDICAL STATEMENT

- (a) Each staff member who works directly and on a regularly scheduled basis with clients shall submit a medical statement from a licensed physician or an authorized health professional under the supervision of a physician to the program at the time of initial approval and annually thereafter.
- (b) The medical statement shall be in any written form but shall indicate the general good physical and mental health of the individual and the lack of evidence of active tuberculosis and or other communicable diseases.
- (c) The program shall keep the most recent medical statement on file.

Statutory Authority G.S. 122C-26; 143B-147.

.0409 COMMUNITY RESOURCES

In accordance with each child's individual program plan, community resources shall be utilized for each client including educational, recreational, medical, dental and religious resources.

Statutory Authority G.S. 122C-26; 143B-147.

.0410 PARTICIPATION OF THE FAMILY OR LEGALLY RESPONSIBLE PERSON

- (a) Program staff shall help the family in understanding mental retardation and other developmental disabilities, the child's development, and the extent of the child's handicap.
- (b) Individual goal plans shall be developed jointly between the program staff and the client's parent(s) or legally responsible person when feasible.
- (c) Family members shall be provided the opportunity to participate in training seminars.
- (d) Families shall be encouraged to maintain an ongoing relationship with their child through such means as family visits to the group home, and the child's visits with the parent(s) or legally responsible person outside the group home.
- (e) Reports to parents or legally responsible person shall be submitted in writing at least quarterly, when feasible, with the opportunity extended to parent(s) or legally responsible person for participation in at least one conference annually.

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0500 - BEFORE/AFTER SCHOOL AND SUMMER DEVELOPMENTAL DAY SERVICES FOR CHILDREN WITH MENTAL RETARDATION OR OTHER DEVELOPMENTAL DISABILITIES

.0501 INTRODUCTION

- (a) Before/after school developmental day services for children with mental retardation, or other developmental disabilities, are day services which provide individual habilitative programming and recreational activities for school aged children. Services are provided preceding and following the school day during the months of local school operation and are designed to meet developmental needs of the children as well as the child care needs of families. Before after school services may be provided as a component of a developmental day center which serves preschool children or may be provided as a separate component.
- (b) Summer developmental day programs for children with mental retardation, or other developmental disabilities, are day programs which provide individual habilitative programming and recreational activities in a licensed child care center for school-aged children during the summer period when they are not participating in educational activities. This

program is designed to promote continuing progress in acquiring developmental skills such as self-help, fine and gross motor, language and communication, cognitive and social skills, in order to facilitate functioning in a less restrictive environment. The program is also designed to meet child care needs of families.

(c) The Rules in this Section are applicable when:

- (1) these services are provided as a separate free standing component which is not in the same facility as a developmental day center for preschool children licensed under G.S. Chapter 110, Article 7; and
- (2) these services are offered for a total of four hours per day or less.

Statutory Authority G.S. 122C-26; 143B-147.

.0502 HOURS OF OPERATION

(a) Each before/after school developmental day service shall be available for a minimum of three hours per day (exclusive of transportation time), five days per week, during the months of local school operation.

(b) Each summer developmental day service shall be available for a minimum of eight hours per day (exclusive of transportation time), five days per week, during the weeks in which local school operation is closed for summer break.

Statutory Authority G.S. 122C-26; 143B-147.

.0503 INDIVIDUAL AND GROUP SPACE

Space shall be available for small groups and individualized training as follows:

- (1) Special interest areas shall be provided to enhance the development of individual children.
- (2) Space for indoor physical activities shall be available for the provision of those activities enhancing gross motor development.

Statutory Authority G.S. 122C-26; 143B-147.

.0504 CLASSROOM AND ACTIVITY SPACE

(a) A ratio of 50 square feet per child shall be available for indoor classroom and activity space, exclusive of space occupied by sinks, lockers, storage cabinets and other fixed equipment.

(b) Space shall be available for small groups and individualized training as follows:

- (1) Special interest areas shall be provided to enhance the development of individual children.

- (2) Space for indoor physical activities shall be available for the provision of those activities enhancing gross motor development.

Statutory Authority G.S. 122C-26; 143B-147.

.0505 OUTDOOR ACTIVITY SPACE

Outdoor activity space shall be available in the ratio of 200 square feet per child scheduled to use the area at any one time. The outdoor space shall either be enclosed or offer protection through natural barriers or distance from potentially dangerous conditions or situations.

Statutory Authority G.S. 122C-26; 143B-147.

.0506 PROGRAM DIRECTOR

(a) Each developmental day center shall have a designated program director.

(b) The program director shall hold a bachelor level degree with specialization in administration, education, social work, nursing, psychology or a related field or have comparable experience and education.

Statutory Authority G.S. 122C-26; 143B-147.

.0507 AGE OF STAFF

Each staff member except student trainees and supervised volunteers shall be at least 18 years of age and the director shall be at least 21 years of age.

Statutory Authority G.S. 122C-26; 143B-147.

.0508 STAFF REQUIREMENTS

(a) Staff shall provide continuous supervision of each child.

(b) A minimum of two staff members shall provide direct child care at all times.

(c) A minimum of one direct care staff member shall be on duty for each five children.

Statutory Authority G.S. 122C-26; 143B-147.

**.0509 PARTICIPATION OF THE FAMILY/
LEGALLY RESPONSIBLE PERSON**

The center shall provide or secure opportunities for parent(s) or the legally responsible person to attend individual or group activities.

Statutory Authority G.S. 122C-26; 143B-147.

.0510 DAILY TRAINING ACTIVITIES

(a) Daily training activities designed to meet the developmental needs of each child shall be scheduled and conducted.

(b) Activities shall be planned around the following principles:

- (1) Group and individual activities, related to individual goal plans, shall be scheduled daily.
- (2) Field trips and community experiences shall be coordinated with the goal plans for individual children.

Statutory Authority G.S. 122C-26; 143B-147.

.0511 GROUPING OF CHILDREN

Grouping of children shall allow for attending to the individual needs of each child. The following principles shall be observed when grouping children:

- (1) the younger the children, the smaller the group;
- (2) the more delayed the children, the smaller the group;
- (3) the greater the number of physically handicapped children, the smaller the group; and
- (4) the wider the chronological age group, the smaller the group.

Statutory Authority G.S. 122C-26; 143B-147.

.0512 MEDICAL STATEMENT

(a) Each staff member who works directly and on a regularly scheduled basis with clients shall submit a medical statement from a licensed physician or an authorized health professional under the supervision of a physician to the program at the time of initial approval and annually thereafter.

(b) The medical statement shall be in any written form but shall indicate the general physical and mental health of the individual and the lack of evidence of active tuberculosis and/or other communicable diseases.

(c) The program shall keep the most recent medical statement on file.

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0600 - ADULT DEVELOPMENTAL ACTIVITY PROGRAMS FOR INDIVIDUALS WITH SUBSTANTIAL MENTAL RETARDATION; SEVERE PHYSICAL DISABILITIES OR OTHER SUBSTANTIAL DEVELOPMENTAL DISABILITIES

.0601 INTRODUCTION

(a) An adult developmental activity program (ADAP) is a day night service which provides organized developmental activities for adults with substantial mental retardation, severe physical disabilities or other substantial devel-

opmental disabilities to prepare the individual to live and work as independently as possible. The activities and services of an ADAP are designed to adhere to the principles of normalization and community integration aimed at increasing age-appropriate actions, images and appearance of the individual.

(b) An ADAP offers a diverse variety of specific services and activities. These include personal and community living skill development, adult basic education, training in the cognitive, communication and motor skills, use of leisure time, vocational evaluation and adjustment and work activity training. The amount of time devoted to these areas varies considerably depending upon the needs of the clients served.

(c) Support services to families and consultation with other involved agencies may also be provided.

Statutory Authority G.S. 122C-26; 143B-147.

.0602 COMPLIANCE WITH OTHER RULES

An adult developmental activity program shall be subject to licensure under G.S. 122C, Article 2 unless provided by a sheltered workshop subject to the rules of the North Carolina Division of Vocational Rehabilitation Services.

Statutory Authority G.S. 122C-26; 143B-147.

.0603 HOURS OF OPERATION

Except for clients participating in supported employment, ADAP services shall be available for client attendance at least six hours per day (exclusive of transportation time), five days per week, 12 months per year.

Statutory Authority G.S. 122C-26; 143B-147.

.0604 PHYSICAL PLANT REQUIREMENTS

(a) Each facility shall be inspected annually by an outside safety consultant with written documentation and follow-up on recommendations.

(b) Each facility shall be designed and equipped to promote the training and adult status of clients.

(c) Each facility shall eliminate architectural barriers which prohibit access to the building and use of equipment and facilities.

(d) Each facility shall provide adequate toilet facilities and drinking fountains for clients.

Statutory Authority G.S. 122C-26; 143B-147.

.0605 PROVISION FOR CLASSROOM SPACE

Each facility shall have designated space for classroom activities.

Statutory Authority G.S. 122C-26; 143B-147.

**.0606 PROGRAM DIRECTOR
/COORDINATOR**

(a) Each ADAP shall have a designated full-time program director/coordinator.

(b) The program director/coordinator shall be at least a high school graduate or equivalent with three years of experience in mental retardation programming, but preferably a college degree with at least one year of experience in mental retardation programming.

Statutory Authority G.S. 122C-26; 143B-147.

.0607 CLIENT/STAFF RATIO

Each ADAP shall maintain an overall direct service ratio of at least one full-time or full-time equivalent direct care staff member for each ten or fewer clients.

Statutory Authority G.S. 122C-26; 143B-147.

.0608 CLIENT EVALUATOR

(a) At least one staff member shall be designated as a client evaluator.

(b) The client evaluator shall have a high school diploma, but preferably a college degree, and shall have completed a five day in-service training program in the evaluation component of a certified ADAP or in another training program approved by the DMH/MR/SAS.

Statutory Authority G.S. 122C-26; 143B-147.

.0609 ACTIVITIES AND SERVICES

(a) ADAP activities and services shall be designed and implemented with adherence to the principles of normalization.

(b) Community integration activities shall be provided in groups of two to three persons whenever possible.

(c) Activities and services shall be aimed at increasing age-appropriate actions, images and appearance of the clients.

(d) Activities and services shall be directed toward the preparation of substantially handicapped adults to live as independently as possible.

Statutory Authority G.S. 122C-26; 143B-147.

.0610 SAFETY EDUCATIONAL PROGRAM

Each ADAP shall provide an ongoing educational program for staff and clients designed to

teach them the principles of accident prevention and control of specific hazards. The program shall include training for clients in personal, work and environmental safety.

Statutory Authority G.S. 122C-26; 143B-147.

.0611 SAFETY COMMITTEE

(a) A safety committee comprised of staff members and client representatives shall be appointed to review accident reports and to monitor the ADAP for safety.

(b) The safety committee shall meet at least quarterly.

(c) Minutes shall be kept of all meetings and submitted to the director/coordinator with recommendations for needed changes.

Statutory Authority G.S. 122C-26; 143B-147.

.0612 BUSINESS PRACTICES

(a) Supplies, materials or tools, if provided by the ADAP, shall be identified as a separate amount in the bid price.

(b) Wages paid to ADAP clients shall be on a piece rate or hourly commensurate wage.

(c) Each client involved in productive work shall receive a written statement for each pay period which indicates gross pay, hours worked and deductions.

(d) Prices for goods produced in the ADAP shall be equal to or exceed the cost of production (including commensurate wages, overhead, tools and materials.)

Statutory Authority G.S. 122C-26; 143B-147.

.0613 ACCIDENT REPORTING

A written plan shall be established for the reporting of all accidents that occur during ADAP activities, whether or not they give rise to injuries requiring medical treatment. The accident report shall contain the following information:

- (1) identity of persons involved;
- (2) place of accident;
- (3) time of accident;
- (4) name of responsible supervisor;
- (5) description of the accident; and
- (6) emergency services rendered.

Statutory Authority G.S. 122C-26; 143B-147.

.0614 PROMOTION OF CLIENTS' RIGHTS

Clients shall be counseled concerning their rights and responsibilities as participants in the program in such matters as wages, hours, working conditions, social security, redress for

injury, and the consequences of their own tortuous or unethical conduct.

Statutory Authority G.S. 122C-26; 143B-147.

.0615 USE OF PUBLIC TRANSPORTATION BY CLIENTS

Clients served by the ADAP shall be encouraged to use public transportation if available.

Statutory Authority G.S. 122C-26; 143B-147.

.0616 SUSPENSIONS AND DISMISSALS

(a) Each ADAP shall establish written criteria and procedures for client suspensions and dismissals.

(b) Dismissal shall be the result of a staff assessment which shall include, but not be limited to, those behavior(s) judged to be harmful to self or others.

(c) Suspensions shall be the result of a staffing process and shall be for a specified time period, with all suspensions reported to the referral agency if the agency has maintained an active relationship with the client since the time of referral.

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0700 - COMMUNITY RESPITE SERVICES FOR INDIVIDUALS WITH MENTAL RETARDATION; OTHER DEVELOPMENTAL DISABILITIES; DEVELOPMENTAL DELAYS OR AT RISK FOR THESE CONDITIONS

.0701 INTRODUCTION

(a) Community respite is a support service which provides periodic relief for a family or family substitute on a temporary basis. While overnight care is available, community respite may be provided for periods of less than 24 hours on a day or evening basis. Respite care may be provided by the following models requiring licensure under the provisions of G.S. 122C, Article 2:

- (1) Center-based respite is a support service in which the individual is served at a designated facility which has potential for overnight care. While an overnight capacity is generally a part of this service, a respite center may provide respite services to individuals for periods of less than 24 hours on a day or evening basis.
- (2) Private home respite is a support service in which the governing body provides respite services to individuals in the

provider's home on an hourly or overnight basis directly or by contract.

(b) Private home respite services are subject to licensure under G.S. 122C, Article 2 when the private home of a community citizen is approved for care for one or two children with a developmental disability or two adults with a developmental disability for a cumulative period of time exceeding 240 hours per calendar month. When more than two individuals are served concurrently for any length of time, the services are subject to licensure.

Statutory Authority G.S. 122C-22(a) (8); 122C-26; 143B-147.

.0702 POPULATION SERVED

Each respite facility shall be designed to serve individuals with mental retardation or other developmental disabilities, developmental delays, atypical development or those at risk for these conditions.

Statutory Authority G.S. 122C-26; 143B-147.

.0703 PHYSICAL PLANT REQUIREMENTS

(a) A minimum of one ionized smoke detector wired into the house current shall be installed and centrally located. Additional smoke detectors that are not wired into the house current shall be checked at least monthly by the provider.

(b) A dry powder or CO(2) type fire extinguisher shall be located in the kitchen and shall be checked at least annually by the local fire department. Each provider of respite care shall receive instruction in its use prior to the initiation of service.

Statutory Authority G.S. 122C-26; 143B-147.

.0704 PROGRAM DIRECTOR /COORDINATOR

(a) Each governing body shall designate a program coordinator/director.

(b) The program director/coordinator shall have an educational background in social work, education, nursing, psychology or related health field; or shall have at least two years' experience in human service programs, preferably in mental retardation or other developmental disabilities.

Statutory Authority G.S. 122C-26; 143B-147.

.0705 AGE OF STAFF MEMBERS

The program director coordinator shall be at least 21 years of age. All other staff shall be

at least 18 years of age except those who are 16 or 17 years of age and who are working directly under the supervision of an experienced employee.

Statutory Authority G.S. 122C-26; 143B-147.

.0706 FAMILY SERVICES COORDINATOR

At least one staff person of the respite service shall be designated to assist parent(s) or the legally responsible person in making application for respite care, in detailing the service delivery plan for each respite episode, and in coordinating the activities of the service with family life.

Statutory Authority G.S. 122C-26; 143B-147.

.0707 PERSONAL CARE

Other than during short episodes of respite (less than 24 hours), activities of daily living common to non-handicapped individuals shall be followed.

Statutory Authority G.S. 122C-26; 143B-147.

.0708 LENGTH OF STAY

Each governing body shall establish a written policy regarding the minimum and maximum lengths of service for each respite episode, as well as the frequency that individuals may use the service.

Statutory Authority G.S. 122C-26; 143B-147.

.0709 RESPITE ACTIVITIES

(a) Activities shall emphasize maturation of children and independence of adults, supplementing the services being provided by other programs and by parent(s) or the legally responsible person.

(b) Activities shall be planned daily and shall take into consideration the length of time each client should be scheduled for needed rest periods, the need for individual attention, and special limitations of activities and diet.

(c) Activities shall be designed to provide each client with learning opportunities, recreation, reinforcement of self-help skills, language skills, socialization, motor coordination and methods which have been successful in other settings or are associated with the client's family life.

(d) Toys and leisure materials shall be accessible to clients.

Statutory Authority G.S. 122C-26; 143B-147.

.0710 MEDICAL STATEMENT

(a) Each respite care provider, student intern, regular volunteer, substitute staff, or other individual who works directly and on a continuous basis with clients shall submit a medical statement from a licensed physician at the time of initial approval and annually thereafter.

(b) The medical statement shall be in any written form but shall be signed by the physician and indicate the general physical and mental health of the individual and the lack of evidence of active tuberculosis and communicable diseases.

(c) The most recent medical statement shall be on file.

Statutory Authority G.S. 122C-26; 143B-147.

.0711 CENTER-BASED RESPITE: STAFF REQUIRED

(a) During waking hours, when five or fewer clients are in the center, a minimum of two staff members shall be on duty. If more than five clients are being served, a staff/client ratio of 1:5 shall be maintained.

(b) During sleeping hours, a minimum of two staff members shall be available in the immediate area unless emergency backup procedures are sufficient to allow only one staff member on duty. In such instances, minimum acceptable emergency procedures include written agreements with emergency medical transport services; the availability of on-call emergency backup that can arrive at the center within 20 minutes; and notification to parent(s) or the legally responsible person that only one staff member may be on duty during sleeping hours.

(c) On occasions when only one client is in the center, a minimum of one staff member shall be on duty during waking and sleeping hours.

Statutory Authority G.S. 122C-26; 143B-147.

.0712 CENTER-BASED RESPITE: CLIENT'S HEALTH

(a) Each client shall be observed by staff for signs of illness or injury at the beginning of each respite episode.

(b) Each client who becomes ill shall be separated from other clients until he/she leaves the center or until it is determined that he/she is free of communicable disease.

Statutory Authority G.S. 122C-26; 143B-147.

.0713 PRIVATE HOME RESPITE: PROVIDER APPLICATION

Each governing body shall maintain an application for each provider at the facility where respite services are provided including the following:

- (1) full name of each person living in the home;
- (2) place, telephone number and hours of employment for each individual at the facility who will be providing respite care;
- (3) address, directions to, and telephone number of residence;
- (4) sleeping arrangements for the respite client;
- (5) preference of time when respite care can be provided;
- (6) age preference of respite clients; and
- (7) whether males and females can be served.

Statutory Authority G.S. 122C-26; 143B-147.

.0714 PRIVATE HOME RESPITE: PROVIDER TRAINING

Each facility providing respite care shall have at least one adult member who has completed the pre-service training program prescribed by the governing body. Training may include a basic understanding of developmental disabilities, basic first aid and seizure management.

Statutory Authority G.S. 122C-26; 143B-147.

.0715 PRIVATE HOME RESPITE: AGREEMENT WITH PROVIDERS

(a) Each governing body shall have a written agreement signed by each provider of private home respite care.

(b) The provisions of the agreement shall include:

- (1) the responsibilities of the governing body and the provider(s) of respite care;
- (2) confidentiality requirements;
- (3) procedures for securing emergency services;
- (4) program activities to be implemented;
- (5) responsibilities for supervising the respite client;
- (6) procedures related to administration of medications;
- (7) participation in respite training programs; and
- (8) terms of compensation.

(c) A signed copy of the agreement shall be maintained by the governing body, and a signed copy shall be given to the provider.

Statutory Authority G.S. 122C-26; 143B-147.

.0716 PRIVATE HOME RESPITE: RESPONSIBILITIES OF GOVERNING

BODY

(a) Each governing body shall attempt to match the client's needs with the provider's ability to provide respite care.

(b) A written statement of duties and responsibilities during each episode of respite care shall be provided to the respite provider:

- (1) This statement shall include length of service to be provided, medications to be administered, and special dietary considerations.
- (2) If the respite client is involved in a developmental or occupational program, the respite provider shall be provided written information regarding responsibilities for assuring that the client attends the program and for structuring activities at the respite facility to enhance objectives established by the developmental or occupational program.

(c) The governing body shall provide each respite provider with a form for recording illness, accident, or medical concern, including administration of medication. Following each respite episode, this form shall be maintained by the governing body in the client's record.

(d) The governing body shall be responsible for a pre-service training program for respite providers. Content of training may include a basic understanding of mental retardation and other developmental disabilities, first aid procedures and seizure management.

(e) At least one approved respite provider shall supervise the respite client at all times.

(f) The respite program director coordinator shall review with the provider the plan for emergency evacuation of the home prior to accepting respite clients.

(g) Only the respite director coordinator or his designee shall arrange respite care between the client's family and the respite provider.

Statutory Authority G.S. 122C-26; 143B-147.

SUBCHAPTER 14N - LICENSURE RULES FOR SUBSTANCE ABUSE FACILITIES

SECTION .0100 - INPATIENT HOSPITAL TREATMENT FOR INDIVIDUALS WHO ARE SUBSTANCE ABUSERS

.0101 INTRODUCTION

Inpatient hospital treatment is an inpatient substance abuse service which provides care, treatment and rehabilitation on a continuous, short-term basis in an intensive, 24-hour per day hospital setting. These programs are generally known as "28-day" programs even though length of stay is not limited to 28 days.

Counseling services are provided with supportive nursing and medical care and treatment by other professionals as needed. If these facilities provide detoxification services, they shall comply with the applicable rules for detoxification in this Subchapter. Inpatient hospital treatment programs include the following:

- (1) a substance abuse unit within a psychiatric hospital or an attached or free-standing substance abuse unit of a psychiatric hospital licensed under the provisions of G.S. 122C, Article 2; and
- (2) a free-standing hospital specializing in substance abuse treatment licensed under the provisions of G.S. 122C, Article 2.

Statutory Authority G.S. 122C-26; 143B-147.

.0102 HOURS OF OPERATION

Each program shall operate 24 hours per day, seven days per week, 12 months per year.

Statutory Authority G.S. 122C-26; 143B-147.

.0103 STAFFING REQUIREMENTS

(a) The program shall have a designated medical director.

(b) A physician shall be present in the program or on call 24 hours per day. The treatment of each client shall be under the supervision of a physician.

(c) The staff shall include a minimum of one full-time certified alcoholism, drug abuse or substance abuse counselor for every ten or fewer clients. If the program falls below this prescribed ratio and cannot meet the prescribed ratio by employing a counselor who is certified, then it may employ an uncertified counselor as long as this individual meets the certification requirements within a maximum of 24 months from the date of employment.

(d) At least one registered nurse shall be on duty during each shift.

(e) At least two direct care staff members shall be on duty at all times. One direct care staff member for each 20 or fewer clients shall be on duty at all times in adult programs. In facilities that serve minors, a minimum of one staff member for each five or fewer minor clients shall be on duty during waking hours when minor clients are present.

Statutory Authority G.S. 122C-26; 143B-147.

.0104 STAFF TRAINING

Each program shall have and implement written policies and procedures for staff training. Requirements shall include the following.

- (1) Each staff member shall have a training needs assessment completed annually and documented.
- (2) Each staff member shall have a training plan completed annually and documentation of all training provided shall include the following:
 - (a) Each direct care staff member shall receive continuing education to include understanding of the nature of addiction, the withdrawal syndrome, group therapy, family therapy and other treatment methodologies.
 - (b) Each direct care staff in a program that serves minors shall receive specialized training in youth development and therapeutic techniques in working with youth.
 - (c) Each facility shall have at least one staff member on duty trained in each of the following:
 - (i) cardio-pulmonary resuscitation;
 - (ii) the Heimlich maneuver or other Red Cross first aid techniques for relieving airway obstructions;
 - (iii) seizure management;
 - (iv) basic first aid;
 - (v) substance abuse withdrawal symptoms; and
 - (vi) symptoms of secondary complications to substance abuse.
- (3) Attendance at training activities shall be documented for each staff member.

Statutory Authority G.S. 122C-26; 143B-147.

.0105 PROGRAM PLAN DESCRIPTION

Each program shall have written policies and procedures which address both minors and adults and which specify the following:

- (1) the philosophy of the treatment program;
- (2) a statement of purpose for the program, including its goals and objectives;
- (3) a description of the services offered; the population served, including age groups and other relevant characteristics of the patient population; and the methods of delivering services (e.g., group therapy, didactic presentations, tapes, individual counseling);
- (4) a daily schedule of therapeutic activities;
- (5) a description of services offered for the family and significant others and how these individuals are involved in the treatment process; and

- (6) a description of how clients and family members are linked in their home communities with Alcoholics Anonymous, Narcotics Anonymous, Al-Anon and other programs and referral sources.

Statutory Authority G.S. 122C-26; 143B-147.

.0106 EMERGENCY MEDICAL SERVICES

Each facility shall have and implement written procedures for handling emergency services. These procedures shall include provision for the following:

- (1) immediate access to a physician;
- (2) acute care hospital services; and
- (3) assistance from a local ambulance service, rescue squad or other trained medical personnel within 20 minutes of the service.

Statutory Authority G.S. 122C-26; 143B-147.

.0107 MEDICAL AND PSYCHIATRIC CARE AND SERVICES

Medical and psychiatric care and services shall be provided according to the following:

- (1) A physician who has at least two years' experience in the treatment of substance abuse shall be designated as the medical director of the program.
- (2) The medical director shall have the overall responsibility for medical services; however, medical care and treatment of specific clients may be delegated to another physician on the professional staff of the program.
- (3) Medical psychiatric care and services or consultation shall be available to each client as needed.

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0200 - NONHOSPITAL MEDICAL DETOXIFICATION FOR INDIVIDUALS WHO ARE SUBSTANCE ABUSERS

.0201 INTRODUCTION

Nonhospital medical detoxification is a residential service which provides medical treatment and supportive services under the supervision of a physician. This service is designed to withdraw an individual from alcohol or other drugs and to prepare him/her to enter a more extensive treatment and rehabilitation program.

Statutory Authority G.S. 122C-26; 143B-147.

.0202 HOURS OF OPERATION

Each service shall operate 24 hours per day, seven days per week, 12 months per year.

Statutory Authority G.S. 122C-26; 143B-147.

.0203 STAFF REQUIRED

(a) A minimum of one direct care staff member shall be on duty at all times for every nine or fewer clients.

(b) The treatment of each client shall be under the supervision of a physician.

(c) The services of a certified alcoholism counselor, a certified drug abuse counselor or a certified substance abuse counselor shall be available on an as-needed basis to each client.

Statutory Authority G.S. 122C-26; 143B-147.

.0204 STAFF TRAINING

(a) Each facility shall have at least one staff member on duty trained in the following areas:

- (1) monitoring of vital signs;
- (2) basic first aid;
- (3) cardio-pulmonary resuscitation;
- (4) seizure management;
- (5) the Heimlich maneuver or other Red Cross first aid techniques for relieving airway obstructions;
- (6) substance abuse withdrawal symptoms, including delirium tremens;
- (7) medication education and administration; and
- (8) symptoms of secondary complications to substance abuse.

(b) Each direct care staff member shall receive continuing education to include understanding of the nature of addiction, the withdrawal syndrome, group therapy, family therapy and other treatment methodologies.

Statutory Authority G.S. 122C-26; 143B-147.

.0205 EMERGENCY MEDICAL SERVICES

Each facility shall have and implement written procedures for handling medical emergencies. These procedures shall include provision for the following:

- (1) immediate access to a physician;
- (2) acute care hospital services; and
- (3) assistance from a local ambulance service, rescue squad or other trained medical personnel within 20 minutes of the service.

Statutory Authority G.S. 122C-26; 143B-147.

.0206 MONITORING OF CLIENTS

Each service shall have a written policy that requires the following:

- (1) procedures for the monitoring of each client's general condition and vital signs during at least the first 72 hours of the detoxification process; and
- (2) procedures for monitoring and recording each client's pulse rate, blood pressure and temperature at least every four hours for the first 24 hours and at least three times daily thereafter.

Statutory Authority G.S. 122C-26; 143B-147.

.0207 REFERRAL TO TREATMENT /REHABILITATION PROGRAM

The service shall refer each client who has completed detoxification to an outpatient or residential treatment/rehabilitation program.

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0300 - SOCIAL SETTING DETOXIFICATION FOR INDIVIDUALS WHO ARE ALCOHOLICS

.0301 INTRODUCTION

Social setting detoxification is a residential service which provides social support and other non-medical services to individuals who are experiencing physical withdrawal from alcohol. Individuals receiving this service need a structured residential setting but are not in need of physician services; however, back-up physician services are available, if indicated. The service is designed to assist individuals in the withdrawal process and to prepare them to enter a more extensive treatment and rehabilitation program.

Statutory Authority G.S. 122C-26; 143B-147.

.0302 HOURS OF OPERATION

Each service shall operate 24 hours per day, seven days per week, 12 months per year.

Statutory Authority G.S. 122C-26; 143B-147.

.0303 STAFF REQUIRED

(a) A minimum of one direct care staff member shall be on duty at all times for every nine or fewer clients.

(b) The services of a certified alcoholism counselor or a certified substance abuse counselor shall be available on an as-needed basis to each client.

Statutory Authority G.S. 122C-26; 143B-147.

.0304 STAFF TRAINING

(a) Each facility shall have at least one staff member on duty trained in the following areas:

- (1) monitoring of vital signs;
- (2) basic first aid;
- (3) cardio-pulmonary resuscitation;
- (4) seizure management;
- (5) the Heimlich maneuver or other Red Cross first aid techniques for relieving airway obstructions;
- (6) alcohol withdrawal symptoms, including delirium tremens;
- (7) medication education and administration; and
- (8) symptoms of secondary complications to alcoholism.

(b) Each direct care staff member shall receive continuing education to include understanding of the nature of addiction, the withdrawal syndrome, group therapy, family therapy and other treatment methodologies.

Statutory Authority G.S. 122C-26; 143B-147.

.0305 EMERGENCY MEDICAL SERVICES

Each facility shall have and implement written procedures for handling medical emergencies. These procedures shall include provision for the following:

- (1) immediate access to a physician;
- (2) acute care hospital services; and
- (3) assistance from a local ambulance service, rescue squad or other trained medical personnel within 20 minutes of the service.

Statutory Authority G.S. 122C-26; 143B-147.

.0306 MONITORING OF CLIENTS

Each service shall have a written policy that requires the following:

- (1) procedures for the monitoring of each client's general condition and vital signs during at least the first 72 hours of the detoxification process; and
- (2) procedures for monitoring and recording each client's pulse rate, blood pressure and temperature at least three times daily for the first 72 hours after admission.

Statutory Authority G.S. 122C-26; 143B-147.

.0307 REFERRAL TO TREATMENT /REHABILITATION PROGRAM

The service shall refer each client who has completed detoxification to an outpatient or residential treatment/rehabilitation program.

Statutory Authority G.S. 122C-26; 143B-147.

**SECTION .0400 - OUTPATIENT
DETOXIFICATION FOR INDIVIDUALS WHO
ARE SUBSTANCE ABUSERS**

.0401 INTRODUCTION

(a) Outpatient detoxification is a periodic service which involves the provision of supportive services, particularly active support systems such as family, Alcoholics Anonymous and Narcotics Anonymous, under the supervision of a physician for clients who are experiencing physical withdrawal from alcohol and other drugs.

(b) Outpatient methadone services shall be exempt from the provisions of this Section but shall comply with the provisions delineated under 10 NCAC 14N .0800.

Statutory Authority G.S. 122C-26; 143B-147.

.0402 HOURS OF OPERATION

Each service shall operate at least eight hours per day, for a minimum of five days per week, 12 months per year.

Statutory Authority G.S. 122C-26; 143B-147.

.0403 STAFF REQUIRED

(a) The treatment of each client shall be under the supervision of a physician.

(b) The services of a certified alcoholism counselor, a certified drug abuse counselor or a certified substance abuse counselor shall be available on an as-needed basis to each client.

Statutory Authority G.S. 122C-26; 143B-147.

.0404 STAFF TRAINING

(a) Each facility shall have at least one staff member on duty trained in the following areas:

- (1) monitoring of vital signs;
- (2) basic first aid;
- (3) cardio-pulmonary resuscitation;
- (4) seizure management;
- (5) the Heimlich maneuver or other Red Cross first aid techniques for relieving airway obstructions;
- (6) substance abuse and other drug withdrawal symptoms, including delirium tremens;
- (7) medication education and administration; and
- (8) symptoms of secondary complications to substance abuse or drug addiction.

(b) Each direct care staff member shall receive continuing education to include understanding of the nature of addiction, the

withdrawal syndrome, group therapy, family therapy and other treatment methodologies.

Statutory Authority G.S. 122C-26; 143B-147.

.0405 EMERGENCY MEDICAL SERVICES

Each facility shall have and implement written procedures for handling medical emergencies. These procedures shall include provision for the following:

- (1) immediate access to a physician;
- (2) acute care hospital services; and
- (3) assistance from a local ambulance service, rescue squad or other trained medical personnel within 20 minutes of the service.

Statutory Authority G.S. 122C-26; 143B-147.

**.0406 REFERRAL TO TREATMENT
/REHABILITATION PROGRAM**

The service shall refer each client who has completed detoxification to an outpatient or residential treatment/rehabilitation program.

Statutory Authority G.S. 122C-26; 143B-147.

**SECTION .0500 - RESIDENTIAL
TREATMENT /REHABILITATION FOR
INDIVIDUALS WHO ARE SUBSTANCE
ABUSERS**

.0501 INTRODUCTION

A residential treatment and/or rehabilitation program for alcohol or other drug abusers is a residential service which provides active treatment and a structured living environment for alcohol or other drug abusers in a group facility. Individuals must have been detoxified prior to entering the program. The service is designed to enable the individual to return to an independent living situation within a specific time.

Statutory Authority G.S. 122C-26; 143B-147.

.0502 HOURS OF OPERATION

The program shall provide services 24 hours per day, seven days per week, 12 months per year.

Statutory Authority G.S. 122C-26; 143B-147.

.0503 STAFF REQUIRED

As a minimum, the following staffing pattern shall be required:

- (1) At least one certified substance abuse counselor shall be on staff full-time for each 15 or fewer beds in a single facility.

If the program falls below this prescribed ratio and cannot meet the prescribed ratio by employing a counselor who is certified, then it may employ an uncertified counselor as long as this individual meets the certification requirements within a maximum of 24 months from the date of employment.

- (2) A minimum of one staff member shall be present in the facility when clients are present in the program. In programs that serve minors, a minimum of one staff member for each five or fewer minor clients shall be on duty during waking hours when minor clients are present.

Statutory Authority G.S. 122C-26; 143B-147.

.0504 STAFF TRAINING

(a) Each staff member shall have a training plan completed annually and documented along with documentation of attendance at training events.

(b) Each facility shall have at least one staff member on duty trained in the following areas:

- (1) cardio-pulmonary resuscitation;
- (2) seizure management;
- (3) the Heimlich maneuver or other Red Cross first aid techniques for relieving airway obstructions;
- (4) basic first aid;
- (5) alcohol and other drug withdrawal symptoms;
- (6) medication education and administration; and
- (7) symptoms of secondary complications to alcoholism and drug addiction.

(c) Each direct care staff member shall receive continuing education to include understanding of the nature of addiction, the withdrawal syndrome, group therapy, family therapy and other treatment methodologies.

(d) Each direct care staff member in a program that serves minors shall receive specialized training in youth development and therapeutic techniques in working with youth.

Statutory Authority G.S. 122C-26; 143B-147.

.0505 EMERGENCY MEDICAL SERVICES

Each facility shall have and implement written procedures for handling medical emergencies. These procedures shall include provision for the following:

- (1) immediate access to a physician;
- (2) acute care hospital services; and
- (3) assistance from a local ambulance service, rescue squad or other trained medical

personnel within 20 minutes of the program.

Statutory Authority G.S. 122C-26; 143B-147.

.0506 TREATMENT/REHABILITATION SERVICES

Each facility shall provide or have access to the following services:

- (1) individual, group and/or family therapy for each client;
- (2) educational counseling;
- (3) vocational counseling;
- (4) job development and placement;
- (5) money management;
- (6) nutrition education; and
- (7) referrals to supportive services including Alcoholics Anonymous, Narcotics Anonymous, legal counseling, vocational training and placement.

Statutory Authority G.S. 122C-26; 143B-147.

.0507 SCHEDULE OF ACTIVITIES

(a) The program shall have a written schedule for daily routine activities.

(b) The program shall establish a schedule for the provision of treatment and rehabilitation services.

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0600 - HALFWAY HOUSES FOR INDIVIDUALS WHO ARE SUBSTANCE ABUSERS

.0601 INTRODUCTION

A halfway house is a residential service which provides a structured living environment in a group facility for individuals who are alcoholics or other drug abusers. The service is designed to enhance the client's return to independent living within a specific time. Individuals must have been detoxified prior to entering the program. Treatment and rehabilitation services are provided outside the facility. Services provided by the halfway house are coordinated with the individual's treatment plan.

Statutory Authority G.S. 122C-26; 143B-147.

.0602 HOURS OF OPERATION

The halfway house shall provide services 24 hours per day, seven days per week, 12 months per year.

Statutory Authority G.S. 122C-26; 143B-147.

.0603 STAFF REQUIRED

(a) A minimum of one staff member shall be present in the facility when clients are present in the halfway house.

(b) The services of a certified alcoholism counselor, a certified drug abuse counselor or a certified substance abuse counselor shall be available on an as-needed basis to each client.

(c) In programs that serve minors, a minimum of one staff member for each five or fewer minor clients shall be on duty during waking hours when minor clients are present.

Statutory Authority G.S. 122C-26; 143B-146.

.0604 STAFF TRAINING

(a) Each facility shall have at least one staff member on duty trained in the following areas:

- (1) cardio-pulmonary resuscitation;
- (2) seizure management;
- (3) the Heimlich maneuver or other Red Cross first aid techniques for relieving airway obstructions;
- (4) basic first aid;
- (5) alcohol and other drug withdrawal symptoms;
- (6) medication education; and
- (7) symptoms of secondary complications to alcohol and other drug addiction.

(b) Each direct care staff member shall receive continuing education to include understanding of the nature of addiction, the withdrawal syndrome, group therapy, family therapy and other treatment methodologies.

(c) Each direct care staff member in a halfway house that serves minors shall receive specialized training in youth development and therapeutic techniques in working with youth.

Statutory Authority G.S. 122C-26; 143B-147.

.0605 EMERGENCY MEDICAL SERVICES

Each halfway house shall have and implement written procedures for handling medical emergencies. These procedures shall include provision for the following:

- (1) immediate access to a physician;
- (2) acute care hospital services; and
- (3) assistance from a local ambulance service, rescue squad or other trained medical personnel within 20 minutes of the halfway house.

Statutory Authority G.S. 122C-26; 143B-147.

.0606 SCHEDULE OF ACTIVITIES

(a) The halfway house shall have a written schedule for daily routine activities.

(b) The halfway house shall maintain a written schedule of support activities provided for clients.

Statutory Authority G.S. 122C-26; 143B-147.

.0607 POSTING OF HOUSE RULES

Rules of the halfway house shall be conspicuously posted in the facility.

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0700 - OUTPATIENT SERVICES FOR INDIVIDUALS WHO ARE SUBSTANCE ABUSERS

.0701 INTRODUCTION

(a) An outpatient service is a periodic service designed to meet the diagnostic therapeutic needs of individuals of all disability groups while allowing them to remain in the community. Services are provided to individuals, families or groups in a nonhospital setting through short visit(s) to the facility for the purpose of treatment, habilitation or rehabilitation. Individual, group and family counseling; educational counseling; vocational counseling; psychotherapy; and extended testing evaluation are provided as needed.

(b) An outpatient service for individuals who are alcohol or other drug abusers is a periodic service, which encompasses the activities delineated in (a) of this Rule, with the exceptions of psychotherapy and extended testing. In addition, outpatient services for substance abusers may be provided in a hospital setting if such hospital provides outpatient services. All substance abuse clients shall be detoxified prior to admission to this service.

(c) Frequently, individuals are in need of more intensive treatment for substance abuse other than that usually provided in traditional outpatient services, but these individuals are not in need of treatment provided in residential facilities. They may need intensive outpatient services which are periodic services consisting of structured programs provided for each individual for a minimum of 5 hours or more per week. Intensive outpatient services may include individual counseling, group counseling, family counseling, peer groups, recreational therapy, substance abuse and life skills educational programs.

Statutory Authority G.S. 122C-26; 143B-147.

.0702 HOURS OF OPERATION FOR INTENSIVE OUTPATIENT SERVICE

Each intensive outpatient service shall operate at least three days per week, but not fewer than 12 hours per week, twelve months per year.

Statutory Authority G.S. 122C-26; 143B-147.

.0703 STAFF REQUIRED

(a) The services of a certified alcoholism counselor, a certified drug abuse counselor or a certified substance abuse counselor shall be available on an as-needed basis to each client.

(b) The staff of an intensive outpatient service shall include a minimum of one full-time or equivalent certified alcoholism, drug abuse or substance abuse counselor for every 16 or fewer clients.

(c) If the service falls below the prescribed ratio in (b) of this Rule, and cannot meet the prescribed ratio by employing a counselor who is certified, then it may employ an uncertified counselor as long as this individual meets the certification requirements within a maximum of 24 months from the date of employment.

Statutory Authority G.S. 122C-26; 143B-147.

.0704 STAFF TRAINING

(a) Each facility shall have a training plan completed annually and documented along with documentation of attendance at training events.

(b) Each facility shall have at least one staff member on duty trained in the following areas:

- (1) cardio-pulmonary resuscitation;
- (2) seizure management;
- (3) the Heimlich maneuver or other Red Cross first aid techniques for relieving airway obstructions;
- (4) basic first aid;
- (5) alcohol and other drug withdrawal symptoms;
- (6) medication education and administration; and
- (7) symptoms of secondary complications to alcoholism and drug addiction.

(c) Each direct care staff member shall receive continuing education to include understanding of the nature of addiction, the withdrawal syndrome, group therapy, family therapy and other treatment methodologies.

(d) Each direct care staff member in an outpatient service that serves minors shall receive specialized training in youth development and therapeutic techniques in working with youth.

Statutory Authority G.S. 122C-26; 143B-147.

.0705 EMERGENCY MEDICAL SERVICES

Each facility shall have and implement written procedures for handling medical emergencies. These procedures shall include provisions for the following:

- (1) immediate access to a physician;
- (2) acute care hospital services; and
- (3) assistance from a local ambulance service, rescue squad or other trained medical personnel within 20 minutes of the service.

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0800 - OUTPATIENT METHADONE SERVICES FOR INDIVIDUALS WHO ARE NARCOTIC ABUSERS

.0801 INTRODUCTION

(a) Outpatient methadone services is a periodic service designed to offer the individual an opportunity to effect constructive changes in his lifestyle by using methadone in conjunction with the provision of rehabilitation and medical services.

(b) Methadone is also a tool in the detoxification and rehabilitation process of a narcotic dependent individual. For the purpose of detoxification, methadone is used as a substitute narcotic drug; it is administered in decreasing doses for a period not to exceed 180 days. For individuals with a history of being physiologically addicted to a narcotic for at least one year before admission to the service, methadone may also be used in maintenance treatment. In these cases, it may be administered or dispensed in excess of 180 days at relatively stable dosage levels with the treatment goal of an eventual drug-free state.

Statutory Authority G.S. 122C-26; 143B-147; 21 CFR Part 2 § 291.505; 21 CFR Part 1300.

.0802 HOURS OF OPERATION

Each service shall operate seven days per week, 12 months per year. Daily, weekend and holiday medication dispensing hours shall be scheduled to meet the needs of the client.

Statutory Authority G.S. 122C-26; 143B-147; 21 CFR Part 2 § 291.505.

.0803 COMPLIANCE WITH FDA/NIDA REGULATIONS

Each service shall be approved by the Food and Drug Administration of the United States Department of Health and Human Services and shall be in compliance with all Food and Drug Administration National Institute on Drug Abuse methadone regulations in 21 CFR

Part 2 § 291.505. These regulations are available from the Food and Drug Administration, Division of Methadone Monitoring (HFN-340), 5600 Fishers Lane, Rockville, Maryland 20857 at no cost.

Statutory Authority G.S. 122C-26; 143B-147; 21 CFR Part 2 § 291.505.

.0804 COMPLIANCE WITH DEA REGULATIONS

Each service shall be currently registered with the Federal Drug Enforcement Administration and shall be in compliance with all Drug Enforcement Administration regulations pertaining to narcotic treatment programs codified in 21 CFR, Food and Drugs, Part 1300 to end. These regulations are available from the United States Government Printing Office, Washington, D.C. 20402 at a cost of four dollars and fifty cents (\$4.50) per copy.

Statutory Authority G.S. 122C-26; 143B-147; 21 CFR Part 1300.

.0805 STAFF REQUIRED

A minimum of one certified drug abuse counselor or certified substance abuse counselor to each 50 clients shall be on the staff of the service. If the service falls below this prescribed ratio, and cannot meet the prescribed ratio by employing a counselor who is certified, then it may employ an uncertified counselor as long as this individual meets the certification requirements within a maximum of 24 months from the date of employment.

Statutory Authority G.S. 122C-26; 143B-147.

.0806 STAFF TRAINING

(a) Each facility shall have at least one staff member on duty trained in the following areas:

- (1) basic first aid;
- (2) cardio-pulmonary resuscitation;
- (3) seizure management;
- (4) the Heimlich maneuver or other Red Cross first aid techniques for relieving airway obstructions;
- (5) drug abuse withdrawal symptoms;
- (6) medication education; and
- (7) symptoms of secondary complications to drug addiction.

(b) Each direct care staff member shall receive continuing education to include understanding of the nature of addiction, the withdrawal syndrome, group therapy, family therapy and other treatment methodologies.

Statutory Authority G.S. 122C-26; 143B-147.

.0807 EMERGENCY MEDICAL SERVICES

Each service shall have and implement written procedures for handling medical emergencies. These procedures shall include provisions for the following:

- (1) immediate access to a physician;
- (2) acute care hospital services; and
- (3) assistance from a local ambulance service, rescue squad, or other trained medical personnel within 20 minutes of the service.

Statutory Authority G.S. 122C-26; 143B-147.

.0808 TAKE-HOME SUPPLIES FOR HOLIDAYS

Take-home dosages of methadone for holidays shall be authorized by the program physician on a case-by-case basis according to the following:

- (1) An additional one-day supply of methadone may be dispensed to all eligible clients (regardless of time in treatment) for Independence Day, Thanksgiving, Christmas, New Year's and other official state holidays.
- (2) No more than a three-day supply of methadone may be dispensed to any eligible client because of holidays. This restriction shall not apply to clients who are receiving a six-day take-home supply of methadone.

Statutory Authority G.S. 122C-26; 143B-147; 21 CFR § 291.505.

.0809 TREATMENT/REHABILITATION SERVICES

Each service shall have staff to provide or secure the following services:

- (1) individual, group and/or family therapy for each client;
- (2) educational counseling;
- (3) vocational counseling;
- (4) job development and placement;
- (5) money management;
- (6) nutrition education; and
- (7) referrals to supportive services including Alcoholics Anonymous, Narcotics Anonymous, legal counseling, vocational training and placement.

Statutory Authority G.S. 122C-26; 143B-147.

.0810 WITHDRAWAL FROM METHADONE

(a) The withdrawal from methadone shall be discussed with each client at the initiation

of treatment and at three month intervals thereafter.

(b) Documentation of the discussion required in (a) of this Rule and the client's reaction to the discussion shall be recorded in the client's record.

Statutory Authority G.S. 122C-26; 143B-147.

.0811 CLIENT DISCHARGE RESTRICTIONS

No client shall be discharged from the service while physically dependent upon methadone unless the client is provided the opportunity to detoxify from the drug.

Statutory Authority G.S. 122C-26; 143B-147.

SUBCHAPTER 140 - LICENSURE RULES FOR FACILITIES SERVING MORE THAN ONE DISABILITY

SECTION .0100 - ALTERNATIVE FAMILY LIVING

.0101 INTRODUCTION

(a) Alternative family living is a residential service which provides room and board and "family style" supervision and monitoring of the client's daily activities. Individuals live with a family who act as providers of supportive services. The service providers are supported by professional staff with ongoing consultation and education to the service providers in their own homes.

(b) Alternative family living may include the host home model which is a residential service that provides for placement of an individual in a private home on a contracted short-term basis with continuous supervision supplemented by treatment provided by professional staff.

(c) Each facility shall be designed primarily to serve persons with mental illness, mental retardation or other developmental disability, or substance abuse in need of a supervised living environment within a community setting.

Statutory Authority G.S. 122C-26; 143B-147.

.0102 CAPACITY

Each alternative family living facility shall serve a maximum of two clients at the same time.

Statutory Authority G.S. 122C-26; 143B-147.

.0103 PHYSICAL PLANT REQUIREMENTS

(a) A minimum of one ionized smoke detector wired into the house current shall be installed and centrally located. Additional smoke detectors that are not wired into the house current shall be checked at least monthly by the provider.

(b) A dry powder of CO(2) type fire extinguisher shall be located in the kitchen and shall be checked at least annually by the local fire department. Each client and provider shall receive instruction in its use on his/her first day of residence.

Statutory Authority G.S. 122C-26; 143B-147.

.0104 DESIGNATED QUALIFIED PROFESSIONAL

Each client admitted to a facility shall be receiving services from a qualified mental health professional, qualified developmental disabilities professional, or qualified substance abuse professional, as appropriate, who has responsibility for the client's treatment/program or case management plan.

Statutory Authority G.S. 122C-26; 143B-147.

.0105 CLIENT SUPERVISION

At least one facility staff member shall be present in the facility during hours in which a client is in the facility unless the qualified professional who has designated responsibility for the client's treatment program or case management plan has documented in the individual client plan that the client may remain in the facility without supervision in certain clearly delineated instances.

Statutory Authority G.S. 122C-26; 143B-147.

.0106 SERVICE RESPONSIBILITIES

(a) When the governing body is not the provider of services, it shall attempt to match the client's needs with the provider.

(b) Each governing body shall maintain an application on each provider which includes the following:

- (1) full name of each person living in the home;
- (2) place, telephone number and hours of employment for those family members who will be providing alternative family living services;
- (3) address, directions to and telephone number of residence; and
- (4) descriptions of sleeping arrangements for the client.

(c) Each governing body shall have a written agreement with each provider which includes but is not limited to the following:

- (1) description of the client's behavior;
 - (2) the responsibilities of the provider;
 - (3) confidentiality requirements;
 - (4) responsibility and procedures for securing emergency services;
 - (5) responsibilities for supervising the client;
 - (6) special dietary considerations;
 - (7) participation in appropriate training programs;
 - (8) responsibilities of both parties as to provision of client medical, dental, and developmental treatment services as deemed necessary;
 - (9) responsibilities for insuring that the client participates in appropriate treatment habilitation services;
 - (10) responsibilities for client transportation;
 - (11) termination clause; and
 - (12) terms of compensation.
- (d) The governing body shall maintain a signed copy of the agreement in the files, and a signed copy shall be given to the provider.

(e) Each governing body shall furnish each provider with a form for recording illness, accident or medical concerns, including administration of medication. This form shall be maintained by the governing body in the client's record.

Statutory Authority G.S. 122C-26; 143B-147.

.0107 PROVIDER TRAINING

(a) Each provider shall participate in a training program prior to the placement of a client in his/her home.

(b) The content of the training program shall include but not be limited to the following:

- (1) general overview of mental illness, mental retardation or other developmental disability, and or substance abuse, as appropriate;
- (2) administration of medication;
- (3) development of the individual treatment habilitation plan;
- (4) confidentiality;
- (5) client rights; and
- (6) principles of behavior management, if appropriate.

Statutory Authority G.S. 122C-26; 143B-147.

.0108 HOUSEKEEPING ACTIVITIES

Each facility may assign clients to routine housekeeping activities normative for his/her age and development or psychiatric status as specified in the individual client plan for services in the facility.

Statutory Authority G.S. 122C-26; 143B-147.

.0109 TRANSPORTATION

Each facility shall arrange or provide transportation for the client as specified in the individual client plan and in emergency situations.

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0200 - SUPERVISED INDEPENDENT LIVING

.0201 INTRODUCTION

Supervised independent living is a residential service which may provide room, board, and care to one or more individuals who do not need 24-hour supervision. Training, counseling, and various levels of supervision are provided as needed. Supervised independent living includes apartment living and boarding homes and shall be designed primarily to serve persons 18 years of age or older with mental illness, mental retardation or other developmental disability, or for substance abusers between 16 and 21 years of age. Supervised independent living includes apartment living and boarding homes as follows:

- (1) Apartment living is a residential service providing a supervised living environment for individuals who are preparing for independent living. Counseling and technical assistance are provided as needed. Service models may include co-resident apartments, apartment clusters and single resident apartments.
- (a) Co-resident apartment is a residential service that features one staff person, commonly called a counselor, living with one or two adults in a single apartment.
- (b) Apartment cluster is a residential service that involves residents living in several apartments in the same building or scattered sites within an apartment complex and is commonly staffed with a counselor or manager who resides within the same apartment complex.
- (c) Single resident apartment is a residential service that involves almost total independent living for adults who may

reside in a variety of settings dispersed throughout the community.

- (2) Boarding home is a residential service provided for individuals with mental illness, mental retardation or other developmental disability, or for substance abusers which provides an alternative living environment for those individuals not yet ready for successful independent living. Training may be provided in the areas of health and safety, medication administration, use of community services, management of personal funds, acquisition and refinement of self-help skills, acquisition and refinement of individualized leisure activities, and personalized counseling services. This service is generally less restrictive than group homes but more restrictive than apartment living.

Statutory Authority G.S. 122C-26; 143B-147.

.0202 CAPACITY OF BOARDING HOME

Each boarding home shall have a capacity of nine or fewer clients.

Statutory Authority G.S. 122C-26; 143B-147.

.0203 PHYSICAL PLANT REQUIREMENTS

(a) A minimum of one ionized smoke detector wired into the house current shall be installed and centrally located. Additional smoke detectors that are not wired into the house current shall be checked at least monthly by the provider.

(b) A dry powder or CO(2) type fire extinguisher shall be located in the kitchen and shall be checked at least annually by the local fire department. Each client and provider shall receive instruction in its use on his/her first day of residence.

(c) A minimum of two means of exit shall be included for each boarding home.

Statutory Authority G.S. 122C-26; 143B-147.

**.0204 PROGRAM DIRECTOR
/COORDINATOR**

Each program shall have a designated program director/coordinator.

Statutory Authority G.S. 122C-26; 143B-147.

**.0205 DESIGNATED QUALIFIED
PROFESSIONAL**

Each client admitted to a facility shall be receiving services from a qualified mental health professional, qualified developmental

disabilities professional, or qualified substance abuse professional, as appropriate, who has responsibility for the client treatment/program or case management plan.

Statutory Authority G.S. 122C-26; 143B-147.

.0206 SUPPORT SERVICES

Support services shall be made available to all clients to assist in meeting individual medical, habilitation, treatment, vocational, social and other needs.

Statutory Authority G.S. 122C-26; 143B-147.

.0207 TREATMENT/HABILITATION PLAN

With the exception of the co-resident apartment, each individual client plan shall contain documentation that the individual needs a residential service with fewer than 24 hour per day supervision, and that the intensity of supervision provided by the program is consistent with needs identified in the individual's treatment/habilitation plan.

Statutory Authority G.S. 122C-26; 143B-147.

**.0208 AGREEMENT: CLIENT/SUPERVISED
INDEPENDENT LIVING PROGRAM**

(a) A written agreement shall be negotiated between each client and the service provider which specifies the responsibilities of the client and the provider.

(b) One copy of the agreement shall be given to the client and one copy included in the client's record.

Statutory Authority G.S. 122C-26; 143B-147.

**.0209 CLIENT TRAINING IN HEALTH AND
SAFETY**

(a) Each client shall receive training concerning safe and proper methods of using kitchen and housekeeping equipment such as knives, range, exhaust fans, and other electrical appliances.

(b) Each client shall have access to first aid supplies and shall receive training in the use of these supplies.

(c) Each client shall receive instruction in obtaining services in emergency situations.

(d) Information on obtaining emergency services, including access to available telephones, shall be posted.

(e) Each client who cannot self-medicate shall be provided a training program to assist him/her to be less reliant on drug administration by staff and more self-reliant regarding drug administration.

Statutory Authority G.S. 122C-26; 143B-147.

.0210 STAFF REQUIRED: APARTMENT LIVING FOR MR/DD CLIENTS

(a) The program director/coordinator for apartment living programs serving mentally retarded or otherwise developmentally disabled clients shall be at least a high school graduate or equivalent with three years of experience in mental retardation programming but preferably a college graduate with one year of experience in mental retardation developmental disability programming.

(b) The staffing patterns of the apartment living program, including the staff client ratio and the use of volunteers, advocates and other support individuals, shall be developed in response to the degree of independence of residents and the geographical dispersal of apartment living units.

(c) The staff client ratio shall be as follows:

- (1) co-resident apartment - at least one staff member to each two clients;
- (2) apartment cluster - at least one staff member to each 12 or fewer clients; and
- (3) independent living - at least one staff member to each 15 or fewer clients.

(d) When the program director/coordinator is not available, another person shall be designated to serve in that capacity.

Statutory Authority G.S. 122C-26; 143B-147.

.0211 STAFF REQUIRED: APARTMENT LIVING PROGRAMS FOR MI/SA

(a) Sufficient staff members shall be available to the apartment living programs serving mentally ill and substance abuse clients to assist clients in the development of necessary skills.

(b) Live-in staff shall not be required except in co-resident apartments.

Statutory Authority G.S. 122C-26; 143B-147.

.0212 STAFF REQUIRED: BOARDING HOMES

(a) Sufficient staff members shall be available to the boarding home to assist clients in the development of necessary skills.

(b) Live-in staff shall not be required.

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0300 - RESIDENTIAL THERAPEUTIC (HABILITATIVE) CAMPS FOR CHILDREN AND ADOLESCENTS

.0301 INTRODUCTION

(a) A residential therapeutic (habilitative) camp is a residential treatment service provided in a camping environment which is designed to help individuals develop behavior control, coping skills, self-esteem and interpersonal skills. Services may include supervised peer interaction, provision of healthy adult role models, and supervised recreational, educational and therapeutic experiences.

(b) Each residential therapeutic (habilitative) camp shall be designed to serve children and adolescents six through 17 years of age who are emotionally disturbed or who have mental retardation or other developmental disabilities.

(c) These Rules are not applicable to facilities designed primarily for recreational purposes or those subject to regulation by the N.C. Division of Youth Services.

Statutory Authority G.S. 122C-26; 143B-147.

.0302 BEDROOM/BATH FACILITIES

(a) All sleeping units shall provide at least the following space:

- (1) 30 square feet per person;
- (2) six feet between heads of sleepers; and
- (3) 30 inches between sides of beds.

(b) A minimum of the following shall be provided:

- (1) one shower head for each ten individuals;
- (2) one flush toilet for each ten individuals; and
- (3) one handwashing facility, adjacent to toilet facilities, for each 20 individuals.

Statutory Authority G.S. 122C-26; 143B-147.

.0303 EQUIPMENT AND SUPPLIES

(a) Gasoline, kerosene and other flammable materials shall be stored in covered safe containers plainly labeled as to content. Storage shall be in a well-ventilated, secure location.

(b) All power tools, including mowers and trimmers, shall have the necessary safety devices and shall be used according to manufacturer's instruction, maintained in good repair, and used only by those persons trained and experienced in their safety. When campers are using such equipment, a trained and responsible adult shall be present. All power tools shall be stored in a locked place not occupied by individuals when the tools are not in use.

(c) Fire extinguishers shall be available in all areas so designated by fire officials and shall

be properly charged and have a current inspection label.

Statutory Authority G.S. 122C-26; 143B-147.

.0304 STAFF REQUIRED

(a) Each camp designed primarily to serve campers who are emotionally disturbed shall have a program director who has a minimum of two years' experience in child/adolescent mental health services, who has camping experience, and who has educational preparation in administrative, education, social work, nursing, psychology or a related field.

(b) Each camp designed primarily to serve campers who are mentally retarded or otherwise developmentally disabled shall have a program director who has a minimum of two years' experience in mental retardation or other developmental disability services, who has camping experience, and who has educational preparation in administration, education, social work, nursing, psychology or a related field.

Statutory Authority G.S. 122C-26; 143B-147.

.0305 DESIGNATED QUALIFIED PROFESSIONAL

Each client admitted to a facility shall be receiving services from a qualified mental health professional or qualified developmental disabilities professional, as appropriate, who has responsibility for the client's treatment/program or case management plan.

Statutory Authority G.S. 122C-26; 143B-147.

.0306 STAFF/CAMPER RATIO

(a) A minimum of two staff members shall be on duty for every eight or fewer campers.

(b) The emergency on-call staff shall be readily available by page and able to reach campers within one hour.

Statutory Authority G.S. 122C-26; 143B-147.

.0307 STAFF AVAILABILITY

(a) During waking hours, staff shall be within sight or voice range of the campers.

(b) During sleeping hours, staff shall be located within voice range of the campers.

Statutory Authority G.S. 122C-26; 143B-147.

.0308 TRAINING OF STAFF

(a) Staff assigned to the program shall be trained to manage the children/adolescents individually and as a group.

(b) Each facility shall have at least one staff member trained in basic first aid, cardio-pulmonary resuscitation, seizure management and the Heimlich maneuver or other Red Cross first aid techniques for relieving airway obstructions.

Statutory Authority G.S. 122C-26; 143B-147.

.0309 MEDICAL STATEMENT

(a) Each staff member who works directly and on a regularly scheduled basis with clients shall submit a medical statement from a licensed physician or an authorized health professional under his/her supervision to the program at the time of initial employment and annually thereafter.

(b) The medical statement shall be in any written form but shall indicate the general physical and mental health of the individual and the lack of evidence of active tuberculosis and/or other communicable diseases.

(c) The program shall keep the most recent medical statement on file.

Statutory Authority G.S. 122C-26; 143B-147.

.0310 PROVISION OF APPROPRIATE ACTIVITIES

Each camp shall provide activities appropriate to the functioning level of the child/adolescent.

Training in language/communication skills, fine and gross motor skills, cognitive skills, social relationship skills and recreation skills shall be provided as specified in the individual client plan.

Statutory Authority G.S. 122C-26; 143B-147.

.0311 EMERGENCY MEDICAL TREATMENT

Emergency medical treatment shall be available within one hour of the camp.

Statutory Authority G.S. 122C-26; 143B-147.

.0312 PSYCHIATRIC CONSULTATION

Psychiatric consultation shall be available on an as-needed basis to the camp.

Statutory Authority G.S. 122C-26; 143B-147.

.0313 SCHEDULE OF DAILY ACTIVITIES

Each camp shall have a written schedule of daily activities which shall be posted in a place accessible to children/adolescents and staff.

Statutory Authority G.S. 122C-26; 143B-147.

.0314 BASIC SAFETY

(a) Each camp shall develop and implement written policies and procedures on basic care and safety.

(b) The policies and procedures shall address at least the following:

- (1) clothing suitable for existing weather conditions;
- (2) cross ventilation in all sleeping units;
- (3) bathing facilities with warm water;
- (4) storage of flammable materials;
- (5) use of tools and sharp instruments;
- (6) use of cooking facilities and equipment; and
- (7) beds or lockers no closer than five feet to any heating unit.

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0400 - THERAPEUTIC HOMES FOR CHILDREN AND ADOLESCENTS

.0401 INTRODUCTION

(a) A therapeutic home is a residential program primarily located in a private residence which provides professionally trained parent-substitutes who work intensively with individuals in providing for their living, socialization, therapeutic and skill-learning needs. The parent-substitutes have skills and training above those of alternative family living service providers and receive close supervision and support from program staff. The program may utilize services from a facility providing treatment services such as outpatient or day treatment.

(b) Services in the therapeutic home are designed to provide a healthy adult role model for both emotionally disturbed children and for those children who have substance abuse-related problems. These services are provided in a home environment and utilize other treatment facilities.

(c) Each therapeutic home shall be designed primarily to serve either emotionally disturbed children and adolescents, those children and adolescents with substance abuse-related problems, or both, under 18 years of age who need a therapeutic residential setting providing training and support toward the development of independent living skills.

Statutory Authority G.S. 122C-26; 143B-147.

.0402 CAPACITY

Each therapeutic home shall serve no more than two individuals.

Statutory Authority G.S. 122C-26; 143B-147.

.0403 HOURS OF OPERATION

Services shall be available for 24 hours per day during times when a client is in residence.

Statutory Authority G.S. 122C-26; 143B-147.

.0404 DESIGNATED QUALIFIED PROFESSIONAL

Each client admitted to a facility shall be receiving services from a qualified mental health professional or qualified substance abuse professional, as appropriate, who has responsibility for the client's treatment/program or case management plan.

Statutory Authority G.S. 122C-26; 143B-147.

.0405 STAFF/CLIENT RATIO

A minimum of one therapeutic home parent shall be present with clients at all times unless the designated qualified professional has documented in the individual client plan that the client may be without supervision in certain clearly delineated instances.

Statutory Authority G.S. 122C-26; 143B-147.

.0406 ADMISSION CRITERIA

(a) Admission to the facility shall be a joint decision of the designated qualified professional, the provider and the client or the legally responsible person.

(b) The client shall have the opportunity for at least one pre-admission visit to the home except for an emergency admission.

Statutory Authority G.S. 122C-26; 143B-147.

.0407 TRAINING OF THERAPEUTIC HOME PARENTS

The individual(s) identified as the therapeutic home parent(s) shall receive pre-service training in treatment services for the client for whom they are providing care. This training shall be documented in the program's personnel files. Training shall include, but not be limited to, the following:

- (1) child/adolescent development;
- (2) dynamics of emotionally disturbed /substance abusing youth and families;
- (3) symptoms of substance abuse;
- (4) needs of emotionally disturbed /substance abusing youth in residential settings;
- (5) administration of medication;
- (6) confidentiality;
- (7) client rights; and

- (8) development of the individual treatment plan.

Statutory Authority G.S. 122C-26; 143B-147.

.0408 AGREEMENT WITH THERAPEUTIC HOME PARENTS

(a) When the governing body is not the provider of services, the governing body and the involved providers shall have a written agreement with the therapeutic home parent(s), which includes, but is not limited to, the following:

- (1) responsibility of the governing body and the therapeutic home parents;
- (2) confidentiality requirements;
- (3) responsibility and procedures for securing emergency services;
- (4) terms of compensation; and
- (5) availability of the therapeutic home parents, including provision of vacation time(s) and periods of respite relief for the therapeutic home parents.

(b) A signed copy of the agreement shall be maintained in the program files and a copy given to the therapeutic home parents.

Statutory Authority G.S. 122C-26; 143B-147.

.0409 COORDINATION OF TREATMENT AND EDUCATION

(a) The program staff and therapeutic home parents shall coordinate the client's individual plan with his/her educational program.

(b) The program staff and therapeutic home parents shall have conferences, at least quarterly, with teachers or principals regarding the client, as well as with juvenile court personnel and other relevant caretakers. The client's parents or legally responsible person shall be included as indicated by statute and program staff.

Statutory Authority G.S. 122C-26; 143B-147.

.0410 ROLE OF PARENT(S) OR THE LEGALLY RESPONSIBLE PERSON

(a) The client's parent(s) or the legally responsible person shall have the opportunity to participate in the development and implementation of the client's individual treatment plan.

(b) A report to the parent(s) or the legally responsible person shall be submitted when feasible at least every three months. Reports may be in writing or take the form of a conference and shall focus on the client's progress.

Statutory Authority G.S. 122C-26; 143B-147.

.0411 APPLICATION FOR THERAPEUTIC HOME PARENTS

Each program which provides services through contracts with the therapeutic home parents to serve clients in their home shall maintain an application file which includes:

- (1) full name(s) of each person living in the home;
- (2) names of family members responsible for client supervision and their supervision schedules; and
- (3) address, directions to and telephone number of the home.

Statutory Authority G.S. 122C-26; 143B-147.

.0412 CLINICAL CONSULTATION

(a) Clinical consultation to each home shall be provided by a qualified mental health professional based on client needs if a mental health client resides in the home.

(b) Clinical consultation shall be provided to each home by a qualified alcoholism, drug abuse or substance abuse professional at least once a week if a substance abuser resides in the home.

Statutory Authority G.S. 122C-26; 143B-147.

.0413 DAILY ACTIVITIES

Daily activities shall be as consistent as possible with the basic routines of the family, including individual and organization recreational activities, field trips and experiences within the community.

Statutory Authority G.S. 122C-26; 143B-147.

.0414 DAY PROGRAM

Each client shall participate in a day program designed to meet his/her educational, vocational and employment needs.

Statutory Authority G.S. 122C-26; 143B-147.

.0415 HOUSEKEEPING ACTIVITIES

Each client may be assigned to participate in routine housekeeping activities consistent with his/her age and clinical status.

Statutory Authority G.S. 122C-26; 143B-147.

.0416 PERSONAL HYGIENE

Each client shall be provided instruction in good health practices pertaining to personal hygiene and grooming.

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0500 - DAY ACTIVITY

.0501 INTRODUCTION

Day activity is a day night service which provides supervision and an organized program during a substantial part of the day in a group setting to adults and elderly individuals who are mentally ill or substance abusers. Participation may be on a scheduled or drop-in basis. The service is designed to support the individual's personal independence and promote social, physical and emotional well-being through activities such as social skills development, leisure activities, training in daily living skills, improvement of health status, and utilization of community resources.

Statutory Authority G.S. 122C-26; 143B-147.

.0502 HOURS OF OPERATION

Each day activity program shall be available three or more hours a day on a regularly scheduled basis at least once a week.

Statutory Authority G.S. 122C-26; 143B-147.

.0503 STAFF REQUIRED

Each program shall have at least one staff member on site at all times that clients are present in the facility.

Statutory Authority G.S. 122C-26; 143B-147.

.0504 DESIGNATED QUALIFIED PROFESSIONAL

Each client admitted to a facility shall be receiving services from a qualified mental health professional or qualified substance abuse professional, as appropriate, who has responsibility for the client's treatment program or case management plan.

Statutory Authority G.S. 122C-26; 143B-147.

.0505 PLAN FOR PROGRAM ACTIVITIES

(a) Each day activity program shall have planned activities which shall include one or more of the following:

- (1) development of interpersonal skills;
- (2) development of daily living skills such as meal preparation, money management, use of transportation, or leisure time;
- (3) development of personal care skills such as grooming, health care or nutrition; and
- (4) assistance with obtaining other needed services.

(b) The planned program activities shall be designed to enhance the client's social, physical and emotional well-being.

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0600 - SHELTERED WORKSHOPS

.0601 INTRODUCTION

(a) A sheltered workshop is a day/night service which provides work-oriented services including various combinations of evaluation, developmental skills training, vocational adjustment, job placement, and sheltered employment to individuals of all disability groups 16 years of age or over who have potential for gainful employment. This service is designed for individuals who have demonstrated that they do not require the intensive training and structure found in programs such as Adult Developmental Activity Programs (ADAP) but have not yet acquired the skills necessary for competitive employment. It provides the individual opportunity to acquire and maintain life skills including appropriate work habits, specific job skills, self-help skills, socialization skills, and communication skills. This service focuses on vocational productive work activities for individuals who have potential for gainful employment as determined by Vocational Rehabilitation Services or the ability to participate in a sheltered employment program. Sheltered workshops are subject to Department of Labor Federal Wage and Hour Guidelines for the Handicapped.

(b) The Rules in this Section specify licensure requirements applicable to sheltered workshops which serve individuals who are primarily mentally retarded or otherwise developmentally disabled; however, individuals with mental illness, substance abuse and severely physically disabled individuals may also be served within a sheltered workshop.

Statutory Authority G.S. 122C-26; 143B-147.

.0602 COMPLIANCE WITH OTHER RULES

Sheltered workshops which are subject to rules and regulations of the North Carolina Division of Vocational Rehabilitation Services shall not be subject to licensure under the provisions of G.S. 122C, Article 2.

Statutory Authority G.S. 122C-26; 143B-147.

.0603 HOURS OF OPERATION

Sheltered workshop services shall be available for client attendance at least six hours per day

(exclusive of transportation time), five days per week, 12 months per year.

Statutory Authority G.S. 122C-26; 143B-147.

.0604 PHYSICAL PLANT REQUIREMENTS

(a) Each facility shall be inspected annually by an outside safety consultant with written documentation and follow-up on recommendations.

(b) Each facility shall be designed and equipped to promote the training and adult status of clients.

(c) Each facility shall eliminate architectural barriers which prohibit access to the building and use of equipment and facilities.

(d) Each facility shall provide adequate toilet facilities and drinking fountains for clients.

Statutory Authority G.S. 122C-26; 143B-147.

.0605 PROVISION FOR CLASSROOM SPACE

Each facility shall have designated space for classroom activities.

Statutory Authority G.S. 122C-26; 143B-147.

.0606 PROGRAM DIRECTOR

(a) Each sheltered workshop shall have a designated full-time program director.

(b) The program director shall be at least a high school graduate or equivalent with three years of experience in mental retardation/developmental disability programming, but preferably a college degree with one year of experience in mental retardation or other developmental disability rehabilitation programming.

Statutory Authority G.S. 122C-26; 143B-147.

.0607 DIRECTOR/COORDINATOR

(a) Each sheltered workshop shall have a designated full-time director/coordinator.

(b) The director/coordinator shall be at least a high school graduate or equivalent with three years of experience in mental retardation/developmental disability programming, but preferably a college degree with one year of experience in mental retardation/developmental disability programming.

Statutory Authority G.S. 122C-26; 143B-147.

.0608 CLIENT/STAFF RATIO

Each sheltered workshop shall maintain an overall direct service ratio of at least one full-

time or full-time equivalent direct service staff member for each ten or fewer clients.

Statutory Authority G.S. 122C-26; 143B-147.

.0609 CLIENT EVALUATOR

(a) At least one staff member shall be designated as a client evaluator.

(b) The client evaluator shall have at least a high school diploma, but preferably a college degree, and shall have completed a five day inservice training program in the evaluation component of a licensed ADAP or sheltered workshop or in another training program approved by DMH/MR/SAS.

Statutory Authority G.S. 122C-26; 143B-147.

.0610 CLIENT RE-EVALUATION

(a) Each client shall be re-evaluated at least annually.

(b) The re-evaluation shall include, but not be limited to, the following:

- (1) a written summary of the client's yearly progress to date;
- (2) standardized and non-standardized assessments when deemed appropriate and applicable and correlated with the original assessment; and
- (3) assessment of the attainment of the individual program plan.

Statutory Authority G.S. 122C-26; 143B-147.

.0611 PROMOTION OF CLIENTS' RIGHTS

Clients shall be counseled concerning their rights and responsibilities as participants in the program in such matters as wages, hours, working conditions, social security, redress for injury and the consequences of their own tortuous or unethical conduct.

Statutory Authority G.S. 122C-26; 143B-147.

.0612 USE OF PUBLIC TRANSPORTATION BY CLIENTS

Clients served by the sheltered workshop shall be encouraged to use public transportation if available.

Statutory Authority G.S. 122C-26; 143B-147.

.0613 CLIENT HANDBOOK

(a) Each sheltered workshop shall have a client handbook including, but not limited to, information about its services and activities.

(b) The client handbook shall be written in a manner comprehensible to clients and reflective of adult status.

(c) Each client shall be given a handbook and the handbook shall be reviewed with the client.

Statutory Authority: G.S. 122C-26; 143B-147.

.0614 ACTIVITIES AND SERVICES

(a) Activities and services shall be designed and implemented with adherence to the principles of normalization.

(b) Activities shall be provided in groups designed to promote community integration.

(c) Activities and services shall be aimed at increasing age-appropriate actions, image and appearance of the clients.

(d) Activities and services shall be directed toward the preparation of the client to live as independently as possible.

Statutory Authority: G.S. 122C-26; 143B-147.

.0615 BUSINESS PRACTICES

(a) Supplies, materials or tools, if provided by the sheltered workshop, shall be identified as a separate amount in the bid price.

(b) Wages paid to sheltered workshop clients shall be on a piece rate or hourly commensurate wage.

(c) Each client involved in productive work shall receive a written statement for each pay period which indicates gross pay, hours worked and deductions.

(d) Prices for goods produced in the sheltered workshop shall be equal to or exceed the cost of production (including commensurate wages, overhead, tools and materials).

Statutory Authority: G.S. 122C-26; 143B-147.

.0616 ACCIDENT REPORTING

A written plan shall be established for the reporting of all accidents that occur during sheltered workshop activities, whether or not they give rise to injuries requiring medical treatment. The accident report shall contain the following information:

- (1) identity of persons involved;
- (2) place of accident;
- (3) time of accident;
- (4) name of responsible supervisor;
- (5) description of the accident; and
- (6) emergency services rendered.

Statutory Authority: G.S. 122C-26; 143B-147.

.0617 SAFETY COMMITTEE

(a) A safety committee comprised of staff members and client representatives shall be

appointed to review accident reports and to monitor the sheltered workshop for safety.

(b) The safety committee shall meet at least quarterly.

(c) Minutes shall be kept of all meetings and submitted to the program director with recommendations for needed changes.

Statutory Authority: G.S. 122C-26; 143B-147.

.0618 SAFETY EDUCATIONAL PROGRAM

Each facility shall provide an ongoing educational program for staff and clients designed to teach them the principles of accident prevention and control of specific hazards.

Statutory Authority: G.S. 122C-26; 143B-147.

.0619 SUSPENSIONS AND DISMISSALS

(a) Each sheltered workshop shall establish written criteria and procedures for client suspensions and dismissals.

(b) Dismissal shall be the result of a staff assessment which shall include, but not be limited to, those behavior(s) judged to be harmful to self or others.

(c) Suspensions shall be the result of a staffing process and shall be for a specific time period, with all suspensions reported to the referral agency if the agency has maintained an active relationship with the client since the time of referral.

Statutory Authority: G.S. 122C-26; 143B-147.

CHAPTER 18 - MENTAL HEALTH; OTHER PROGRAMS

SUBCHAPTER 18I - GENERAL REQUIREMENTS

SECTION .0100 - PURPOSE; SCOPE; APPLICABILITY AND DEFINITIONS

.0120 DEFINITIONS

(a) For the rules contained in Subchapter 18I through 18Q of this Chapter the following definitions apply:

- (1) "Active Client - Mental Health Treatment" means treatment provided for a client who;
 - (~~a~~) (A) has a written plan of treatment, with specific goals and time frames;
 - (~~b~~) (B) is receiving treatment in accordance with the plan; and
 - (~~c~~) (C) has met face to face with a staff member within the past 90 days.

- (2) "Active Client - Substance Abuse Treatment" means treatment provided for a client who:
- (a)(A) has a written plan of treatment, with specific goals and time frames;
 - (b)(B) is receiving treatment in accordance with the plan; and
 - (c)(C) has met face to face with a staff member within the past 30 days.
- (3) "Active Client - Mental Retardation Habilitation" means developmental programming for an individual who is mentally retarded which is provided under the auspices of the area program or its contract agencies and initiated with the development of an individual program plan and ceasing when the client enters follow along status.
- (4) "Administering Medication" means the term as defined in 10 NCAC 14K .0103. ~~direct application of a medication whether by injection, inhalation, ingestion, or any other means to the client.~~
- (5) "Affective Education" means teaching the individual to work with his own and others' feelings and emotions for the primary purpose of understanding or modifying behavior and improving skills for making healthy, responsible decisions and for communicating effectively.
- (6) "Alcohol Abuse" means the term as defined in 10 NCAC 14K .0103. ~~the pathological use of alcohol for at least one month that causes impairment in social or occupational functioning.~~
- (7) "Alcohol Dependence" (alcoholism) means the term as defined in 10 NCAC 14K .0103. ~~either the pathological use of alcohol or impairment in social or occupational functioning due to alcohol consumption. Alcohol dependence also includes the development of a state of tolerance for alcohol and the manifestation of the withdrawal syndrome following the cessation or reduction in the intake of alcohol. The diagnosis of alcohol dependence does not imply or include the diagnosis of mental illness even though a dual primary diagnosis for both alcohol dependence and mental illness may coexist.~~
- (8) "APSM 35-1" means "Standard for Area Programs and Their Contract Agencies" as codified in 10 NCAC 181 through 18Q and published by the division.
- (9) "Area Authority" (area mental health, mental retardation and substance abuse authority) means the governing unit established by a board (or boards) of county commissioners, with the approval of the Department of Human Resources and the commission, which is delegated the authority to serve as the comprehensive planning, budgeting, implementing and monitoring body for community-based mental health, mental retardation and substance abuse programs.
- (10) "Area Board" means a body of local officials appointed by county commissioners and delegated to serve as the governing body of the area authority. The board thus appointed is the area authority for the purposes of these standards.
- (11)(9) "Area Director" means an employee of the area board who is appointed by the area board with the approval of the division director according to the procedures delineated in division publication APSR 105-1. The area director is responsible for the appointment of staff, for implementation of the policies and programs of the board, compliance with the standards of the commission, and for the supervision of all staff and service programs under the auspices of the area board.
- (12)(10) "Area Program" means the term as defined in 10 NCAC 14K .0103. For purposes of these Rules, the term "area program" means the same as "area authority" as defined in 122C-3. ~~a legally constituted public agency providing mental health, mental retardation and substance abuse services for a catchment area designated by the commission.~~
- (13)(11) "Assessment" Service means the term as defined in 10 NCAC 14K .0103. ~~a service provided to individuals for the purpose of determining the nature and extent of the problem for which the individual is seeking services. Referral services which direct, guide or link the individual to other service(s) are provided as indicated.~~
- (12) "Atypical development" means the term as defined in 10 NCAC 14K .0103.
- (14)(13) "Behavior Modification" means the quantifiable application of one or more contingencies in a deliberate attempt to increase or decrease the fre-

- quency of a specified action or behavior of an individual.
- ~~(15)~~(14) "Catchment Area" means a geographic portion of the state served by a specific area mental health, mental retardation and substance abuse authority as specified in 10 NCAC 18W .0001-.0003 (division publication APSE 105-2).
- ~~(16)~~(15) "Certified alcoholism counselor" means an individual who is certified by the North Carolina ~~Alcoholism Counselor~~ Substance Abuse Professional Certification Board.
- ~~(17)~~(16) "Certified drug abuse counselor" means an individual who is certified by the North Carolina Drug Substance Abuse Professional Certification Board.
- ~~(18)~~(17) "Certified substance abuse counselor" means an individual who is certified by the North Carolina ~~Alcoholism Counselor Certification Board and by the North Carolina Drug Substance Abuse Professional Certification Board~~.
- (18) "Child" means the term as defined in 10 NCAC 14K .0103.
- (19) "Chronically mentally ill adult" means the term as defined in 10 NCAC 14K .0103. ~~an individual 18 years of age or older who as a result of mental illness:~~
- ~~(a) has experienced three or more episodes (the number of service program enrollments during a period of time) of treatment less intensive than inpatient in the last year; or has experienced two psychiatric hospitalizations in a 12-month period; or has had a total of at least 12 months of psychiatric treatment; and~~
 - ~~(b) also suffers impaired role functioning requiring long-term intervention in two or more of the following areas: vocational, social, financial, residential, recreational, or basic life skills.~~
- ~~(20)~~ "Client" means an individual who is admitted to, and receiving services from, an area program or a component of the area program or contract agency. Within the context of the standards client is used interchangeably with "patient", "member", "child" and "resident."
- ~~(21)~~(20) "Client care evaluation study" means evaluation of the quality of services by measuring actual services against specific criteria through collection of data, identification and justification of variations from criteria, analysis of unjustified variations, corrective action, and follow-up study.
- ~~(22)~~(21) "Clinical staff member" means the term as defined in 10 NCAC 14K .0103. ~~a professional who provides active treatment to a client.~~
- ~~(23)~~ "Commission" means Commission for Mental Health, Mental Retardation and Substance Abuse Services.
- ~~(24)~~(22) "Component" or "program component" means a service developed to meet a particular need. The program component is provided either through operation by the area program or through contract with a public or private agency.
- ~~(25)~~(23) "Contract agency" means a legally constituted entity with which the area program contracts for a service(s) as defined in the standards exclusive of intermittent purchase of service for an individually identified client.
- ~~(26)~~(24) "Criminal justice system" means a network which includes such elements as law enforcement, attorneys, the judiciary, adult corrections programs, (including prisons, probation and parole) and youth corrections programs.
- ~~(27)~~(25) "Day night service" means a service provided on a regular basis in a structured environment for a specified portion of a 24-hour period for the purposes of socialization, reintegration into the community, work readiness, rehabilitation, recreation, or as an alternative to hospitalization.
- ~~(28)~~(26) "Detoxification" means the term as defined in 10 NCAC 14K .0103. ~~the physical withdrawal of an individual from alcohol or other drugs in order that the individual can participate in rehabilitation activities.~~
- ~~(29)~~ "Developmental Disability" means a severe, chronic disability of a person which:
- ~~(a) is attributable to a mental or physical impairment or combination of mental and physical impairments;~~
 - ~~(b) is manifested before the person attains age twenty-two;~~
 - ~~(c) is likely to continue indefinitely;~~
 - ~~(d) results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, capacity for independent living, learning,~~

mobility, self-direction and economic sufficiency; and

(e) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

(27) "Developmentally delayed children" means the term as defined in 10 NCAC 14K .0103.

(30)(28) "Direct care staff" means the term as defined in 10 NCAC 14K .0103, an individual who provides care, treatment or rehabilitation habilitation services to clients on a continuous and regularly scheduled basis.

(34)(29) "Disability group" means either the mentally retarded, mentally ill, or substance abusers.

(32)(30) "Disaster relief planning" means arranging for the provision of crisis counseling to survivors of major natural or man made catastrophies in accordance with the provisions of P.L. 93-288.

(33)(31) "Dispensing medication" means the term as defined in 10 NCAC 14K .0103, issuing to a client, or to a person acting on his behalf, one or more unit doses of a medication in a suitable container with appropriate labeling.

(34)(32) "Division" means the same as the term "DMH MR SAS" as defined in 10 NCAC 14K .0103. Division of Mental Health, Mental Retardation and Substance Abuse Services of the North Carolina Department of Human Resources.

(35)(33) "Documentation" means the term as defined in 10 NCAC 14K .0103, provision of written, dated and authenticated evidence of the delivery of client services or compliance with standards, e.g., entries in the client record, policies and procedures, minutes of meetings, memoranda, reports, schedules, notices and announcements.

(36)(34) "Drug abuse" means the term as defined in 10 NCAC 14K .0103, the pathological use of drugs for at least one month that causes impairment in social or occupational functioning.

(37)(35) "Drug dependence" (addiction) means the term as defined in 10 NCAC 14K .0103, physiological dependence evidenced by either the development of a state of tolerance or the manifestation of the withdrawal syndrome following

the cessation or reduction in the use of the drug. Drug dependence in most instances is manifested by a pattern of pathological drug use that causes impairment in social or occupational functioning. For Cannabis dependence a pattern of pathological use or impairment in social or occupational functioning is present. The diagnosis of drug dependence does not imply or include the diagnosis of mental illness, even though a dual primary diagnosis for both drug dependence and mental illness may coexist.

(38)(36) "Emergency service" means an assessment service which is provided on a 24-hour non-scheduled basis to individuals for immediate screening/assessment of presenting problems. Crisis intervention or referral to other services are provided as indicated. These services may be provided either in a hospital or non-hospital setting.

(39) "Exception" means an individual situation in which the commission indicates by a final agency decision in a contested case that an area program or contract agency is not required to comply with a specific standard. An exception to a standard is granted according to the provision of 10 NCAC 18J .0118.

(40) "Facility" means the physical area, including both buildings and grounds, which is under the auspices of the program component.

(41)(37) "First aid" means the term as defined in 10 NCAC 14K .0103, emergency treatment for injury or sudden illness before regular medical care is available. First aid includes artificial respiration, the Heimlich maneuver, care of wounds and burns, and temporary administering of splints.

(42)(38) "Follow along" (for mental retardation client) (clients) means provision by the agency for a continuing relationship with the client for the purpose of assuring that the client's changing needs are recognized and appropriately met.

(43)(39) "Foster Parent" means an individual who provides substitute care for a planned period for a child when his own family or legal guardian cannot care for him; and who is licensed by the N.C. Department of Human Resources and supervised by the County Depart-

- ment of Social Services or by a private program licensed or approved to engage in child care or child placing activities.
- (44)(40) "Governing body" means the term as defined in 10 NCAC 14K .0103, those person who by law, charter, articles of incorporation, partnership agreement, or other legally recognized manner have full legal authority for the overall operation of the program.
- (45) "Guardian" means a person appointed by a court of competent jurisdiction for the purpose of performing duties related to the care, custody or control of the client which include, but are not limited to, consenting for medical-surgical procedures or treatment procedures and handling of business or legal affairs. In the case of a minor, "guardian" means a parent or person standing in loco parentis excluding the component.
- (46) "Habilitation" means education, training, care and specialized therapies undertaken to assist a client in achieving or maintaining progress in developmental skill areas.
- (47)(41) "He His Him" means pronouns used throughout these standards for convenience and consistency for reference to both sexes.
- (42) "High risk children" means the term as defined in 10 NCAC 14K .0103.
- (48)(43) "Hours of operation" means the term as defined in 10 NCAC 14K .0103, an indication of the minimum operational hours that a service is expected to be available to clients, but not prohibiting the typical closing of a service to accommodate holidays, vacations, staff development activities and weather and facility related conditions.
- (49)(44) "Individual goal plan" (for clients who are mentally retarded) with mental retardation or otherwise developmentally disabled) means the term as defined in 10 NCAC 14K .0103, a written plan which includes measurable, date specific, short range objectives which are assessed and developed or re-stated at least quarterly based on the strengths and needs of the client and which identifies specific staff responsibilities and relates to the annual individual program plan.
- (50)(45) "Individual program plan" (for clients who are mentally retarded) with mental retardation or otherwise developmentally disabled) means the term as defined in 10 NCAC 14K .0103, a written plan which includes long range objectives for the client based on evaluations, observations and other client assessment data and which is established within 60 days following admission of the client and assessed and redeveloped at least annually from the date of placement.
- (51)(46) "Individualized education program" means a written statement for a child with special needs that is developed and implemented pursuant to 16 NCAC 2E .1500 (Rules Governing Programs and Services for Children with Special Needs) available from the Department of Public Instruction.
- (52)(47) "Individual treatment plan" (for mental health substance abuse clients) means the term as defined in 10 NCAC 14K .0103, a plan of treatment for the client initiated within 24 hours of admission to a treatment program (preliminary treatment plan) and implemented at least within 30 days of admission. The plan contains time-specific short and long term goals and identifies direct care staff responsible for the provision of treatment and rehabilitation services to the client. The individual treatment plan is synonymous with the individual service plan.
- (48) "Infant" means the term as defined in 10 NCAC 14K .0103.
- (53)(49) "Inpatient service" means a service provided in a hospital setting on a 24-hour basis under the direction of a physician. The service provides continuous, close supervision for individuals with moderate to severe mental health or substance abuse problems.
- (54)(50) "Justice treatment services" means consultation, treatment or educational services offered by the area program to components of the criminal justice system for individuals who have been indicted, prosecuted or incarcerated.
- (55)(51) "Legend Drug" means the term as defined in 10 NCAC 14K .0103, a drug that cannot be dispensed without a prescription.
- (56) "Mechanical Restraint" means limitation of the client's freedom of movement with the intent of controlling behavior by mechanical devices which include, but are not limited to, cuffs, ankle straps, sheets or restraining shirts. It does not include therapeutic restraint

or enabling devices used for medical conditions or to assist a non-ambulatory client to maintain a normative body position. It also does not include handcuffs used for escorting purposes with forensic clients.

~~(57)~~(52) "Medication" means the term as defined in 10 NCAC 14K .0103, a substance recognized in the official "United States Pharmacopoeia" or "National Formulary" intended for use in the diagnosis, mitigation, treatment or prevention of disease.

~~(58)~~ "Mental Illness" means an emotional disorder which so lessens the capacity of the person to use self-control, judgment and discretion in the conduct of his affairs and social relations as to make it necessary or advisable for him to be under treatment, supervision, guidance or control.

~~(59)~~ "Mental Retardation" means significantly subaverage (i.e., two or more standard deviations below the mean) general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period (i.e., before age 18).

~~(60)~~(53) "Minor client" means the term as defined in 10 NCAC 14K .0103, a person under 18 years of age who has not been married or who has not been emancipated by a decree issued by a court of competent jurisdiction or is not a member of the armed forces.

~~(61)~~(54) "Normalization principle" means the principle of helping individuals to obtain an existence as close to normal as possible by making available to them patterns and conditions of every day life that are as close as possible to the norms and patterns of the mainstream of society.

~~(62)~~(55) "Nurse" means the term as defined in 10 NCAC 14K .0103, a person licensed to practice in the State of North Carolina either as a registered nurse or as a licensed practical nurse.

~~(63)~~(56) "Parent" means the term as defined in 10 NCAC 14K .0103, the biological or adoptive mother or father of a minor client, or the person standing in loco parentis excluding the facility, or the legal guardian of a minor client.

~~(64)~~(57) "Peer review" means the formal assessment by professional staff of the quality and efficiency of services or-

dered or performed by other professional staff.

~~(65)~~(58) "Periodic service" means a service provided through short recurring visits for individuals who are mentally ill, mentally retarded or substance abusers who can function in their normal environment.

~~(66)~~ "Physician" means a medical doctor who is licensed to practice medicine in the State of North Carolina under the provisions of G.S. 90-18.

~~(67)~~ "Practicing Psychologist" means a psychologist who is licensed as a practicing psychologist in the State of North Carolina.

~~(68)~~(59) "Prevention/intervention service" means a service provided to the general public or major segments of a community. Service activities include counseling, information, instruction, and technical assistance with the goals of preventing dysfunction and promoting well being.

~~(69)~~(60) "Privileging" means a process by which each staff member's credentials, training and experience are examined and a determination made as to which treatment/habilitation modalities he is qualified to provide.

~~(70)~~(61) "Program evaluation" means the term as defined in 10 NCAC 14K .0103, the systematic documented assessment of program activity to determine the effectiveness, efficiency, and scope of the system under investigation, to define its strengths and weaknesses and thereby to provide a basis for informed decision making.

~~(71)~~(62) "Psychiatric nurse" means the term as defined in 10 NCAC 14K .0103, an individual who is licensed to practice as a registered nurse in the State of North Carolina by the North Carolina Board of Nursing and who is a graduate of an accredited master's level program in psychiatric mental health nursing with two years of experience, or has a master's degree in behavioral science with two years of supervised clinical experience, or has four years of experience in psychiatric mental health nursing.

~~(72)~~(63) "Psychiatric social worker" means the term as defined in 10 NCAC 14K .0103, an individual who holds a master's degree in social work from an accredited school of social work and has

- two years of clinical social work experience.
- ~~(73)~~(64) "Psychiatrist" means the term as defined in 10 NCAC 14K .0103. ~~an individual who is licensed to practice medicine in the State of North Carolina and who has completed an accredited training program in psychiatry.~~
- ~~(74)~~(65) "Psychotherapy" means the term as defined in 10 NCAC 14K .0103. ~~a form of treatment of mental illness or emotional disorders which is based primarily upon verbal or non-verbal communication with the patient. Treatment is provided by a trained professional for the purpose of removing or modifying existing symptoms, of attenuating or reversing disturbed patterns of behavior, and of promoting positive personality growth and development.~~
- ~~(75)~~(66) "Psychotropic medication" means the term as defined in 10 NCAC 14K .0103. ~~medication with the primary function of treating mental illness, personality or behavior disorders. These medications include, but are not limited to, antipsychotics, antidepressants, minor tranquilizers and lithium.~~
- ~~(76)~~(67) "Qualified alcoholism professional" means the term as defined in 10 NCAC 14K .0103. ~~an individual who is certified by the North Carolina Alcoholism Counselor Certification Board or who is a graduate of a college or university with a baccalaureate or advanced degree in a human service related field with documentation of at least two years of supervised experience in the profession of alcoholism counseling.~~
- ~~(77)~~(68) "Qualified client record manager" means an individual who is a graduate of a curriculum accredited by the Council on Medical Education and Registration of the American Medical Record Association and who is currently registered or accredited by the American Medical Record Association.
- ~~(78)~~(69) "Qualified drug abuse professional" means the term as defined in 10 NCAC 14K .0103. ~~an individual who is certified by the North Carolina Drug Abuse Professional Certification Board or who is a graduate of a college or university with a baccalaureate or advanced degree in a human service related field with documentation of at~~
- least two years of supervised experience in the profession of drug abuse counseling.
- ~~(79)~~(70) "Qualified mental health professional" means the term as defined in 10 NCAC 14K .0103. ~~any one of the following: psychiatrist, psychiatric nurse, practicing psychologist, psychiatric social worker, an individual with a master's degree in a related human service field and two years of supervised clinical experience in mental health services or an individual with a baccalaureate degree in a related human service field and four years of supervised clinical experience in mental health services.~~
- ~~(80)~~(71) "Qualified mental retardation professional" means the same as the term "Qualified developmental disabilities professional" as defined in 10 NCAC 14K .0103. ~~an individual who holds at least a baccalaureate degree in a discipline related to developmental disabilities, or holds a license to practice nursing, and who has at least one year of experience in working with mentally retarded individuals.~~
- ~~(81)~~(72) "Qualified nutritionist" means the term as defined in 10 NCAC 14K .0103. ~~an individual who has a master's degree in nutrition, nutrition education or public health nutrition and who may or may not be a registered dietitian.~~
- ~~(82)~~(73) "Qualified substance abuse professional" means the term as defined in 10 NCAC 14K .0103. ~~an individual who is certified by the North Carolina Alcoholism Counselor Certification Board and the North Carolina Drug Abuse Professional Certification Board or who is a graduate of a college or university with a baccalaureate or advanced degree in a human service related field with documentation of at least two years of supervised experience in the profession of alcoholism and drug abuse counseling. In addition, at least 80 percent of the qualified substance abuse professional's work experience must be in the profession of alcoholism and drug abuse counseling.~~
- ~~(83)~~(74) "Registered dietitian" means the term as defined in 10 NCAC 14K .0103. ~~an individual who has successfully completed a national examination for the Commission on Dietetic Registration and maintains registration with~~

that commission through approved continuing education activities events.

(75) "Rehabilitation" means the term as defined in 10 NCAC 14K.0103.

(84)(76) "Research" means the term as defined in 10 NCAC 14K .0103. inquiry involving a trial or special observation made under conditions determined by the investigator to confirm or disprove an hypothesis, or to explicate some principle or effect.

(85)(77) "Research review board" means a group comprised of at least five members which has the authority to approve, require modification, or disapprove proposed research projects of the area program or its contract agencies. Individuals not directly associated with research projects under consideration comprise a majority of the review board. The review board may be established by the program conducting research activities or by another public or private agency, institution or organization.

(86)(78) "Residential service" means a service provided in a 24-hour living environment in a non-hospital setting where room, board, and supervision are an integral part of the care, treatment, habilitation or rehabilitation provided the individual.

(79) "Respite episode" means the term as defined in 10 NCAC 14K .0103.

(80) "Screening" means the term as defined in 10 NCAC 14K .0103.

(87) "Seclusion" means isolating a client in a separate locked room or a room from which he cannot exit for the purpose of controlling a client's behavior. Seclusion does not include time out rooms which are not locked.

(88)(81) "Severely physically disabled person" means for the purpose of ADAP (Adult Developmental Activity Program) the term as defined in 10 NCAC 14K .0103. a person:

(a) who has a severe physical disability which seriously limits his functional capabilities (mobility, communication, self care, self direction, work tolerance or work skills);

(b) who has one or more physical disabilities resulting from amputation, arthritis, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, multiple scler-

osis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia and end stage renal disease; and

(c) whose habilitation or rehabilitation can be expected to require multiple habilitation or rehabilitation services over an extended period of time.

(89)(82) "Standard client record" means a written account of all services provided a client from the time of formal acceptance of the client by the area program or contract agency until termination of services. This information is documented on standard forms which are filed in a standard order.

(90)(83) "Standards" means ~~minimum standards defined in G.S. 122-35.36(9)~~ as specifications of the required basic levels of activity and required basic levels of human and technical resources necessary for the implementation and operation of mental health, mental retardation and substance abuse programs. Standards are officially titled "Standards for Area Programs and Their Contract Agencies", are codified in 10 NCAC 18I through 18Q and are published by the division as APSM 35-1.

(91)(84) "State facility" means a facility operated by the division and which provides mental health, mental retardation or substance abuse services.

(92)(85) "Student" means an individual who is participating in a prescribed course of instruction, for example, an individual who is enrolled in an alcohol and drug education traffic school or a drug education school.

(93) "Substance Abuse" means abuse of alcohol or other drugs.

(94)(86) "Substantially mentally retarded person" means the term as defined in 10 NCAC 14K .0103. for the purpose of ADAP a person who is mentally retarded to the degree of seriously limiting his functional capabilities, whose habilitation or rehabilitation can be expected to extend over a period of time, and including:

(a) moderately mentally retarded persons;

(b) severely mentally retarded persons;

(c) profoundly mentally retarded persons; or

(d) mentally retarded persons with a handicapping condition so severe as to lack the potential for employment at this time, either in a sheltered or competitive setting. In addition, such individuals must have a deficit in self-help, communication, socialization or occupational skills and be recommended by the vocational rehabilitation counselor for consideration of placement in an ADAP.

(95)(87) "Support service services" means the term as defined in 10 NCAC 14K .0103, a service provided to enhance an individual's progress in his primary treatment/habilitation program.

(96)(88) "Telephone counseling service" means an organized and publicized service providing short-term supportive counseling, referral, crisis intervention and information.

(97)(89) "Testing services" means the administration and interpretation of the results of standardized instruments for the assessment, diagnosis or evaluation of psychological or developmental disorders.

(98)(90) "Utilization review" means examination of the appropriateness of admission, services ordered and provided, length of treatment and discharge practice usually on a concurrent basis. Utilization review focuses upon the individual client.

(99)(91) "Vocational rehabilitation services" means services available to eligible mentally and physically disabled citizens who, with reasonable accommodations, can perform the essential function of the job in question as defined in the Rehabilitation Act of 1973 (P.L. 93-112 as amended).

(b) In addition to the definitions contained in this Rule, the terms defined in G.S. 122C-3 also apply to all the Rules in this Subchapter and Subchapters 14L through 14O of this Chapter.

Statutory Authority G.S. 122C-3; 143B-147.

SUBCHAPTER 18J - AREA PROGRAM MANAGEMENT STANDARDS

SECTION .0400 - PROGRAM PLANNING

.0408 INTRODUCTION (REPEALED)

.0409 ANNUAL PLAN OF WORK (REPEALED)

Statutory Authority G.S. 122C-143; 143B-147.

SECTION .0600 - STATE FACILITY RELATIONSHIPS

.0602 SINGLE PORTAL OF ENTRY AND EXIT DESIGNATION

Each area program shall serve as the primary portal of entry and exit for its catchment area clients in state facilities except the North Carolina Special Care Center in Wilson. authority desiring designation as a single portal area shall comply with the requirements of G.S. 122C-132.

Statutory Authority G.S. 122C-132; 143B-147.

SECTION .0700 - QUALITY ASSURANCE

.0709 CROSS-REF TO CLINICAL SUPERVISION OF SUBSTANCE ABUSE STAFF

(a) Each component shall implement a written plan of clinical supervision for staff who provide substance abuse clinical services and who are not qualified alcoholism, drug abuse or substance abuse professionals.

(b) Each clinical staff member who is not a qualified alcoholism, drug abuse or substance abuse professional shall have an individual plan of clinical supervision.

(c) Each clinical staff member whose primary area of service delivery is alcoholism shall be supervised by a qualified alcoholism professional or by a qualified substance abuse professional.

(d) Each clinical staff member whose primary area of service delivery is drug abuse shall be supervised by a qualified drug abuse professional or by a qualified substance abuse professional.

(e) Each clinical staff member whose primary area of service delivery is both alcoholism and drug abuse shall be supervised by a qualified substance abuse professional.

(a) Clinical supervision of substance abuse staff shall be implemented according to the provisions of 10 NCAC 14K .0319 (b) (3), (4) and (5).

(b) For purposes of the Rules of this Section, the term "facility" in 10 NCAC 14K .0319 shall be interpreted to mean "component".

Statutory Authority G.S. 143B-147.

.0712 EMPLOYEE EDUCATION AND TRAINING

(a) Each component shall provide or secure orientation programs and annual continuing education and training for employees to en-

hance their competencies and knowledge needed to administer, manage and deliver quality services. The education and training activities shall address at a minimum the needs identified by the quality assurance process and related committees.

(→) Each component shall assure the maintenance of an ongoing record of all education and training activities provided or secured for employees.

(i) Each component shall comply with the provisions of 10 NCAC 14K .0307.

(b) For purposes of the Rules of this Section, the term "facility" in 10 NCAC 14K .0307 shall be interpreted to mean "component".

Statutory Authority G.S. 143B-147.

SUBCHAPTER 18L - PROGRAM
COMPONENT OPERATIONAL STANDARDS

SECTION .0300 - FACILITIES
MANAGEMENT

.0333 CROSS-REFERENCE TO INDOOR
ACTIVITY SPACE

(a) Each facility shall have a reception area for clients and visitors.

(b) Each facility shall have private space for interviews and conferences with clients.

Each residential and respite facility shall comply with the provisions of 10 NCAC 14K .0325 (1).

Statutory Authority G.S. 143B-147.

.0334 CROSS-REFERENCE TO OUTDOOR
ACTIVITY SPACE/EQUIPMENT

(a) Programs that provide structured outdoor activities for clients shall provide space that is suitable for the ages and treatment/habilitation needs of the clients served.

(b) Outdoor equipment shall be maintained in good repair and safe for use.

Each facility shall comply with the provisions of 10 NCAC 14K .0326.

Statutory Authority G.S. 143B-147.

.0337 CROSS-REFERENCE TO INDOOR
LIVING SPACE

(a) Each residential facility shall have indoor space for group activities and social gatherings.

(b) The area in which therapeutic and habilitative activities are routinely conducted shall be separate from sleeping areas.

(c) Individual space shall be provided for the storage of each resident's personal belongings.

Each residential and respite facility shall comply with the provisions of 10 NCAC 14K .0325 (3), (4) and (8).

Statutory Authority G.S. 143B-147.

.0338 CROSS-REF TO PRIVACY FOR
PHYSICAL EXAMINATIONS/
MEDICAL PROCEDURES

When physical examinations or medical procedures are performed in any component, the examination area shall afford privacy for the client.

Components performing physical examinations or medical procedures shall comply with the provisions of 10 NCAC 14K .0340.

Statutory Authority G.S. 143B-147.

SECTION .0400 - CLIENT RIGHTS

.0429 CROSS-REFERENCE TO COMPLIANCE
WITH STATUTES

In addition to G.S. 122C, Each each component shall implement its services in such a manner as to ensure the rights accorded all clients as required by the following:

(1) G.S. 122-55.1 through 122-55.14 (Patients' Rights);

(2)(1) G.S. 131D-19 through 131D-24 (Domicillary Home Residents' Bill of Rights);

(3)(2) G.S. 408A-150 108A-99 through 108A-162 108A-111 (The Protection of the Abused, Neglected or Exploited Disabled Adult Act); and

(4)(3) G.S. 7A-542 through 7A-552 (Screening of Abuse and Neglect for Juveniles).

Statutory Authority G.S. 7A-542 through 7A-552; 108A-150 through 108A-162; 115C-Article 9; 122C-51 through 122C-62; 131D-19 through 131D-24; 143B-147.

.0432 CROSS-REFERENCE TO CLIENT
GRIEVANCE POLICY

The governing body of each component shall develop and implement a written client grievance policy which identifies procedures for review and disposition of client grievances. comply with the provisions of 10 NCAC 14K .0328.

Statutory Authority G.S. 143B-147.

SECTION .0600 - CLIENT ELIGIBILITY

.0604 CROSS-REFERENCE TO CLIENT FEE
FOR SERVICE

The governing body of each component shall develop written policies for client fee assessment and collection practices. comply with the provisions of 10 NCAC 14K .0309.

Statutory Authority G.S. 122C-146; 143B-147.

SECTION .0700 -
TREATMENT/HABILITATION PROCESS

.0702 CROSS-REFERENCE TO ADMISSION
Each component shall have written admission procedures which shall include at least the following:

- (1) specification of the individual or group authorized to determine the admission of an individual;
- (2) agreement between the residential facility and parents of minors (with the exception of minors seeking treatment without parental consent), or guardians of persons adjudicated incompetent which shall delineate the responsibilities of both parties for the provision of medical and dental services, education and other needs; and
- (3) provisions for compliance with the rules on "Admission Procedures for Minors or Persons Non Compos Mentis to Non-Restrictive Treatment Facilities" as codified in 10 NCAC 18E .0108 through .0116 adopted effective April 1, 1984 and available in division publication APSR 45-11. If conflicts exist between the rules in 10 NCAC 18E .0108 through .0116 and the rules in 10 NCAC 18I through 18Q, the more specific and stringent rules shall apply.

(a) Each component shall comply with the provisions of 10 NCAC 14K .0313.

(b) For purposes of the Rules in this Section, the term "facility" in 10 NCAC 14K .0313 shall be interpreted to mean "component".

Statutory Authority G.S. 143B-147.

.0703 CROSS-REFERENCE TO ASSESSMENT

(a) Except for inpatient hospital treatment programs for individuals who are alcohol and other drug abusers which shall comply with the provisions of 10 NCAC 18Q .0617, each component shall have written procedures for the conduct of the admission assessment.

(b) These procedures shall delineate the standardized information required which at a minimum shall include:

- (1) the present condition of the client reported in objective, behavioral terms;

and where possible a description of the applicant's condition by significant others;

- (2) social, educational and medical histories; and, if appropriate, vocational, developmental, psychiatric, legal and nutritional histories; and
- (3) determination of, and request for, additional referrals for special diagnostic tests, assessments or evaluations, if needed.

(a) Each component shall comply with the provisions of 10 NCAC 14K .0314.

(b) For the purposes of the Rules of this Section, the term "facility" in 10 NCAC 14K .0314 shall be interpreted to mean "component".

Statutory Authority G.S. 143B-147.

.0705 CROSS-REFERENCE TO INDIVIDUAL TREATMENT/PROGRAM PLAN

(a) Each program component which provides active treatment-habilitation shall develop an individual treatment-program plan for each client based upon an evaluation of the client's condition, assets and needs and the resources to meet these needs. This plan shall provide a systematic approach to the treatment-habilitation of the client and substantiate the appropriateness of current treatment or habilitation goals.

(b) The individual treatment plan for mental health and substance abuse clients shall be consistent with the diagnosis and shall be documented in the client record as follows:

- (1) The preliminary treatment plan shall be initiated within 24 hours of admission and shall be based upon information gathered during the admission assessment.
- (2) The comprehensive treatment plan shall be established within 30 days of admission and shall be based upon information gathered during the evaluation process.
- (3) Progress notes shall be written to reflect progress towards the goals, as delineated in the comprehensive treatment plan.
- (4) The comprehensive treatment plan shall be revised whenever it is medically or clinically indicated.
- (5) A thorough review of the comprehensive treatment plan shall be carried out and documented in the plan at least every six months.

(c) The individual program plan for mental retardation clients shall be documented in the client record as follows:

- (1) The individual program plan shall be developed within 60 days following placement.
- (2) The plan shall be assessed and redeveloped at least annually from the date of placement.
- (3) The plan shall be reviewed as habilitation changes.
- (4) The plan shall provide the basis for development of individual goal plans.
- (d) The treatment program plan shall be developed in partnership with the client or individual acting in behalf of the client.

(a) Each program component shall comply with the provisions of 10 NCAC 14K .0315.

(b) For purposes of the Rules of this Section, the term "facility" in 10 NCAC 14K .0315 shall be interpreted to mean "program component".

Statutory Authority G.S. 122C-51; 143B-147.

.0706 CROSS-REFERENCE TO DISCHARGE AFTERCARE

At discharge the program component shall develop a written summary of the client's admission findings, treatment habilitation, condition on discharge and recommendations for further programming including responsibilities of the component, if any, following discharge.

(a) Each program component shall comply with the provisions of 10 NCAC 14K .0316.

(b) For purposes of the Rules of this Section, the term "facility" in 10 NCAC 14K .0316 shall be interpreted to mean "program component".

Statutory Authority G.S. 143B-147.

.0707 CROSS-REFERENCE TO SERVICE COORDINATION

(a) Coordination shall be maintained among all staff members contributing to the evaluation, planning and treatment habilitation effort for each client. This may be accomplished in a variety of ways, such as interdisciplinary team meetings, interagency meetings and case management.

(b) Each program component utilizing shifts or relief staff shall develop mechanisms to ensure adequate communication among staff regarding clients.

(a) Each program component shall comply with the provisions of 10 NCAC 14K .0318.

(b) For purposes of the Rules of this Section, the term "facility" in 10 NCAC 14K .0318 shall be interpreted to mean "program component".

Statutory Authority G.S. 143B-147.

SECTION .0800 - HEALTH PRACTICES

.0804 CROSS-REFERENCE TO MEDICAL EMERGENCIES

Each component shall develop and implement a written plan to be utilized in medical emergencies involving clients.

Each governing body shall comply with the provisions of 10 NCAC 14K .0335.

Statutory Authority G.S. 143B-147.

.0805 CROSS-REFERENCE TO EMERGENCY INFORMATION

Each component shall maintain emergency information for each client which includes the name, address and telephone number of the person to be contacted in case of sudden illness or accident and the name, address and telephone number of the client's preferred physician.

(a) Each component shall comply with the provisions of 10 NCAC 14K .0336.

(b) For purposes of the Rules of this Section, the term "facility" in 10 NCAC 14K .0336 shall be interpreted to mean "component".

Statutory Authority G.S. 143B-147.

.0806 CROSS-REFERENCE TO EMERGENCY CARE PERMISSION

Upon the client's admission, each component shall secure a signed statement from the parents of a minor client (with the exception of minors seeking treatment without parental consent), or the guardian of an adult adjudicated incompetent granting permission to seek emergency care from a hospital or physician.

(a) Each component shall comply with the provisions of 10 NCAC 14K .0337.

(b) For purposes of the Rules of this Section, the term "facility" in 10 NCAC 14K .0337 shall be interpreted to mean "component".

Statutory Authority G.S. 143B-147.

.0807 CROSS-REFERENCE TO STAFF TRAINING FOR MEDICAL EMERGENCIES

During hours of operation of each treatment habilitation component, at least one staff member shall be available who is trained

in basic first aid, cardio-pulmonary resuscitation, seizure management and the Heimlich maneuver.

(a) Each component shall comply with the provisions of 10 NCAC 14K .0338.

(b) For purposes of the Rules of this Section, the term "facility" in 10 NCAC 14K .0338 shall be interpreted to mean "component".

Statutory Authority G.S. 143B-147.

.0808 CROSS-REFERENCE TO RESPONSIBILITY FOR WATER SAFETY

Each component which includes water activities in its schedule shall assure that an individual who has successfully completed the basic rescue and water safety course is on the premises where water safety activities occur.

(a) Each component shall comply with the provisions of 10 NCAC 14K .0343.

(b) For purposes of the Rules of this Section, the term "facility" in 10 NCAC 14K .0343 shall be interpreted to mean "component".

Statutory Authority G.S. 143B-147.

.0809 CROSS-REFERENCE TO FIRST AID SUPPLIES

Each component shall have access to first aid supplies in each of its facilities.

(a) Each component shall comply with the provisions of 10 NCAC 14K .0341.

(b) For purposes of the Rules of this Section, the term "facility" in 10 NCAC 14K .0341 shall be interpreted to mean "component".

Statutory Authority G.S. 143B-147.

SECTION .0900 - CLINICAL SERVICES

.0903 CROSS-REFERENCE TO SPECIALIZED THERAPIES

Medical care, physical therapy, occupational therapy, language and communication therapy, and nursing care shall be provided by, or under the direct supervision of, individuals licensed/registered to perform these activities.

Specialized therapies shall be implemented according to the provisions of 10 NCAC 14K .0344.

Statutory Authority G.S. 143B-147.

.0904 CROSS-REFERENCE TO TESTING SERVICES

Psychological, developmental, educational and intelligence testing shall be performed by staff or evaluators who are licensed, certified

or trained to utilize the particular testing instrument being administered.

Testing services shall be implemented according to the provisions of 10 NCAC 14K .0345.

Statutory Authority G.S. 143B-147.

SECTION .1000 - MEDICAL SERVICES

.1002 CROSS-REFERENCE TO PHYSICIAN RESPONSIBLE/MEDICAL SERVICES

A physician shall have responsibility for the provision of medical services associated with mental health, mental retardation and substance abuse needs of clients.

Each component providing medical services shall comply with the provisions of 10 NCAC 14K .0339.

Statutory Authority G.S. 143B-147.

.1004 CROSS-REFERENCE TO LABORATORY POLICIES AND PROCEDURES

The governing body of each component which orders laboratory tests shall develop a written policy which specifies the procedures to be followed and the authorization required for these tests. The policy shall specify who shall bear the financial responsibility for these laboratory procedures.

(a) The governing body of each component which orders laboratory tests shall comply with the provisions of 10 NCAC 14K .0346.

(b) For purposes of the Rules of this Section, the term "facility" in 10 NCAC 14K .0346 shall be interpreted to mean "component".

Statutory Authority G.S. 143B-147.

.1005 CROSS-REFERENCE TO LABORATORY ACCREDITATION

Each component which orders laboratory tests shall assure that such services are performed by a laboratory accredited by at least one recognized accrediting agency such as the Joint Commission on Accreditation of Hospitals, the U.S. Department of Health and Human Services, National Institute of Mental Health, and the College of American Pathologists.

The governing body of each component which orders laboratory tests shall comply with the provisions of 10 NCAC 14K .0347.

Statutory Authority G.S. 143B-147.

.1006 CROSS-REFERENCE TO DOCUMENTATION OF LABORATORY

TESTS

Each component shall document in the client record the following information regarding each laboratory test administered:

- (1) name and date of any laboratory test(s) ordered;
- (2) name of physician ordering test;
- (3) date and time specimen obtained; and
- (4) original copy of the report of laboratory test results.

(a) The governing body of each component which orders laboratory tests shall comply with the provisions of 10 NCAC 14K .0348.

(b) For purposes of the Rules of this Section, the term "facility" in 10 NCAC 14K .0348 shall be interpreted to mean "component".

Statutory Authority G.S. 143B-147.

SECTION .1100 - MEDICATION SERVICES

.1102 CROSS-REFERENCE TO PRESCRIBING OF MEDICATION

(a) Only a physician or person authorized by state law shall be permitted to prescribe legend drugs.

(b) A physician or person authorized to prescribe legend drugs shall approve the use of over-the-counter (non-prescription) medication for clients in inpatient psychiatric services and for minors and incompetent adults in residential services. A parent or guardian shall approve the use of over-the-counter (non-prescription) medication in all other services. A physician or person authorized to prescribe legend drugs shall approve the use of over-the-counter (non-prescription) medication for minors seeking treatment without parental consent.

(c) A physician assistant shall not prescribe psychotropic medication unless authorized by the N.C. Board of Medical Examiners.

(d) A nurse practitioner shall not prescribe psychotropic medication unless authorized by the N.C. Board of Medical Examiners and the Board of Nursing.

(e) Each medication prescribed by the medical services of the component shall be documented in the client's record and signed by the prescriber.

(f) The client's drug therapy regimen prescribed by the medical service of the component shall be assessed by a physician for appropriateness at least every six months.

(a) Individuals prescribing medication shall comply with the provisions of 10 NCAC 14K .0349.

(b) For purposes of the Rules of this Section, the term "facilities" in 10 NCAC 14K .0349 shall be interpreted to mean "services".

Statutory Authority G.S. 143B-147.

.1103 CROSS-REFERENCE TO DISPENSING OF MEDICATION

(a) Medication shall be dispensed by a pharmacist or physician in a properly labeled container in accordance with state and federal law. However, methadone for take home purposes may be supplied to a bonafide client of a methadone treatment program by a registered nurse employed by the program pursuant to the requirements of 10 NCAC 45G .0306; Supplying of Methadone In Treatment Programs By RN.

(b) The medication container shall protect medication from light and moisture and shall be in compliance with the Poison Prevention Packaging Act.

(c) The medication container label shall include the following:

- (1) client's name;
- (2) date issued or refilled;
- (3) directions for administration;
- (4) medication name and strength;
- (5) name, address and telephone number of dispensing site;
- (6) prescriber's name;
- (7) dispenser's name; and
- (8) ancillary cautionary labeling.

Individuals prescribing medication shall comply with the provisions of 10 NCAC 14K .0350.

Statutory Authority G.S. 90-18.1; 90-18.2; 90-68; 90-85.2; 143B-147.

.1104 CROSS-REFERENCE TO ADMINISTRATION OF MEDICATION

(a) Prescription medication shall be administered in inpatient, residential and outpatient programs only on the written or verbal order of an authorized prescriber.

(b) Over-the-counter (non-prescription) medication shall be administered in inpatient psychiatric services and to minors and incompetent adults in residential services only on the written approval of a physician or person authorized to prescribe legend drugs.

(c) Over-the-counter (non-prescription) medication shall be administered to minors or incompetent adults in all other services only on the written approval of a parent or guardian. Over-the-counter (non-prescription) medication shall be administered to a minor

seeking treatment without parental consent only on the written approval of a physician.

(d) Only properly dispensed medication shall be administered.

(e) Medication shall be administered in inpatient psychiatric services only by a physician, physician assistant or nurse. In other service components, medication may be administered by, or self-administration supervised by, program staff who have received instruction about each medication, dosage, time of administration, side effects and contraindications from either the program's physician, or designee, or the client's parent or guardian.

(f) A list of persons approved to administer medication shall be maintained by the component.

(g) A physician shall approve the self-administration of prescription and over-the-counter (non-prescription) medication by clients in inpatient programs or minors or incompetent adults in residential programs. A minor or the parent or guardian of a minor or incompetent client shall obtain physician consent for the self-administration of prescription or over-the-counter (non-prescription) medication in outpatient, day treatment or day activity programs. The competent adult client may self-administer prescription or over-the-counter (non-prescription) medication in outpatient, day treatment, day activity or residential programs. Where applicable, clients should receive training in the self-administration of medication.

(h) The administration of medication by staff shall be documented in the client record on a program-maintained individualized medication administration record. The record shall contain a record of doses administered.

(i) Medication administration errors and adverse drug reactions shall be recorded in the client record and reported to the prescribing physician.

(a) Medication shall be administered according to the provisions of 10 NCAC 14K .0351.

(b) For purposes of the Rules of this Section, the term "facilities" in 10 NCAC 14K .0351 shall be interpreted to mean "programs".

Statutory Authority G.S. 90-21.5; 90-171.20 (7), (8); 90-177.44; 143B-147.

.1105 CROSS-REFERENCE TO STORAGE OF MEDICATION

All medication shall be stored as follows:

- (1) Medication shall be stored under proper conditions of sanitation, temperature, light, moisture and ventilation.
- (2) Medication shall be stored in a securely locked cabinet except that this shall not apply to services provided in private homes.
- (3) Only those persons authorized to prescribe or administer medication shall have access to stored medication.
- (4) Medication for external use shall be segregated from medication for internal use.
- (5) Medication stored in a refrigerator used for other purposes shall be kept in a separate, securely locked compartment.
- (6) Space for medication storage shall be of sufficient size to allow separate storage of each client's medication and to prevent overcrowding.

All medication shall be stored according to the provisions of 10 NCAC 14K .0352.

Statutory Authority G.S. 143B-147.

.1106 CROSS-REFERENCE TO DISPOSAL OF MEDICATION

Medications shall be disposed of in the following manner:

- (1) Controlled Substances. Any program desiring or required to dispose of a controlled substance shall request authority and instructions to dispose of such substance from the division.
- (2) Prescription Medication.
 - (a) Any program wishing to dispose of prescription medication shall do so in a manner that guards against diversion and accidental ingestion. Acceptable methods of disposal include the following:
 - (i) transfer of medication to a local pharmacy or regional psychiatric hospital pharmacy for destruction;
 - (ii) incineration; and
 - (iii) flush down the commode.
 - (b) A record of medication disposal shall be maintained. The record shall include the following:
 - (i) client's name (if applicable);
 - (ii) name and strength of medication;
 - (iii) quantity to be disposed;
 - (iv) method of disposal;
 - (v) date of disposal;
 - (vi) signature of employee disposing of the medication; and
 - (vii) signature of employee witnessing the disposal.

(a) Medication shall be disposed of according to the provisions of 10 NCAC 14K .0353.

(b) For purposes of the Rules of this Section, the term "facility" in 10 NCAC 14K .0353 shall be interpreted to mean "program".

Authority G.S. 143B-147; 21 C.F.R. 1307.21.

.1107 CROSS-REFERENCE TO MEDICATION EDUCATION

(a) Each client to be started or maintained on medication prescribed by staff of the area program or its contract agencies shall receive individual or group education regarding prescribed medication.

(b) The physician or his designee shall assess each client's ability to self-administer medication as well as other factors that may affect drug therapy. In instances where the ability of the client to understand the medication education is questionable, a responsible person shall be provided with the opportunity to receive both written and oral instructions on behalf of the client.

(c) The prescribing physician or other person approved by the physician shall provide the following written and oral information to the client or responsible person at a time deemed appropriate by the physician:

- (1) the name, appearance and dosage regimen, intended use and common side effects of the medication;
- (2) adverse reactions or uncomfortable side effects that should prompt calling a physician;
- (3) food, drugs or beverages that should be avoided taken with medication;
- (4) an alternative dosage regimen if a dose is missed;
- (5) the expected length of the medication treatment;
- (6) refill instructions;
- (7) the proper place to store medication; and
- (8) the need to communicate and coordinate with other physicians of the client those medications prescribed by the program.

(d) The medication education assessment and information provided shall be individualized for each client and documented in the client record.

(e) Medication education shall be coordinated with the discharging or receiving program.

Programs providing medication for clients shall provide medication education according to the provisions of 10 NCAC 14K .0354.

Statutory Authority G.S. 143B-147.

SECTION .1200 - NUTRITION/DIETARY PRACTICES

.1202 CONSULTATION FOR NUTRITION SERVICES (REPEALED)

Statutory Authority G.S. 130A-361; 143B-147.

.1203 CROSS-REFERENCE TO FOOD SERVICE MENUS

(a) Each program component serving meals for clients shall:

- (1) comply with the Recommended Dietary Allowance of the Food and Nutrition Board of the National Academy of Sciences 9th rev. ed, 1980 available at a cost of six dollars (\$6.00) from the Office of Publications, National Academy Press, 2101 Constitution Avenue N.W., Washington, D.C. 20418; and
- (2) provide food in keeping with general cultural, ethnic and life-style patterns of the clients served.

(b) Menus shall be evaluated and approved by a qualified nutritionist or registered dietitian.

(c) Each program component which serves more than one meal daily shall keep menus as served on file for one year.

(a) Each program component serving meals for clients shall comply with the provisions of 10 NCAC 14K .0356.

(b) For purposes of the Rules of this Section, the term "facility" in 10 NCAC 14K .0356 shall be interpreted to mean "program component".

Statutory Authority G.S. 130A-361; 143B-147.

.1204 CROSS-REFERENCE TO MODIFIED DIETS

Each program component serving meals for clients shall provide modified diets in accordance with a physician's prescription and with a menu pattern approved by a registered dietitian.

(a) Each program component serving meals for clients shall comply with the provisions of 10 NCAC 14K .0357.

(b) For purposes of the Rules of this Section, the term "facility" in 10 NCAC 14K .0357 shall be interpreted to mean "program component".

Statutory Authority G.S. 130A-361; 143B-147.

.1205 CROSS-REFERENCE TO STAFFING FOR FOOD SERVICE

Each program component which serves more than one meal daily shall designate the staff responsible for procurement, preparation and serving of meals and for the maintenance of equipment and sanitary work space.

(a) Each program component serving more than one meal daily shall comply with the provisions of 10 NCAC 14K .0358.

(b) For purposes of the Rules of this Section, the term "facility" in 10 NCAC 14K .0358 shall be interpreted to mean "program component".

Statutory Authority G.S. 143B-147.

.1206 CROSS-REFERENCE TO FOOD SERVICE EQUIPMENT AND SPACE

Each program component which serves more than one meal daily shall:

- (1) provide equipment and space to store food separately from other items;
- (2) provide equipment and space to prepare and serve meals including all modified diet menu items; and
- (3) designate areas for dining which shall be equipped and arranged to meet the needs of the population served.

(a) Each program component serving more than one meal daily shall comply with the provisions of 10 NCAC 14K .0359.

(b) For purposes of the Rules of this Section, the term "facility" in 10 NCAC 14K .0359 shall be interpreted to mean "program component".

Statutory Authority G.S. 143B-147.

SECTION .1300 - TRANSPORTATION SERVICES

.1302 CROSS-REFERENCE TO TRANSPORTATION POLICY

The governing body of each component providing transportation for clients shall develop and implement a written transportation policy which shall address at least the following:

- (1) eligibility of clients for transportation services;
- (2) the means by which the program shall provide transportation;
- (3) procedures to be employed in emergency situations occurring during the transportation of clients;
- (4) qualifications and training of vehicle drivers and aides; and
- (5) fees, if any, for transportation.

(a) The governing body of each component providing transportation for client shall comply with the provisions of 10 NCAC 14K .0361.

(b) For purposes of the Rules of this Section, the term "facility" in 10 NCAC 14K .0361 shall be interpreted to mean "component".

Statutory Authority G.S. 143B-147.

.1303 CROSS-REFERENCE TO LICENSED DRIVER

Each driver in the transportation service shall hold a current license issued by the N.C. Department of Motor Vehicles to operate the type of vehicle(s) to which he is assigned.

Each driver in the transportation service shall comply with the provisions of 10 NCAC 14K .0362.

Statutory Authority G.S. 143B-147.

.1304 CROSS-REFERENCE TO SAFETY PRECAUTIONS

(a) A seat and a seat belt shall be provided for each individual being transported in a vehicle except that the provision of seat belts shall not be required for individuals being transported in a bus for which the manufacturing code does not recommend the installation of seat belts.

(b) When physically handicapped individuals are transported, the vehicle shall provide secure storage for adaptive equipment.

Each component providing transportation services for clients shall comply with the provisions of 10 NCAC 14K .0363.

Statutory Authority G.S. 143B-147.

.1305 CROSS-REFERENCE TO TRANSPORTATION OF MINORS

(a) Each child two years of age and under shall be transported in a child passenger restraint device which shall be of a type and installed in a manner approved by the N.C. Commissioner of Motor Vehicles.

(b) When four or more preschool children are transported in the same vehicle by a component other than developmental day centers for preschool children who are mentally retarded or before-after school and summer developmental day centers for children who are mentally retarded, at least two adults shall be present in the vehicle.

(c) When two or more children are transported in the same vehicle by developmental day centers for preschool children who are mentally retarded, or before-after school and

summer developmental day centers for children who are mentally retarded; there shall be one adult, other than the driver, to assist in supervision of the children.

Each component providing transportation services for clients shall comply with the provisions of 10 NCAC 14K .0364.

Statutory Authority G.S. 143B-147.

SECTION .1400 - RESEARCH PRACTICES

.1402 CROSS-REFERENCE TO RESEARCH REVIEW BOARD

(a) Each research activity of each component which involves area program clients in research activities shall be reviewed and approved by a research review board prior to the initiation of the research project.

(b) Each proposed research project shall be presented to a research review board as a written protocol containing the following information:

- (1) identification of project and investigator;
- (2) abstract, containing a short description of the project;
- (3) statement of objectives and rationale; and
- (4) description of methodology, including informed consent if necessary.

(c) Prior to the initiation of each research project in an area program or its contract agencies, a research review board shall conduct an initial review of the project; shall state the frequency with which it will review the project after it has been initiated; and shall hold a review prior to any major changes being made in research procedures.

(d) Written minutes of each research board's meeting shall be maintained and contain documentation that risks to subjects were minimal and reasonable for the benefits to be accrued; that unnecessary intrusion on subjects was eliminated; that informed consent was appropriately provided for; and that confidentiality of subjects was protected.

(a) Each component which involves area program clients in research activities shall comply with the provisions of 10 NCAC 14K .0333.

(b) For purposes of the Rules of this Section, the term "facility" in 10 NCAC 14K .0333 shall be interpreted to mean "component".

Statutory Authority G.S. C-52; 143B-147.

.1403 CROSS-REFERENCE TO SUBJECT PARTICIPATION

Informed written consent shall be obtained from each subject in a research project, or from the legal guardian if a subject is incapable of providing informed written consent as follows:

- (1) subjects shall be informed of any potential dangers or risks that may exist as a result of participation;
- (2) subjects shall be informed as to what their participation will entail as related to time and effort, future follow-up, contacts with other people about them, and alterations of regular procedures;
- (3) documentation shall be made that the participants have been informed of any potential dangers that may exist and that they understand the conditions of participation;
- (4) each individual participating in a research project shall have the right to terminate participation at any time without prejudicing the treatment he is receiving or his employment in the agency; and
- (5) a copy of the dated, signed consent form shall be kept on file by the program staff.

Each component which involves area program clients in research activities shall comply with the provisions of 10 NCAC 14K .0334.

Statutory Authority G.S. C-52; 143B-147.

SUBCHAPTER 18M - REQUIRED SERVICES

SECTION .0500 - PROVISION OF INPATIENT PSYCHIATRIC SERVICES FOR CHILDREN; ADOLESCENT; ADULT AND ELDERLY INDIVIDUALS WHO ARE ACUTELY MENTALLY ILL

.0506 PROVISION OF SERVICES

(a) Each area program shall provide inpatient psychiatric services by one or more of the following:

- (1) a psychiatric inpatient facility operated by the area program and licensed according to the provisions of 10 NCAC 18P Section .0800 (Area Operated Psychiatric Hospitals for Children, Adolescent, Adult and Elderly Individuals Who are Mentally Ill); 14L .0100 (Inpatient Psychiatric Services for Individuals Who are Mentally Ill);

Statutory Authority G.S. 143B-147.

SECTION .0600 - PROVISION OF PSYCHOSOCIAL REHABILITATION PROGRAMS FOR INDIVIDUALS WHO ARE

CHRONICALLY MENTALLY ILL OR
PROVISION OF PARTIAL
HOSPITALIZATION SERVICES FOR
INDIVIDUALS WHO ARE ACUTELY
MENTALLY ILL

.0607 INTRODUCTION

(a) A ~~community support~~ psychosocial rehabilitation program is a day program which is designed to provide a network of services primarily for chronically mentally ill ~~adults and elderly individuals~~. The network is organized around and delivered through membership in a peer support group. The goal of the program is to help members to meet their needs and develop their abilities for independent community living.

Statutory Authority G.S. 143B-147.

.0608 PROVISION OF SERVICES

Each area program shall provide at least:

- (1) a ~~community support~~ psychosocial rehabilitation program primarily for chronically mentally ill ~~adult and elderly~~ individuals licensed according to the provision provisions of 10 NCAC ~~18P Section .0500~~ (Community Support Programs for Adult and Elderly Individuals Who Are Chronically Mentally Ill); 14I .0400 (Psychosocial Rehabilitation Programs for Individuals Who Are Chronically Mentally Ill); or
- (2) a partial hospitalization program for acutely mentally ill ~~adult and elderly~~ individuals licensed according to the provisions of 10 NCAC ~~18P Section .0400~~ (Partial Hospitalization Services for Adult and Elderly Individuals Who Are Acutely Mentally Ill); 14I .0300 (Partial Hospitalization for Individuals Who Are Acutely Mentally Ill).

Statutory Authority G.S. 143B-147.

SECTION .0700 - DEVELOPMENTAL DAY
SERVICES FOR PRESCHOOL CHILDREN
WITH DEVELOPMENTAL DISABILITIES OR
DELAYS OR AT HIGH RISK FOR MENTAL
RETARDATION; DEVELOPMENTAL
DISABILITIES OR DELAYS

.0701 INTRODUCTION

A developmental day ~~center~~ service is a day night service which provides individual habilitative programming for pre-school children ~~who are mentally retarded with developmental disabilities or delays~~ or at high risk for mental retardation, developmental disabilities or delays in specialized licensed child care cen-

ters. It is designed to meet developmental needs of the children such as self-help, fine and gross motor, language and communication, and cognitive and social skills in order to facilitate their functioning in a less restrictive environment as well as to meet child care needs of families. It also offers family training and support.

Statutory Authority G.S. 143B-147.

.0702 POPULATION SERVED (REPEALED)

Statutory Authority G.S. 122C-51; 143B-147.

.0704 STAFF REQUIREMENTS

(f) Assessment of the child to determine developmental delay, developmental disability, atypical development or high risk for these conditions shall be performed by an appropriately credentialed professional whose training qualifies him/her to assess children in the developmental area of concern. Standardized tests, rating scales, developmental profiles and other instruments and procedures that meet acceptable proposed standards shall be used to document the nature and severity of the problems necessitating intervention.

Statutory Authority G.S. 143B-147.

SECTION .0800 - ADULT DEVELOPMENTAL
ACTIVITY PROGRAMS (ADAP) FOR
INDIVIDUALS WITH SUBSTANTIAL
MENTAL RETARDATION; SEVERE
PHYSICAL DISABILITIES OR OTHER
SUBSTANTIAL DEVELOPMENTAL
DISABILITIES

.0801 INTRODUCTION

(a) An adult developmental activity program (ADAP) is a day night service which provides organized developmental activities for adults with substantial mental retardation, severe physical disabilities or other substantial developmental disabilities ~~mentally retarded and or physically disabled~~ adults to prepare the individual to live and work as independently as possible. The activities and services of an ADAP are designed to adhere to the principles of normalization and community integration aimed at increasing age-appropriate actions, images, and appearance of the individual.

Statutory Authority G.S. 143B-147.

.0802 COMPLIANCE REVIEW

(a) An ADAP that is accredited by the Commission on Accreditation of Rehabili-

tation Facilities (CARF) in the Activity Service track or an ADAP which also incorporates work activity training in its program and which is accredited by CARF in the Activity Service and Work Adjustment or Work Service tracks shall be reviewed for compliance with 10 NCAC 18K (Contract Agency Management Standards) and 10 NCAC 18L (Program Component Operational Standards) and with the provisions of this Section as follows:

- (1) Each ADAP which is operated by the area program shall comply with all of the standards delineated in 10 NCAC 18L; and each ADAP which is under contract with an area program shall comply with the standards delineated in 10 NCAC 18K and 10 NCAC 18L; and
- (2) ~~Each ADAP, whether operated by the area program or under contract with an area program, shall be reviewed for compliance with the provisions of this Section in accordance with one of the following to be determined at the discretion of the funding agency: Each ADAP, whether operated by the area program or under contract with an area program, shall be reviewed for compliance with the following Rules in this Section: .0803, .0817, .0822 and .0823.~~

~~(A) Each ADAP shall be reviewed for compliance with the following standards in this Section: .0803, .0804, .0805, .0806, .0807, .0809, .0810 (b), .0813, .0815, .0816(b), .0817, .0819, .0821, .0822 and .0823; or~~

~~(B) Each ADAP shall be reviewed for compliance with all the standards contained in this Section.~~

(b) If an ADAP is reviewed for compliance only with standards specified in (a) (1) and (a) (2) ~~(A)~~ and ~~(B)~~ of this Standard, the The ADAP shall submit to the funding agency a copy of its most recent CARF Facilities Survey Report, and, if applicable, the Plan of Compliance and subsequent notice of CARF's acceptance of the correction(s) made in accordance with the plan.

Statutory Authority G.S. 143B-147.

.0803 POPULATION SERVED

Each ADAP shall be designed primarily to serve ~~substantially mentally retarded and severely physically disabled~~ individuals who are 16 years of age or older.

Statutory Authority G.S. 143B-147.

- .0804 HOURS OF OPERATION (REPEALED)**
- .0805 DIRECTOR/COORDINATOR (REPEALED)**
- .0806 CLIENT/STAFF RATIO (REPEALED)**
- .0807 CLIENT EVALUATOR (REPEALED)**
- .0808 BUSINESS PRACTICES (REPEALED)**
- .0809 PROVISION FOR CLASSROOM SPACE (REPEALED)**
- .0810 FACILITIES (REPEALED)**
- .0811 SAFETY EDUCATIONAL PROGRAM (REPEALED)**
- .0812 ACCIDENT REPORTING (REPEALED)**
- .0813 SAFETY COMMITTEE (REPEALED)**
- .0814 PROMOTION OF CLIENTS' RIGHTS (REPEALED)**
- .0815 USE OF PUBLIC TRANSPORTATION BY CLIENTS (REPEALED)**
- .0816 ACTIVITIES AND SERVICES (REPEALED)**

Statutory Authority G.S. 143B-147.

- .0819 SUSPENSIONS AND DISMISSALS (REPEALED)**
- .0820 CLIENT EVALUATION REPORT (REPEALED)**
- .0821 INDIVIDUAL PROGRAM PLAN AND GOAL PLAN (REPEALED)**

Statutory Authority G.S. 143B-147.

SECTION .1200 - PROVISION OF SOCIAL SETTING: NONHOSPITAL MEDICAL OR OUTPATIENT DETOXIFICATION SERVICES FOR INDIVIDUALS WHO ARE ALCOHOLICS

- .1201 INTRODUCTION (REPEALED)**
- .1202 PROVISION OF SERVICES (REPEALED)**

Statutory Authority G.S. 143B-147.

SUBCHAPTER 180 - OPTIONAL SERVICES FOR INDIVIDUALS WHO ARE SUBSTANCE ABUSERS

SECTION .0100 - SOCIAL SETTING: NONHOSPITAL MEDICAL AND OUTPATIENT DETOXIFICATION SERVICES FOR INDIVIDUALS WHO ARE ALCOHOLICS

- .0104 INTRODUCTION (REPEALED)**
- .0105 POPULATION SERVED (REPEALED)**
- .0106 STAFF REQUIRED: GENERAL (REPEALED)**
- .0107 TRAINING OF STAFF (REPEALED)**
- .0108 EMERGENCY MEDICAL SERVICES (REPEALED)**
- .0109 PREADMISSION SCREENING (REPEALED)**
- .0110 CONSENT FOR TREATMENT (REPEALED)**
- .0111 REFERRAL TO TREATMENT AND REHABILITATION PROGRAM**

- (REPEALED)
- .0112 SOCIAL SETTING: HOURS OF OPERATION (REPEALED)
- .0113 SOCIAL SETTING: STAFF REQUIRED (REPEALED)
- .0114 SOCIAL SETTING: POSTING OF RULES (REPEALED)
- .0115 SOCIAL SETTING: MONITORING OF CLIENTS (REPEALED)
- .0116 NONHOSPITAL MEDICAL: HOURS OF OPERATION (REPEALED)
- .0117 NONHOSPITAL MEDICAL: STAFF REQUIRED (REPEALED)
- .0118 NONHOSPITAL MEDICAL: POSTING OF RULES (REPEALED)
- .0119 NONHOSPITAL MEDICAL: PHYSICAL EXAMINATIONS (REPEALED)
- .0120 NONHOSPITAL MEDICAL: MONITORING OF CLIENTS (REPEALED)
- .0121 OUTPATIENT: HOURS OF OPERATION (REPEALED)
- .0122 OUTPATIENT: STAFF REQUIRED (REPEALED)
- .0123 OUTPATIENT: PHYSICAL EXAMINATIONS (REPEALED)

Statutory Authority G.S. 143B-147.

SECTION .0200 - HALFWAY HOUSES FOR INDIVIDUALS WHO ARE ALCOHOLICS

- .0218 INTRODUCTION (REPEALED)
- .0219 POPULATION SERVED (REPEALED)
- .0220 HOURS OF OPERATION (REPEALED)
- .0221 STAFF REQUIRED (REPEALED)
- .0222 TRAINING OF STAFF (REPEALED)
- .0223 SCREENING FOR COMMUNICABLE DISEASES (REPEALED)
- .0224 POSTING OF HOUSE RULES (REPEALED)
- .0225 SCHEDULE OF ACTIVITIES (REPEALED)
- .0226 SUPPORTIVE SERVICES (REPEALED)
- .0227 EMERGENCY MEDICAL SERVICES (REPEALED)

Statutory Authority G.S. 143B-147.

SECTION .0300 - RESIDENTIAL TREATMENT /REHABILITATION PROGRAMS FOR INDIVIDUALS WHO ARE ALCOHOL OR OTHER DRUG ABUSERS

- .0311 INTRODUCTION (REPEALED)
- .0312 POPULATION SERVED (REPEALED)
- .0313 HOURS OF OPERATION (REPEALED)
- .0314 STAFF REQUIRED (REPEALED)
- .0315 TRAINING OF STAFF (REPEALED)
- .0316 SCREENING FOR COMMUNICABLE DISEASES (REPEALED)
- .0317 PHYSICAL EXAMINATIONS/ LABORATORY TESTING (REPEALED)
- .0318 EMERGENCY MEDICAL SERVICES (REPEALED)

- .0319 POSTING OF HOUSE RULES (REPEALED)
- .0320 SCHEDULE OF ACTIVITIES (REPEALED)
- .0321 TREATMENT/REHABILITATION SERVICES (REPEALED)

Statutory Authority G.S. 143B-147.

SECTION .0400 - METHADONE TREATMENT SERVICES FOR INDIVIDUALS WHO ARE NARCOTICS ABUSERS

- .0405 INTRODUCTION (REPEALED)
- .0406 COMPLIANCE WITH FDA/NIDA REGULATIONS (REPEALED)
- .0407 COMPLIANCE WITH FDA REGULATIONS (REPEALED)
- .0408 COMPLIANCE WITH NORTH CAROLINA CSA REGULATIONS (REPEALED)
- .0409 HOURS OF OPERATION (REPEALED)
- .0410 TAKE-HOME SUPPLIES FOR HOLIDAYS (REPEALED)
- .0411 STAFF REQUIRED (REPEALED)
- .0412 TRAINING OF STAFF (REPEALED)
- .0413 WITHDRAWAL FROM METHADONE (REPEALED)
- .0414 TREATMENT/REHABILITATION SERVICES (REPEALED)
- .0415 CLIENT DISCHARGE RESTRICTIONS (REPEALED)

Statutory Authority G.S. 143B-147.

SECTION .0600 - DEVELOPMENTAL DAY CARE CENTERS FOR MENTALLY RETARDED CHILDREN: HABILITATION

- .0638 INTRODUCTION (REPEALED)
- .0639 POPULATION SERVED (REPEALED)
- .0640 HOURS OF OPERATION (REPEALED)
- .0641 STAFFING REQUIREMENTS (REPEALED)
- .0642 STAFF TRAINING (REPEALED)
- .0643 CONSENT FOR TREATMENT (REPEALED)
- .0644 PROGRAM PLAN DESCRIPTION (REPEALED)
- .0645 EMERGENCY SERVICES (REPEALED)
- .0646 MEDICAL AND PSYCHIATRIC CARE AND SERVICES (REPEALED)
- .0647 ASSESSMENT (REPEALED)
- .0648 COMPREHENSIVE INDIVIDUAL TREATMENT PLAN (REPEALED)
- .0649 AFTERCARE SERVICES (REPEALED)
- .0650 INVOLUNTARY COMMITMENTS (REPEALED)
- .0651 SECLUSION OR MECHANICAL RESTRAINTS (REPEALED)

Statutory Authority G.S. 122C-60; 143B-147.

PROPOSED RULES

**SUBCHAPTER 18P - OPTIONAL SERVICES
FOR INDIVIDUALS WHO ARE MENTALLY
ILL OR EMOTIONALLY DISTURBED**

**SECTION .0100 - DAY TREATMENT
PROGRAMS FOR CHILDREN AND
ADOLESCENTS WHO ARE EMOTIONALLY
DISTURBED**

- .0131 INTRODUCTION (REPEALED)
- .0132 POPULATION SERVED (REPEALED)
- .0133 STAFF REQUIRED (REPEALED)
- .0134 STAFF/CLIENT RATIO (REPEALED)
- .0135 GROUPING OF CHILDREN/
ADOLESCENTS (REPEALED)
- .0136 TRAINING OF STAFF (REPEALED)
- .0137 MEDICAL STATEMENT (REPEALED)
- .0138 DIAGNOSTIC STUDY (REPEALED)
- .0139 COORDINATION OF SERVICE
(REPEALED)
- .0140 TREATMENT PROGRAM (REPEALED)
- .0141 PSYCHIATRIC CONSULTATION
(REPEALED)
- .0142 SCHEDULE OF DAILY ACTIVITIES
(REPEALED)
- .0143 ROLE OF PARENTS (REPEALED)

Statutory Authority G.S. 143B-147.

**SECTION .0200 - RESIDENTIAL
TREATMENT
PROGRAMS FOR CHILDREN AND
ADOLESCENTS
WHO ARE EMOTIONALLY DISTURBED**

- .0227 INTRODUCTION (REPEALED)
- .0228 POPULATION SERVED (REPEALED)
- .0229 STAFF REQUIRED (REPEALED)
- .0230 STAFF/CLIENT RATIO (REPEALED)
- .0231 GROUPING OF CHILDREN/
ADOLESCENTS (REPEALED)
- .0232 TRAINING OF STAFF (REPEALED)
- .0233 LOCATION OF FACILITY (REPEALED)
- .0234 MEDICAL STATEMENT (REPEALED)
- .0235 DIAGNOSTIC STUDY (REPEALED)
- .0236 TREATMENT PROGRAM (REPEALED)
- .0237 PSYCHIATRIC CONSULTATION
(REPEALED)
- .0238 COORDINATION OF TREATMENT AND
EDUCATION (REPEALED)
- .0239 EDUCATIONAL PROGRAMS (REPEALED)
- .0240 SUMMER PROGRAM (REPEALED)
- .0241 SCHEDULE OF DAILY ACTIVITIES
(REPEALED)
- .0242 HOUSEKEEPING ACTIVITIES
(REPEALED)
- .0243 CLOTHING (REPEALED)
- .0244 PERSONAL HYGIENE (REPEALED)

Statutory Authority G.S. 143B-147.

**SECTION .0300 - RESIDENTIAL
THERAPEUTIC CAMPS FOR CHILDREN AND**

**ADOLESCENTS WHO ARE EMOTIONALLY
DISTURBED**

- .0301 INTRODUCTION (REPEALED)
- .0302 POPULATION SERVED (REPEALED)
- .0303 STAFF REQUIRED (REPEALED)
- .0304 STAFF/CLIENT RATIO (REPEALED)
- .0305 GROUPING OF CHILDREN (REPEALED)
- .0306 TRAINING OF STAFF (REPEALED)
- .0307 MEDICAL STATEMENT (REPEALED)
- .0308 PRE-ADMISSION DIAGNOSTIC STUDY
AND TREATMENT PLAN (REPEALED)
- .0309 TREATMENT PROGRAM (REPEALED)
- .0310 PSYCHIATRIC CONSULTATION
(REPEALED)
- .0311 SCHEDULE OF DAILY ACTIVITIES
(REPEALED)
- .0312 EMERGENCY MEDICAL TREATMENT
(REPEALED)
- .0313 BASIC CHILD/ADOLESCENT SAFETY
(REPEALED)

Statutory Authority G.S. 143B-147.

**SECTION .0400 - PARTIAL
HOSPITALIZATION
SERVICES FOR ADULT AND ELDERLY
INDIVIDUALS WHO ARE ACUTELY
MENTALLY ILL**

- .0401 INTRODUCTION (REPEALED)
- .0402 POPULATION SERVED (REPEALED)
- .0403 HOURS OF OPERATION (REPEALED)
- .0404 STAFF REQUIRED (REPEALED)
- .0405 ROLE OF PHYSICIAN (REPEALED)
- .0406 STAFF/PATIENT RATIO (REPEALED)
- .0407 GROUP THERAPY (REPEALED)

Statutory Authority G.S. 143B-147.

**SECTION .0500 - COMMUNITY SUPPORT
PROGRAMS (CSP) FOR ADULT AND
ELDERLY INDIVIDUALS WHO ARE
CHRONICALLY MENTALLY ILL**

- .0501 INTRODUCTION (REPEALED)
- .0502 POPULATION SERVED (REPEALED)
- .0503 HOURS OF OPERATION (REPEALED)
- .0504 STAFF REQUIRED (REPEALED)
- .0505 SKILLS DEVELOPMENT (REPEALED)
- .0506 EDUCATIONAL SERVICES (REPEALED)
- .0507 PREVOCATIONAL SERVICES
(REPEALED)
- .0508 TRANSITIONAL EMPLOYMENT
SERVICES (REPEALED)

Statutory Authority G.S. 143B-147.

**SECTION .0600 - DAY CARE FOR ADULT
AND
ELDERLY INDIVIDUALS WHO ARE
MENTALLY ILL**

- .0601 INTRODUCTION (REPEALED)
- .0602 POPULATION SERVED (REPEALED)
- .0603 COMPLIANCE WITH ADULT DAY CARE STANDARDS (REPEALED)

Statutory Authority G.S. 143B-147.

SECTION .0700 - TRANSITIONAL RESIDENCE PROGRAMS FOR ADULT AND ELDERLY INDIVIDUALS WHO ARE MENTALLY ILL

- .0701 INTRODUCTION (REPEALED)
- .0702 POPULATION SERVED (REPEALED)
- .0703 HOURS OF OPERATION (REPEALED)
- .0704 STAFF REQUIRED (REPEALED)
- .0705 RESIDENT COUNCIL (REPEALED)
- .0706 PROGRAM ACTIVITIES (REPEALED)
- .0707 EMPLOYMENT OPPORTUNITIES (REPEALED)

Statutory Authority G.S. 143B-147.

SECTION .0800 - AREA OPERATED PSYCHIATRIC HOSPITALS FOR CHILDREN; ADOLESCENT; ADULT AND ELDERLY INDIVIDUALS WHO ARE MENTALLY ILL

- .0801 INTRODUCTION (REPEALED)
- .0802 POPULATION SERVED (REPEALED)
- .0803 HOURS OF OPERATION (REPEALED)
- .0804 STAFF REQUIRED (REPEALED)
- .0805 ADMISSION ASSESSMENTS (REPEALED)
- .0806 INDIVIDUAL TREATMENT PLAN (REPEALED)

Statutory Authority G.S. 143B-147.

- .0807 SECLUSION OR MECHANICAL RESTRAINTS (REPEALED)

Statutory Authority G.S. 143B-147.

SECTION .0900 - CONTRACTED INPATIENT PSYCHIATRIC SERVICES FOR CHILDREN; ADOLESCENT; ADULT AND ELDERLY INDIVIDUALS WHO ARE MENTALLY ILL

- .0904 SECLUSION OR MECHANICAL RESTRAINTS (REPEALED)

Statutory Authority G.S. 143B-147.

SUBCHAPTER 18Q - OPTIONAL SERVICES FOR INDIVIDUALS WHO ARE MENTALLY RETARDED

- SECTION .0100 - EARLY CHILDHOOD INTERVENTION SERVICES (ECIS) FOR CHILDREN WITH MENTAL RETARDATION OR AT HIGH RISK FOR MENTAL RETARDATION OR OTHER

DEVELOPMENTAL DISABILITIES OR DELAYS

.0123 INTRODUCTION

(a) An early childhood intervention service (ECIS) is a periodic service designed to promote the developmental growth of a child who is mentally retarded or otherwise developmentally disabled or delayed or who has atypical development or at high risk for mental retardation, developmental disabilities or delays or atypical development. In addition, it provides families with support and information on child rearing skills and management, and services and resources available to the child and family. The service provides, on a regularly scheduled basis, comprehensive assessment and prescriptive developmental programming such as cognitive, speech, and motor development in the client's home and which may be supplemented by individual or group services at other sites. This service provides case-specific and general follow-up and consultation to other preschool programs.

Statutory Authority G.S. 143B-147.

.0124 POPULATION SERVED (REPEALED)

Statutory Authority G.S. 143B-147.

.0126 INTERDISCIPLINARY ECIS STAFF

(d) Assessment of the child to determine developmental delay, developmental disability, atypical development or high risk for these conditions shall be performed by an appropriately credentialed professional whose training qualifies him/her to assess children in the developmental area of concern. Standardized tests, rating scales, developmental profiles and other instruments and procedures that meet acceptable professional standards shall be used to document the nature and severity of the problems necessitating intervention.

Statutory Authority G.S. 143B-147.

SECTION .0200 - BEFORE/AFTER SCHOOL AND SUMMER DEVELOPMENTAL DAY SERVICES FOR CHILDREN WITH MENTAL RETARDATION OR OTHER DEVELOPMENTAL DISABILITIES

.0284 CROSS-REFERENCE TO INTRODUCTION

(a) Before-after school developmental day centers for children who are mentally retarded, or otherwise developmentally disabled, or at high risk for mental retardation are day services

which provide individual habilitative programming and recreational activities for school aged mentally retarded children. Services are provided preceding and following the school day during the months of local school operation and are designed to meet developmental needs of the children as well as the child care needs of families. Before-after school services may be provided as a component of a developmental day center which serves preschool children or may be provided as a separate component.

(b) Summer developmental day programs for children who are mentally retarded, or otherwise developmentally disabled, or at high risk for mental retardation are day programs which provide individual habilitative programming and recreational activities in a licensed child care center for school-aged children during the summer period when they are not participating in educational activities. This program is designed to promote continuing progress in acquiring developmental skills such as self-help, fine and gross motor, language and communication, cognitive and social skills, in order to facilitate functioning in a less restrictive environment. The program is also designed to meet child care needs of families.

Before after school and summer developmental day services shall comply with the provisions of 10 NCAC 14M .0501.

Statutory Authority G.S. 143B-147.

.0285 POPULATION SERVED (REPEALED)

Statutory Authority G.S. 143B-147.

.0286 CROSS-REFERENCE TO HOURS OF OPERATION

(a) Each before-after school developmental day service shall be available for a minimum of three hours per day (exclusive of transportation time), five days per week, during the months of local school operation.

(b) Each summer developmental day service shall be available for a minimum of eight hours per day (exclusive of transportation time), five days per week, during the weeks in which local school operation is closed for summer break.

Before after school and summer developmental day services shall comply with the provisions of 10 NCAC 14M .0502.

Statutory Authority G.S. 143B-147.

.0287 PROGRAM REQUIREMENTS

Each before/after school center service or summer center service shall comply with Standards .0704 through .0714, with the exception of .0704(d) and (e), .0708(b)(2), and .0711, of 10 NCAC 18M, Section .0700, Developmental Day Centers For Preschool Children Who Are Mentally Retarded. With Mental Retardation Or Other Developmental Disabilities Or Delays Or At Risk For Mental Retardation Or Other Developmental Disabilities Or Delays.

Statutory Authority G.S. 143B-147.

SECTION .0300 - SPECIALIZED COMMUNITY RESIDENTIAL SERVICES FOR INDIVIDUALS WITH MENTAL RETARDATION OR OTHER DEVELOPMENTAL DISABILITIES

.0320 CROSS-REFERENCE TO INTRODUCTION

A specialized community residential service is a residential service which provides care, treatment and developmental training for mentally retarded, multi-handicapped individuals, children or adults, over an extended period of time. Through integration of medical services and close supervision, it is designed to assist each individual to attain his highest level of independent living skills while receiving care for his physical needs. This service may be certified for Medicaid as an Intermediate Care Facility for the Mentally Retarded (ICF-MR).

Specialized community residential services shall comply with the provisions of 10 NCAC 14M .0101.

Statutory Authority G.S. 143B-147.

- .0321 POPULATION SERVED (REPEALED)
- .0322 HOURS OF OPERATION (REPEALED)
- .0323 CAPACITY OF SERVICE (REPEALED)
- .0324 QUALIFICATIONS OF DIRECTOR (REPEALED)
- .0325 NURSING STAFF (REPEALED)
- .0326 PROVISION FOR INTERDISCIPLINARY SERVICES (REPEALED)
- .0327 CHILD/STAFF RATIOS (REPEALED)
- .0328 MEDICAL STATEMENT (REPEALED)
- .0329 INDIVIDUAL PROGRAM PLANS: GOAL PLANS: NURSING CARE PLANS (REPEALED)
- .0330 DAILY TRAINING ACTIVITIES (REPEALED)
- .0331 PERSONAL CARE (REPEALED)
- .0332 FAMILY PARTICIPATION (REPEALED)
- .0333 MEDICAL CARE (REPEALED)
- .0334 BEDROOM SPACE (REPEALED)

Statutory Authority G.S. 143B-147.

SECTION .0400 - GROUP HOMES FOR CHILDREN WHO ARE MENTALLY RETARDED

- .0421 INTRODUCTION (REPEALED)
- .0422 POPULATION SERVED (REPEALED)
- .0423 HOURS OF OPERATION (REPEALED)
- .0424 CAPACITY OF HOME (REPEALED)
- .0425 LOCATION OF HOME (REPEALED)
- .0426 UTILIZATION OF COMMUNITY SERVICES (REPEALED)
- .0427 STAFF REQUIRED (REPEALED)
- .0428 STAFF/CHILD RATIOS (REPEALED)
- .0429 MEDICAL STATEMENT (REPEALED)
- .0430 INDIVIDUAL PROGRAM PLANS AND GOAL PLANS (REPEALED)
- .0431 DAILY TRAINING ACTIVITIES (REPEALED)
- .0432 PERSONAL CARE (REPEALED)
- .0433 FAMILY PARTICIPATION (REPEALED)

Statutory Authority G.S. 143B-147.

SECTION .0500 - COMMUNITY RESPITE SERVICES FOR INDIVIDUALS WITH MENTAL RETARDATION; OTHER DEVELOPMENTAL DISABILITIES; DEVELOPMENTAL DELAYS OR AT RISK FOR THESE CONDITIONS

.0520 INTRODUCTION
(c) Respite services may be provided by the following three models:

(3) companion sitter is a support service in which a trained respite provider is scheduled to care for the individual in a variety of settings, including the individual's own home, or other designated site. ~~Services in this model may be provided on an individual or group basis. This service is not subject to licensure.~~

(d) ~~Standards .0521 through .0534 of this Section apply to all three models of respite care. In addition, Standards .0532 and .0533 apply to center based services; Standards .0534 through .0537 apply to private home services; and Standards .0538 through .0541 apply to companion sitter services.~~

Statutory Authority G.S. 143B-147.

.0521 CROSS-REFERENCE TO POPULATION SERVED

Each respite service shall be designed primarily to serve individuals who are mentally retarded; however, otherwise developmentally disabled individuals whose needs are similar to mentally retarded individuals may be served.

Each community respite service shall comply with the provisions of 10 NCAC 14M .0702.

Statutory Authority G.S. 143B-147.

- .0522 DIRECTOR/COORDINATOR (REPEALED)
- .0523 FAMILY SERVICES COORDINATOR (REPEALED)
- .0524 AGE OF STAFF MEMBERS (REPEALED)
- .0525 LENGTH OF STAY (REPEALED)
- .0526 CLIENT MEDICAL EXAMINATION (REPEALED)
- .0527 MEDICAL PRECAUTIONS (REPEALED)
- .0528 PERSONAL ACCOMMODATIONS (REPEALED)
- .0529 PERSONAL CARE (REPEALED)
- .0530 RESPITE ACTIVITIES (REPEALED)
- .0531 MEDICAL STATEMENT (REPEALED)
- .0532 CENTER BASED SERVICES: STAFF REQUIRED (REPEALED)
- .0533 CENTER BASED SERVICES: CLIENT'S HEALTH (REPEALED)
- .0534 PRIVATE HOME SERVICES: PROVIDER APPLICATION (REPEALED)
- .0535 PRIVATE HOME SERVICES: PROVIDER TRAINING (REPEALED)
- .0536 PRIVATE HOME SERVICES: AGREEMENT WITH PROVIDERS (REPEALED)
- .0537 PRIVATE HOME SERVICES: RESPITE SERVICE RESPONSIBILITIES (REPEALED)

Statutory Authority G.S. 143B-147.

.0538 COMPANION SITTER: APPROVAL OF PROVIDERS

Each companion sitter service governing body shall develop and implement written criteria for the approval of companion sitters providers and the sites at which where companion sitter services may be provided.

Statutory Authority G.S. 143B-147.

.0539 COMPANION SITTER SERVICES: PROVIDER TRAINING

Each companion sitter provider shall complete the pre-service training program prescribed by the respite service governing body. Training may include a basic understanding of developmental disabilities, first aid and seizure management.

Statutory Authority G.S. 143B-147.

.0540 COMPANION SITTER AGREEMENT WITH PROVIDERS

(a) The companion sitter service governing body shall sign a written agreement with each companion sitter provider.

(b) The provisions of the agreement shall include the responsibilities of the respite service governing body and the companion sitter provider including:

- (1) confidentiality requirements;
- (2) procedures for securing emergency services;
- (3) program activities to be implemented;
- (4) responsibilities for supervising respite clients;
- (5) procedures related to administration of medications;
- (6) participation in respite training programs; and
- (7) terms of compensation.

(c) A signed copy of the agreement shall be maintained ~~in~~ by the respite service files governing body and a signed copy shall be given to the companion sitter provider.

(d) Each companion sitter shall sign an affirmative action statement for compliance with the provisions of Title VI of the Civil Rights Act of 1964.

Statutory Authority G.S. 143B-147.

**.0541 COMPANION SITTER:
RESPONSIBILITIES OF GOVERNING
BODY**

(a) Each companion sitter service governing body shall attempt to match the respite client's needs with the companion sitter's provider's ability to provide respite services care.

(b) Each companion sitter service governing body shall provide make available to the companion sitter provider a written statement of duties and responsibilities.

(1) This statement shall include length of service to be provided, medications to be administered and special dietary considerations.

(2) If the client is involved in a developmental or occupational program, the companion sitter provider shall be provided written information regarding his responsibilities for assuring that the client attends the program and for structuring activities to enhance objectives established by the developmental or occupational program.

(c) Each companion sitter service governing body shall provide make available to the companion sitter provider a form for recording illness, accident, medical concern, including administration of medication, and general health and appearance of each client at the initiation of each incident episode of respite service care. Following each respite incident

episode, the companion sitter facility shall forward the completed form to the respite service governing body for inclusion in the client's record.

Statutory Authority G.S. 143B-147.

**SECTION .0600 - GROUP HOMES FOR
INDIVIDUALS WHO ARE MENTALLY
RETARDED AND BEHAVIORALLY
DISORDERED (MR/BD)**

- .0601 INTRODUCTION (REPEALED)
- .0602 POPULATION SERVED (REPEALED)
- .0603 HOURS OF OPERATION (REPEALED)
- .0604 CAPACITY OF HOME (REPEALED)
- .0605 STAFF REQUIRED (REPEALED)
- .0606 STAFF/CLIENT RATIOS (REPEALED)
- .0607 INDIVIDUAL PROGRAM PLANS AND GOAL PLANS (REPEALED)
- .0608 BEHAVIORAL PROGRAMMING (REPEALED)
- .0609 DAY SERVICES (REPEALED)
- .0610 COMMUNITY SERVICES (REPEALED)
- .0611 FAMILY INVOLVEMENT (REPEALED)

Statutory Authority G.S. 143B-147.

**SECTION .0700 - GROUP HOMES FOR
ADULTS WHO ARE MENTALLY RETARDED**

- .0701 INTRODUCTION (REPEALED)
- .0702 POPULATION SERVED (REPEALED)
- .0703 HOURS OF OPERATION (REPEALED)
- .0704 ADMISSION DECISION OF CLIENT (REPEALED)
- .0705 RESIDENT FUNDS (REPEALED)
- .0706 ANNUAL INTERNAL ASSESSMENT (REPEALED)
- .0707 COMPLIANCE WITH GROUP HOME STANDARDS (REPEALED)
- .0708 GROUP HOMES THAT MEET ICS/MR CERTIFICATION (REPEALED)

Statutory Authority G.S. 143B-147.

**SECTION .0800 - APARTMENT LIVING
PROGRAMS FOR ADULTS WITH MENTAL
RETARDATION OR OTHER
DEVELOPMENTAL DISABILITIES**

.0802 POPULATION SERVED

Each apartment living program shall be designed primarily to serve mentally retarded individuals with mental retardation or other developmental disability who are at least 18 years of age and in need of residential support services within a community setting.

Statutory Authority G.S. 143B-147.

.0803 CROSS-REFERENCE TO PROGRAM

DIRECTOR/COORDINATOR

(a) Each apartment living program shall have a minimum of one designated director-coordinator.

(b) The director-coordinator shall be at least a high school graduate or equivalent with three years of experience in mental retardation programming but preferably a college graduate with one year of experience in mental retardation programming.

Each apartment living program shall comply with the provisions of 10 NCAC 140 .0204.

Statutory Authority G.S. 143B-147.

.0804 CROSS-REFERENCE TO STAFF REQUIRED FOR MR/DD CLIENTS

(a) The staffing patterns of the apartment living program, including the staff-resident ratio and the use of volunteers, advocates and other support individuals, shall be developed in response to the degree of independence of residents and the geographical dispersal of apartment living units.

(b) The staff-resident ratio shall be as follows:

- (1) co-resident apartment - at least one staff member to each two residents;
- (2) apartment cluster - at least one staff member to each 12 or fewer residents; and
- (3) independent living - at least one staff member to each 15 or fewer residents.

(c) When the director-coordinator is not available, the program shall designate another person to serve in that capacity.

Each apartment living program shall comply with the provisions of 10 NCAC 140 .0210.

Statutory Authority G.S. 143B-147.

.0806 PHYSICAL PLANT REQUIREMENTS (REPEALED)

Statutory Authority G.S. 143B-147.

.0808 CROSS-REFERENCE TO TREATMENT/HABILITATION PLAN

(a) The individual program plan for each resident shall be developed by the apartment living program and the resident.

(b) A quarterly summary which includes at least a review of the individual program plan shall be prepared by staff.

Each apartment living program shall comply with the provisions of 10 NCAC 140 .0207.

Statutory Authority G.S. 143B-147.

.0810 CROSS-REFERENCE TO CLIENT TRAINING IN HEALTH AND SAFETY

(a) Each resident shall receive training concerning safe and proper methods of using kitchen and housekeeping equipment such as knives, range, exhaust fans, and other electrical appliances.

(b) Each resident shall have access to first-aid supplies located in each apartment living unit and shall receive training in the use of these supplies.

(c) Each resident shall receive instruction in obtaining services in emergency situations.

(d) Information on obtaining emergency services, including access to available telephones, shall be posted.

(e) Each resident who cannot self-medicate shall be provided a training program to assist him to be less reliant on drug administration by staff and more self-reliant regarding drug administration.

Each apartment living program shall comply with the provisions of 10 NCAC 140 .0209.

Statutory Authority G.S. 143B-147.

.0812 CROSS-REFERENCE TO MANAGING CLIENTS' FUNDS

(a) Each apartment living program shall develop and implement written policies regarding the management of residents' funds.

(b) Each resident shall manage his own funds whenever possible.

(c) The apartment living program shall manage residents' funds only upon written request by the resident, and shall provide to the resident at received and disbursed and the balance on hand.

Each apartment living program shall comply with the provisions of 10 NCAC 14K .0311.

Statutory Authority G.S. 143B-147.

SUBCHAPTER 18R - LICENSURE RULES FOR MENTAL HEALTH; MENTAL RETARDATION AND ALCOHOL FACILITIES

SECTION .0100 - DEFINITIONS

.0101 ADMINISTRATOR (REPEALED)

.0102 PARTIAL HOSPITALIZATION (REPEALED)

.0103 DIVISION (REPEALED)

.0104 COMMISSION (REPEALED)

.0105 DEPARTMENT (REPEALED)

.0106 FACILITY (REPEALED)

.0107 IN-PATIENT FACILITY OR

RESIDENTIAL FACILITY (REPEALED)

.0108 OUT-PATIENT FACILITY (REPEALED)

.0109 TREATMENT (REPEALED)

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0200 - APPLICATION FOR
LICENSE

- .0201 LICENSE REQUIRED (REPEALED)
- .0202 EXCLUSIONS FROM LICENSURE (REPEALED)
- .0203 NOTICE REQUIRED (REPEALED)
- .0204 CONTENT OF APPLICATION (REPEALED)
- .0205 LICENSURE SURVEYS AND ISSUANCE (REPEALED)
- .0206 RENEWAL (REPEALED)
- .0207 SEPARATE LICENSE (REPEALED)
- .0208 POSTING OF LICENSES (REPEALED)
- .0209 EXCEEDING LICENSED CAPACITY (REPEALED)
- .0210 TRANSFERABILITY (REPEALED)
- .0211 REVOCATION (REPEALED)
- .0212 EMERGENCY REVOCATION (REPEALED)
- .0213 INSPECTIONS (REPEALED)
- .0214 REVIEW REQUIRED (REPEALED)

Statutory Authority G.S. 122C-3; 122C-22; 122C-23; 122C-26; 143B-147.

SECTION .0300 - ADMINISTRATION

- .0301 COMPLIANCE WITH APPLICABLE LAWS (REPEALED)
- .0302 LICENSURE OF STAFF (REPEALED)
- .0303 PERSON IN CHARGE (REPEALED)
- .0304 VACANT POSITION (REPEALED)
- .0305 DESIGNATED PERSON (REPEALED)
- .0306 FINANCIAL AND STATISTICAL RECORDS (REPEALED)

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0400 - PERSONNEL: GENERAL

- .0401 NUMBER OF PERSONNEL (REPEALED)
- .0402 ASSIGNMENT OF PERSONNEL (REPEALED)
- .0403 PERSONNEL RECORDS (REPEALED)
- .0404 POLICIES (REPEALED)
- .0405 IN-SERVICE TRAINING (REPEALED)

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0500 - ADMISSIONS AND
DISCHARGES

- .0501 ADMISSION (REPEALED)
- .0502 WRITTEN POLICIES (REPEALED)
- .0503 PATIENT INFORMATION (REPEALED)
- .0504 DISCHARGE (REPEALED)

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0600 - RECORDS

- .0601 PATIENT RECORD (REPEALED)
- .0602 CONTENT (REPEALED)
- .0603 INDICES AND REGISTERS (REPEALED)
- .0604 FILING AND RETRIEVAL (REPEALED)
- .0605 CONFIDENTIALITY (REPEALED)

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0700 - CONTRACTED SERVICES

- .0701 WRITTEN AGREEMENT (REPEALED)
- .0702 CONTENT OF AGREEMENT (REPEALED)

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0800 - MEDICAL SERVICES

- .0801 MEDICAL DIRECTION (REPEALED)
- .0802 ORGANIZATION (REPEALED)
- .0803 COMMITTEES (REPEALED)

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .0900 - NURSING

- .0901 NURSING STANDARDS (REPEALED)
- .0902 NURSES TO BE ON DUTY (REPEALED)

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .1000 - PHARMACEUTICAL
SERVICES

- .1001 POLICIES (REPEALED)
- .1002 DISPENSING (REPEALED)
- .1003 STORAGE (REPEALED)
- .1004 ADMINISTRATION (REPEALED)

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .1100 - DIETARY SERVICES

- .1101 FACILITIES (REPEALED)
- .1102 ORGANIZATION (REPEALED)
- .1103 RECORDS (REPEALED)
- .1104 MENUS (REPEALED)
- .1105 SANITATION (REPEALED)
- .1106 FOOD SERVICE BY CONTRACT (REPEALED)

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .1200 - PHYSICAL PLANT

- .1201 HOUSEKEEPING (REPEALED)
- .1202 CONSTRUCTION (REPEALED)
- .1203 FIRE AND DISASTER PLAN (REPEALED)
- .1204 FIRE DRILLS (REPEALED)
- .1205 ELECTRICAL; MECHANICAL AND WATER SYSTEMS (REPEALED)
- .1206 STORAGE (REPEALED)
- .1207 EMERGENCY POWER (REPEALED)

- .1208 ROOM SIZE (REPEALED)
- .1209 EQUIPMENT AND FURNISHINGS (REPEALED)

Statutory Authority G.S. 122C-26; 143B-147.

SECTION .1300 - WAIVER OF RULES AND REGULATIONS

- .1301 PROGRAM FLEXIBILITY (REPEALED)
- .1302 REQUEST FOR WAIVER (REPEALED)

Statutory Authority G.S. 122C-23; 122C-26; 122C-27; 143B-147.

SECTION .1400 - APPEAL PROCEDURES

- .1401 DENIAL OR REVOCATION (REPEALED)
- .1402 REQUEST FOR HEARING (REPEALED)

Statutory Authority G.S. 122C-24; 122C-26; 122C-27; 143B-147; 150B-3.

CHAPTER 45 - NORTH CAROLINA DRUG COMMISSION

SUBCHAPTER 45H - DRUG TREATMENT FACILITIES

SECTION .0100 - LICENSING REGULATIONS FOR DRUG TREATMENT FACILITIES

- .0119 DEFINITIONS (REPEALED)
- .0120 LICENSE (REPEALED)
- .0121 GENERAL PROVISIONS (REPEALED)
- .0122 ADMINISTRATION (REPEALED)
- .0123 PERSONNEL (REPEALED)
- .0124 MEDICAL SERVICES (REPEALED)
- .0125 ADMISSIONS AND DISCHARGES (REPEALED)
- .0126 CASE RECORDS: DATA REQUIRED FOR TREATMENT CLIENTS (REPEALED)
- .0127 CASE RECORD: DATA REQUIRED FOR CRISIS INTERVENTION CLIENTS (REPEALED)
- .0128 CLIENT RECORD: DATA REQUIRED FOR TELEPHONE CRISIS LINE (REPEALED)
- .0129 CASE RECORD: FILING AND RETRIEVAL (REPEALED)
- .0130 REFERRALS (REPEALED)
- .0131 CONTRACTED SERVICES (REPEALED)
- .0132 DIETARY SERVICES (REPEALED)
- .0133 PHYSICAL PLANT (REPEALED)

Statutory Authority G.S. 90-109; 122C-3; 122C-23; 122C-26; 122C-27; 143B-147.

TITLE II - DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Insurance intends to adopt, amend and repeal regulations cited as 11 NCAC 1 .0101 - .0107, .0202 - .0204, .0206 - .0208, .0301 - .0303, .0401, .0403 - .0404, .0406 - .0407, .0409 - .0412, .0601 - .0605, .0701 - .0702; 3 .0001 - .0005, .0008.

The proposed effective date of this action is July 1, 1988.

The public hearing will be conducted at 10:00 a.m. on April 20, 1988 at Third Floor Hearing Room, Dobbs Building, 430 N. Salisbury Street, Raleigh, North Carolina 27611.

Comment Procedures: Written comments should be submitted to Linda Stott, P.O. Box 26387, Raleigh, N.C. 27611. Oral presentations may be made at the public hearing.

CHAPTER 1 - DEPARTMENTAL RULES

SECTION .0100 - GENERAL PROVISIONS

- .0101 NAME AND PURPOSE (REPEALED)
- .0102 DEFINITIONS (REPEALED)

Statutory Authority G.S. 58-2; 58-4.

.0103 LOCATION; MAILING ADDRESS; AND OFFICE HOURS

(a) Location. The primary location of The North Carolina Department of Insurance is located in the Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina. The Engineering and Building Codes Division is located at 410 N. Boylan Avenue, Raleigh, North Carolina 27603. The Fire and Rescue Division is located at 111 Seaboard Ave., Raleigh, North Carolina 27611. The Eastern Office is located at 405 Middle St., Room 107, New Bern, North Carolina 28560. The Western Office is located at 19 North Market Square, Suite 210, Asheville, North Carolina 28801.

(c) The department shall have normal working hours between 8:00 a.m. and 5:00 p.m., Monday through Friday. Legal holidays will be observed as recommended by the North Carolina Department of Administration.

Statutory Authority G.S. 58-4.

- .0104 OFFICE HOURS (REPEALED)
- .0105 COMMISSIONER OF INSURANCE (REPEALED)

Statutory Authority G.S. 58-4; 58-5; 58-9.

.0106 ORGANIZATION OF THE DEPARTMENT

(a) In order to carry out effectively the its functions and purposes, of the department, the department is divided into several divisions, including, but not limited to the following:

- (1) administration division,
- (2) legal division,
- (3) company admissions division,
- (4) company operations financial evaluation division,
- (5) consumer ~~insurance~~ information division,
- (6) engineering and building codes division,
- (7) fire and casualty division,
- (8) fire and rescue ~~services~~ division,
- (9) investigations division,
- (10) licensing agent services division,
- (11) life-accident and health division,
- (12) special services division,
- (13) state property fire insurance fund division,
- (14) support services personnel division.
- (15) budget division,
- (16) field audit division,
- (17) self-insured workers' compensation division,
- (18) market conduct division,
- (19) actuarial services division,
- (20) North Carolina Fire Commission.

(b) The divisions are organized and administered as follows: reporting directly to the commissioner is the chief deputy commissioner. Reporting to the chief deputy commissioner are the directors, who are also deputy commissioners. Reporting to the directors are the heads of the various divisions. The Director of Technical Operations supervises the company operations division and the company admissions division. The Director of Consumer Affairs supervises the consumer insurance information, the licensing, the investigations, the life, accident and health, the legal and the fire and casualty divisions. The Director of Budget, Personnel and Ombudsman Services supervises the support services division. The Director of Non-insurance Regulatory Services supervises the special services, the fire and rescue, the engineering, and the state property fund divisions. The chief deputy commissioner directly supervises the administration division.

Statutory Authority G.S. 58-7.3; 58-9.

.0107 PUBLIC INFORMATION AND

DEPARTMENTAL RECORDS

(a) ~~Public Information.~~ The public shall be entitled to access to any and all information contained in the files of the department, except when ~~divulging information could jeopardize the rights of any person to a fair hearing with reference to alleged violations of insurance laws, or when the information is properly deemed by the department to be of a confidential nature.~~ Requests for departmental records shall be made in writing to the commissioner and directed to the attention of the appropriate division as outlined in this Title.

(b) ~~Reproduction of Departmental Records.~~ Reproduction of departmental records will be permitted on a discretionary basis depending on the volume of the request and the availability of personnel to make the reproductions. Fees charged for reproduction of departmental records will be in accordance with the applicable General Statutes of North Carolina and based on additional costs to the department, if any.

Departmental records that are properly deemed to be public information may be reproduced upon request. The request must be made in writing and directed to the head of the appropriate division. Reproduction of departmental records will be permitted on a discretionary basis depending on the volume of the request and the availability of personnel to make the reproductions. Fees will be charged in accordance with the applicable General Statutes of North Carolina.

Statutory Authority G.S. 58-4; 58-9.

SECTION .0200 - DEPARTMENTAL RULES

.0202 FORMER DEPARTMENTAL REGULATIONS RETAINED AND CITED (REPEALED)

Statutory Authority G.S. 58-9.

.0203 PETITION FOR ADOPTION: AMENDMENT OR REPEAL OF RULES

(b) Form of Petition. The petition shall be in writing, signed by the petitioning party or parties and must include the address of the petitioning party. ~~or parties.~~ In addition, the petition shall contain the following information:

(d) Disposition of Petition. Upon receipt of a petition, the commissioner will make a study of the facts stated in the petition and any additional information he deems relevant. The department's disposition of the petition will be

made in one of the following forms within 30 days of receipt of the ~~proposal~~ petition:

- (2) a written communication to the petitioner indicating the department's plan to initiate rule-making procedures pursuant to G.S. ~~150A-12~~ 150B-12.

Statutory Authority G.S. 58-9 through 58-16; 150B-12.

.0204 NOTICE OF RULE-MAKING HEARINGS

Notice of rule-making hearings will be given in accordance with the provisions of North Carolina General Statutes, Chapter ~~150A~~, Section ~~12~~ 150B-12.

Statutory Authority G.S. 150B-12.

.0206 ORAL AND WRITTEN PRESENTATIONS AT RULE-MAKING HEARINGS (REPEALED)

.0207 REQUEST FOR NOTICE OF RULE-MAKING HEARINGS (REPEALED)

.0208 EMERGENCY RULES (REPEALED)

Statutory Authority G.S. 150B-12; 150B-13.

SECTION .0300 - DECLARATORY RULINGS

.0301 DECLARATORY RULINGS: GENERAL INFORMATION

To acquire a declaratory ruling as provided in G.S. ~~150A-17~~, 150B-17, the procedures set forth in this Section shall be strictly adhered to.

Statutory Authority G.S. 150B-17.

.0302 PETITION FOR DECLARATORY RULING

(b) Form and Content of Petition. The petition shall be typewritten and shall contain the name and address of the petitioner, the specific factual situation involved, the question or questions sought to be answered, and the identification of the rules, statutes, or orders applicable to the question presented. ~~In addition, the factual situation involved and the question presented by the petitioner must be clearly stated. Precision shall be exercised in the drafting of the factual statement and the question presented.~~

(d) Mailing Address. All requests for declaratory rulings shall be mailed to: Commissioner of Insurance, ~~ATTENTION: Chief Deputy Commissioner~~, P.O. Box 26387, Raleigh, North Carolina 27611.

Statutory Authority G.S. 150B-17.

.0303 RESPONSE OF COMMISSIONER TO PETITION

(b) ~~Refusal~~ Refusal to Issue Declaratory Ruling. The commissioner may refuse to issue a declaratory ruling if one of the following circumstances exists:

Statutory Authority G.S. 150B-17.

SECTION .0400 - ADMINISTRATIVE HEARINGS

.0401 RIGHT TO HEARING

Whenever the ~~commissioner~~ department acts in such a way as to affect the rights, duties or privileges of a specific identified party, ~~the commissioner shall hold an administrative hearing following due notice prior to such action or shall advise that party of his right to a hearing upon compliance with 11 NCAC 1~~ .0402 and .0403. the party may appeal for a final decision by the department in accordance with Article 3A of G.S. 150B.

Statutory Authority G.S. 58-9; 150B-38.

.0403 REQUEST FOR HEARING

(a) A request for an administrative hearing must be made within 30 days of the ~~commissioner's~~ department's action and must be in writing, containing the following information:

Statutory Authority G.S. 58-9; 150B-38.

.0404 GRANTING OR DENYING HEARING REQUESTS

A decision as to whether a hearing will be granted shall be issued promptly and in ~~no any~~ no later than 30 days after receipt of the request, exclusive of the time required for an attempt at informal settlement. Approval of a request for hearing shall be made by the issuance of a notice of hearing. A denial of a request for hearing shall contain a statement of the reason for denial.

Statutory Authority G.S. 58-9.

.0406 FAILURE TO APPEAR AT HEARING

(a) Whenever a party to a contested case fails to appear after timely notice of hearing, the department shall proceed with the hearing unless, in the discretion of the hearing officer, he determines such hearing should not be conducted. Failure to appear at a scheduled hearing, except as authorized by the hearing officer, shall result in a waiver of the right to a hearing.

(b) A person who has failed to appear at a scheduled hearing may petition the commissioner to have the hearing rescheduled by writing to the commissioner, stating his ~~or her~~ name, address, the dispute involved, and the reason for his ~~or her~~ failure to appear at the scheduled hearing. If the commissioner finds that the failure to appear at the scheduled hearing was for a good reason, he may, at his discretion, reschedule the hearing.

Statutory Authority G.S. 150B-39.

.0407 INTERVENTION IN AN ADMINISTRATIVE HEARING

(d) If the commissioner ~~determines to allow~~ allows intervention, notice of that decision shall be issued promptly to all parties and to the petitioner. ~~In cases of discretionary intervention, such notification~~ Notification will include a statement of any limitation of time, subject matter, evidence, or ~~whatever else is deemed necessary, which are other limitations~~ imposed on the intervenor. If the commissioner's decision is to deny intervention, the petitioner will be notified promptly.

Statutory Authority G.S. 1A-1; 150B-38.

.0409 SUBPOENAS

(b) Subpoenas requiring the attendance of witnesses, or ~~those to produce~~ reproduction of documents, evidence or things will be issued promptly by a hearing officer after receipt of a written request from a party to a contested case for such subpoena.

(e) ~~Except as may be otherwise stated in a particular subpoena a party or person receiving a subpoena from the department may object thereto by filing a written objection to the subpoena with the Deputy Commissioner, Legal Division, P.O. Box 16387, Raleigh, North Carolina 27611.~~

Statutory Authority G.S. 150B-38; 150B-39.

.0410 SERVICE OF SUBPOENAS

Subpoenas shall be served as the officer issuing the subpoena shall direct. ~~as may be appropriate to the circumstances of the case.~~ Subpoenas may be directed to be served by any of the following methods:

(1) by an employee of the ~~agency;~~ department; or

Statutory Authority G.S. 150B-38; 150B-39.

.0411 OBJECTION TO A SUBPOENA

(a) Except as may be otherwise stated in a particular subpoena, a party or person receiving a subpoena from the department may object thereto by filing a written objection to the subpoena with the Deputy Commissioner, Legal Division, P.O. Box 26387, Raleigh, N.C. 27611. An objection to a subpoena must include a concise but complete statement of reasons why the subpoena should be revoked or modified. These reasons may include any reason in law for holding the subpoena invalid.

(c) ~~In such time as may be granted by a hearing officer, the~~ The party requesting the subpoena may file a written response to the objection. The response shall be served in like manner as the objection.

(d) After receipt of the objection and response thereto, the hearing officer shall issue a notice to the party who requested the subpoena and the party challenging the subpoena, and may notify all other parties of a hearing, to be scheduled as soon as practicable, at which time evidence and testimony ~~may be presented limited to the questions raised by~~ regarding the objection and response ~~if any~~ may be presented.

Statutory Authority G.S. 150B-38; 150B-39; 150B-40.

.0412 APPEALS TO THE COMMISSIONER (REPEALED)

Statutory Authority G.S. 58-155.49; 58-155.83; 58-173.11; 58-173.23; 58-248.39.

SECTION .0600 - GENERAL DEPARTMENTAL POLICIES

.0601 COMMUNICATIONS WITH INSURANCE COMPANIES

It is the policy of this department when deemed necessary to communicate with insurance companies at company expense by means of collect ~~telephone~~ telephone calls, telegrams and other similar communications.

Statutory Authority G.S. 58-9; 58-25.1.

.0602 INSURANCE COMPANIES' RESPONSE TO DEPARTMENTAL INQUIRIES

~~Departmental policy requires that~~ Every insurer, upon receipt of an inquiry, oral or written, from the department shall furnish the commissioner ~~of~~ or his designated representative with a complete and accurate response in writing, unless such response is specifically authorized by the commissioner to be given orally. Such response must be made by the

insurer within seven calendar days of receipt of the request, except that the commissioner may extend this time period in an individual case.

Statutory Authority G.S. 58-9; 58-25.1.

.0603 FACSIMILE COUNTERSIGNATURE NOT VALID

It shall be the policy of the department that the use by an agent of a rubber stamp signature for countersignature, pursuant to the provisions of G.S. 58-44, shall not constitute a legal signature and such countersignature of policies is not valid.

If countersignature is required pursuant to the retaliatory provisions of G.S. 58-615(i), the use by an agent of a facsimile signature for countersignature shall not constitute a legal signature and such countersignature of policies is not valid.

Statutory Authority G.S. 58-44.

.0604 SPECIAL AGENT NOT RESIDENT FOR COUNTERSIGNATURE PURPOSES (REPEALED)

.0605 HEARING AND LICENSE REVOCATION PROCEEDINGS (REPEALED)

Statutory Authority G.S. 58-9.3; 58-9.4; 58-37; 58-38; 58-44; 58-44.4A; 58-56.3; 66-49.13; 85C-17; 85C-18.

SECTION .0700 - ADMINISTRATION DIVISION

.0701 PURPOSES OF DIVISION (REPEALED)

.0702 DIVISION PERSONNEL (REPEALED)

Statutory Authority G.S. 58-7.1; 58-7.3.

CHAPTER 3 - LEGAL DIVISION

.0001 DEFINITIONS (REPEALED)

Statutory Authority G.S. 58-9; 150B-12(f).

.0002 PURPOSE OF DIVISION

The Legal Division counsels, advises and renders legal assistance to the commissioner of Insurance and his staff in all matters necessary for the general administration of the insurance laws of this state and other matters over which the commissioner of Insurance has supervisory and regulatory jurisdiction.

Statutory Authority G.S. 58-7.3; 58-9.

.0003 DEPUTY COMMISSIONER (REPEALED)

.0004 DIVISION PERSONNEL (REPEALED)

Statutory Authority G.S. 58-7.3; 58-9; 150B-12(f).

.0005 SERVICE OF LEGAL PROCESS

North Carolina General Statutes Sections ~~58-52.1~~, 58-153, and 58-153.1, ~~58-397~~, ~~58-440~~, ~~58-508(1)~~, ~~58-512(b)~~, and ~~58-615(h)(2)~~ provide that service of legal process may be made upon insurance companies, insurance-support organizations, risk retention and purchasing groups, and non-resident agents, adjusters, motor vehicle damage appraisers and brokers licensees doing business in this state by serving such process upon the commissioner of Insurance or a deputy duly appointed for such purpose. The commissioner will appoint a deputy or deputies within the ~~Legal Division or other divisions of the~~ department to receive and perfect all legal process in accordance with the provisions of the applicable statutes.

Statutory Authority G.S. 58-153; 58-153.1; 58-397; 58-440; 58-508(1); 58-512(b); 58-615(h)(2).

.0008 LEGAL OPINIONS

When a person who is regulated by the department requests clarification of a statute or rule where the person is about to engage in a business activity that may violate the statute or rule, the department may honor the request, subject to available resources or in the discretion of the deputy commissioner of the legal division.

A request for a legal opinion made by a person involved in a legal or factual dispute shall not be honored.

A request for a legal opinion on a hypothetical fact situation shall not be honored.

Every request for a legal opinion as to how to apply a statute or rule to a fact situation must be made in writing. The person making the request should be advised that it may not be appropriate for the department to render a legal opinion and that any legal opinion rendered by the commissioner or his counsel, other than a declaratory ruling issued under G.S. 150B-17, is not binding on the commissioner, and does not prevent the commissioner from subsequently acting in a manner inconsistent with the legal opinion's conclusion.

Statutory Authority G.S. 58-7.3; 58-9.

TITLE 12 - DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Alarm Systems Licensing Board intends to adopt and amend regulations cited as 12 NCAC 11 .0102 - .0103, .0122, .0206, .0303.

The proposed effective date of this action is August 1, 1988.

The public hearing will be conducted at 12:00 p.m. on May 10, 1988 at McKimmon Center, Gorman Street at Western Boulevard, Raleigh, North Carolina (ROOM WILL BE POSTED).

Comment Procedures: File all comments with James F. Kirk, Administrator, P.O. Box 29500, Raleigh, North Carolina 27626, by 5:00 p.m., April 29, 1988.

CHAPTER 12 - NORTH CAROLINA ALARM SYSTEMS LICENSING BOARD

SECTION .0100 - ORGANIZATION AND GENERAL PROVISIONS

.0102 LOCATION

The administrative offices of the Alarm Systems Licensing Board are located in the headquarters of the State Bureau of Investigation at 3320 Old Garner Road, Raleigh, North Carolina 27626, telephone (919) 779-4400-1611.

Statutory Authority G.S. 74D-4.

.0103 DEFINITIONS

In addition to the definitions under G.S. Chapter 74D, the following definitions shall apply throughout this Chapter:

- (1) "Applicant" means any person, firm, or corporation applying to the board for a license or registration.
- (2) "Board" means the Alarm Systems Licensing Board established by G.S. Chapter 74D.
- (3) "Branch Manager or Operator" means the licensee endowed with the responsibility and liability for a branch office.
- (4) "Branch Office" means a separate but dependent part of a central organization. The establishment of a telephone number or mailing address in the company name constitutes prima facie evidence of a branch office.
- (5) "Chairman" means the Chairman of the Alarm Systems Licensing Board.

- (6) "Installs" means placing an alarm device in a residential or commercial location and includes demonstrating the utilization of an alarm system device for a specific location and function within the protected premises. ~~and, with such knowledge of the alarm system operation, delivering that device to the owner or operator of the protected premises.~~
- (7) "Licensee" means any person licensed pursuant to G.S. Chapter 74D.
- (8) "Responds" means receiving a monitored alarm signal that indicates the existence of an unauthorized intrusion or taking from the premises of a customer, and being required by contract to take action upon receipt of that alarm signal.
- (9) "Services" means inspecting, testing, repairing or replacing an alarm system device within protected premises.
- (10) "Monitors" means receiving a continuous signal from protected premises or contracting with a person, firm or corporation to provide accessible equipment and personnel to receive a signal from an alarm device in a residential or commercial location and take certain action in response.
- (11) "Qualifying Agent" means any person who meets the requirements of G.S. 74D-2(c), provided that no licensee may act as qualifying agent for more than one alarm systems business without prior authorization of the board.
- (12) "Knowledge of Specific Applications" means obtaining specific information about the premises which is protected or is to be protected, such knowledge gained during an on-site visit. Conducting a survey shall be prima facie evidence that knowledge of specific application has been gained.
- (13) "Employee" means a person who has an agreement with a licensee to perform alarm systems business activities under the direct supervision and control of the licensee, for whose services any charges are determined imposed and collected by the licensee, and for whose alarm systems business activities the licensee is legally liable.
- (14) "Agency Head" means the Chairman of the Alarm Systems Licensing Board.

Statutory Authority G.S. 74D-2; 74D-5.

.0122 RULE-MAKING AND ADMINISTRATIVE HEARING PROCEDURES

The Administrative Procedures for rule-making and hearings, codified as Title 26, Chapters 2 and 3 of the North Carolina Administrative Code, effective August 1, 1986, are hereby adopted by reference to apply to actions of the Alarm Systems Licensing Board. Pursuant to G.S. §150B-14(c) this reference shall automatically include any later amendments and editions to Title 26 Chapters 2 and 3 of the North Carolina Administrative Code.

Statutory Authority G.S. 74D-5.

SECTION .0200 - PROVISIONS FOR LICENSEES

.0206 RECORDS INSPECTION

(a) records of a licensee maintained to satisfy the requirements of G.S. Chapter 74D or 12 NCAC Chapter 11 shall be subject to inspection by the administrator or his staff upon demand between 8:00 a.m. and 5:00 p.m. Monday through Friday.

(b) All licensees having registered employees shall submit a copy of their current quarterly Employment Security Commission NCU 101-625 to the administrator's office at the same time the form is submitted to the Employment Security Commission; and an additional list of non-Employment Security Commission employees currently employed by the licensee with the dates of employment. Those licensees who do not submit an Employment Security Commission NCU 101-625 shall submit the names of their employees on a form provided by the board.

(c) All records required to be kept by either Chapter 74D of the General Statutes of North Carolina or by 12 NCAC 11 shall be retained for at least three years.

Statutory Authority G.S. 74D-5.

SECTION .0300 - PROVISIONS FOR REGISTRANTS

.0303 MINIMUM STANDARDS FOR REGISTRATION

An applicant for registration must:

- (1) be at least ~~18~~ 16 years of age;
- (2) be a citizen of the United States or a resident alien; and
- (3) be of good moral character and temperate habits. Any of the following within the last five years shall be prima facie evidence that the applicant does not have good moral character or temperate habits: conviction by any local, state, federal, or military court of any crime involving the

illegal use, carrying, or possession of a firearm; conviction of any crime involving the illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage, conviction of a crime involving felonious assault or an act of violence; conviction of a crime involving unlawful breaking and/or entering, burglary, larceny, any offense involving moral turpitude; or a history of addiction to alcohol or a narcotic drug; provided that, for purposes of (3) of this Rule, "conviction" means and includes the entry of a plea of guilty, plea of no contest, or a verdict of guilty;

- (4) not have been declared by any court of competent jurisdiction incompetent by reason of mental disease or defect; or not have voluntarily committed himself or herself to an institution for treatment of mental disease or defect; or not have been involuntarily committed to an institution for treatment of mental disease or defect by a district court judge. When an individual has been treated and found to have been restored by a psychiatrist, the board will consider this evidence and determine whether the applicant meets the requirements of this Paragraph.

Statutory Authority G.S. 74D-5.

.0306 RENEWAL OR RE-ISSUE OF REGISTRATION

(a) Each applicant for renewal of a registration identification card or his employer, shall complete a form provided by the board. This form should be submitted not less than 30 days and not more than 90 days prior to expiration of the applicant's current card and shall be accompanied by:

- (1) two recent head and shoulders color photographs of applicant of acceptable quality for identification one inch by one inch in size; and
- (2) statements of the result of a local criminal history records search by the City County Bureau or Clerk of Superior Court in each county where the applicant has resided within the immediate preceding 12 months; and
- (3) the applicant's renewal fee.

(b) Each applicant for re-issue of a registration identification card, or his employer shall complete a form provided by the board. This form shall be submitted to the board and accompanied by:

- (1) two recent head and shoulders photographs of applicant of acceptable quality for identification one inch by one inch in size; and
 - (2) the applicant's re-issue fee.
- (c) The employer of each applicant for a registration renewal or reissue shall give the applicant a copy of the application which will serve as a record of application for renewal and shall retain a copy of the applicant's renewal application in the individual's personnel file in the employer's office.

Statutory Authority G.S. 74D-5.

TITLE 13 - DEPARTMENT OF LABOR

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Labor intends to amend and repeal regulations cited as 13 NCAC 1A .0202 - .0204; 1B .0201, .0307 - .0308, .0502 - .0508, .0601, .0603, .0604; 1C .0103 - .0105, .0205 - .0206, .0301 - .0302, .0401 - .0402, .0501 - .0506; 4C .0003; 6 .0104 - .0105; 7A .0103, .0201 - .0207; 7B .0101, .0103, .0106, .0109, .0111 - .0112, .0114, .0116, .0119, .0201, .0203, .0309, .0502, .0705, .0706, .0709 - .0711, .0904, .1003; 7D .0408, .1205, .1904; 12 .0404 - .0405, .0502, .0703; 13 .0301; 14 .0504 - .0505, .0603, .0813, .0815.

The proposed effective date of this action is July 1, 1988.

The public hearing will be conducted at 2:00 p.m. on April 14, 1988 at Conference Room, Room 249, Labor Building, 4 West Edenton Street, Raleigh, North Carolina.

Comment Procedures: People wanting to present oral testimony at the hearing or who want to have written testimony read at the hearing, should provide a written summary of the proposed testimony to the department by April 11, 1988. Oral presentations will be limited to 15 minutes each. Written statements not presented at the hearing will be accepted by the department until April 14, 1988. All correspondence should be directed to Bobby Bryan, NC Department of Labor, 4 West Edenton Street, Raleigh NC 27601. Interpreters for the hearing impaired will be made available if requested 24 hours in advance.

CHAPTER 1 - DEPARTMENTAL RULES

SUBCHAPTER 1A - GENERAL PROVISIONS AND ORGANIZATION

SECTION .0200 - ORGANIZATION

- .0202 CONTROLLER'S OFFICE (REPEALED)**
- .0203 COMMUNICATIONS OFFICE (REPEALED)**
- .0204 PERSONNEL OFFICE (REPEALED)**

Statutory Authority G.S. 95-4.

SUBCHAPTER 1B - RULE-MAKING AND ADMINISTRATIVE HEARING PROCEDURES

SECTION .0200 - NOTICE OF RULE-MAKING HEARINGS

.0201 TIMING OF NOTICE (REPEALED)

Statutory Authority G.S. 95-4(2); 150B-12(2).

SECTION .0300 - RULE-MAKING HEARINGS

.0307 RECORD OF PROCEEDINGS

A record of all rule-making proceedings will be maintained in the Commissioner of Labor's office for as long as the rule is in effect, and for five years thereafter, following filing with the ~~administrative procedures division of the Office of the Attorney General.~~ Office of Administrative Hearings. This record will contain: the original petition, the notice, all written memoranda and information submitted, and a record or summary of oral presentation, if any. Record of rule-making proceedings will be available for public inspection during the regular office hours of the Department of Labor.

Statutory Authority G.S. 95-4; 150B-12.

.0308 EMERGENCY RULES (REPEALED)

Statutory Authority G.S. 95-4; 150B-13.

SECTION .0500 - ADMINISTRATIVE HEARING PROCEDURES

.0502 PETITION FOR HEARING

(c) Subsequent to such informal action, if still dissatisfied, the individual should ~~submit a request to: Commissioner of Labor, 214 West Jones Street, Raleigh, North Carolina 27603, with the container of the request bearing the notation: RE REQUEST FOR ADMINISTRATIVE HEARING.~~ That request should contain the following information: file a petition for a hearing with the Office of Administrative Hearings in accordance with Article 3 of Chapter 150B of the General Statutes.

- (1) name and address of the petitioner;

- (2) a concise statement of the action taken by the commissioner which is challenged;
- (3) a concise statement of the way in which the petitioner has been aggrieved;
- (4) a clear and specific statement of request for a hearing;
- (d) Such request will be acknowledged promptly and, if deemed appropriate, a hearing will be scheduled.

Statutory Authority G.S. 95-4.

- .0503 GRANTING OR DENYING HEARING REQUESTS (REPEALED)
- .0504 NOTICE OF HEARING (REPEALED)
- .0505 WHO SHALL HEAR CONTESTED CASES (REPEALED)
- .0506 PETITION FOR INTERVENTION (REPEALED)
- .0507 TYPES OF INTERVENTION (REPEALED)
- .0508 DISQUALIFICATION OF HEARING OFFICER (REPEALED)

Statutory Authority G.S. 95-4; 150B.

SECTION .0600 - ADMINISTRATIVE HEARINGS: DECISIONS: RELATED RIGHTS AND PROCEDURES

- .0601 FAILURE TO APPEAR (REPEALED)

Statutory Authority G.S. 95-4; 150B-25(a).

- .0603 SUBPOENAS (REPEALED)
- .0604 DEPOSITIONS (REPEALED)

Statutory Authority G.S. 95-4(2); 150B-27; 150B-28(a).

SUBCHAPTER 1C - PERSONNEL RULES

SECTION .0100 - AFFIRMATIVE ACTION POLICY

- .0103 JOB STRUCTURING

(b) Each employee's position is reviewed annually by the immediate supervisor on the employee's anniversary date. This review determines if employees are utilizing their full potential, if they are eligible for promotion, or if additional training or counseling is required.

Statutory Authority G.S. 95-4(2).

- .0104 TRAINING AND EDUCATION (REPEALED)
- .0105 PROGRAM EVALUATION (REPEALED)

Statutory Authority 95-4(2).

SECTION .0200 - EMPLOYMENT POLICY

.0205 HIRING PROCEDURES

(c) The applicant should respond by letter, accepting or refusing the position.

(f) All appointments to clerical positions will be probationary for a period of three months, and permanent appointments will be contingent upon satisfactory performance during the probationary period. A midpoint and final performance evaluation will be given to each probationary employee prior to granting permanent status. If performance is unsatisfactory and status is not granted, the employee will be given two weeks written notice of termination.

(g) All appointments to professional and technical positions will be probationary for a period of six months, and permanent appointment will be contingent upon satisfactory performance during the probationary period. A midpoint and final performance evaluation will be given to each probationary employee prior to granting permanent status. If performance is unsatisfactory and permanent status is not granted, employees will be given two weeks written notice of termination.

Statutory Authority G.S. 95-4(2).

- .0206 ORIENTATION PROCEDURES (REPEALED)

Statutory Authority G.S. 95-4(2).

SECTION .0300 - PARKING POLICY

- .0301 PARKING POLICY (REPEALED)
- .0302 EXCEPTION TO POLICY (REPEALED)

Statutory Authority G.S. 143-340(18).

SECTION .0400 - EMPLOYEE APPRAISAL AND INCREMENT RULES

- .0401 PERFORMANCE APPRAISAL (REPEALED)
- .0402 MERIT INCREMENT AWARD (REPEALED)

Statutory Authority G.S. 95-4.

SECTION .0500 - GRIEVANCE PROCEDURES

- .0501 GENERAL PROVISIONS (REPEALED)
- .0502 DISCUSSION WITH IMMEDIATE SUPERVISOR (REPEALED)
- .0503 APPEAL TO PERSONNEL OFFICER (REPEALED)
- .0504 APPEAL TO EMPLOYEE GRIEVANCE COMMITTEE (REPEALED)
- .0505 FINAL DECISION BY COMMISSIONER

(REPEALED)
.0506 APPEAL TO THE STATE PERSONNEL COMMISSION (REPEALED)

Statutory Authority G.S. 95-4(2); 126-34.

CHAPTER 4 - CONCILIATION AND ARBITRATION DIVISION

SUBCHAPTER 4C - MEDIATION

.0003 INTERVENTION BY COMMISSIONER (REPEALED)

Statutory Authority G.S. 95-36.

CHAPTER 6 - MINE AND QUARRY

SECTION .0100 - GENERAL PROVISIONS

.0104 ADVISORY COUNCIL (REPEALED)

Statutory Authority G.S. 74-24.6.

.0105 DEFINITIONS

The following definitions shall apply in this Chapter:

(4) "mine" — an area of land and all private ways and roads appurtenant thereto, structures, facilities, machinery, tools, equipment, shafts, slopes, tunnels, excavations, and other property, real or personal, placed or constructed on, under, or above the surface of such land by any person, used in, or to be used in, or resulting from (including the reclamation of mine areas or the storage of material in mined areas), or to facilitate the work of exploring for, developing of, or extracting by any means or method in such area all minerals, inorganic and organic, from their natural deposits; The term "mine" also includes all mineral processing and milling facilities except those used in the processing of source materials as defined in the Atomic Energy Act of 1961, as amended;

(5) "operator" — an individual, partnership, association, corporation, firm, subsidiary of a corporation, or other organization owning, operating, leasing, controlling, or supervising a mining operation;

(6) "accident" — an unexpected event resulting in injury to, illness of, or death of a person or persons as a result of mining operations and any mine explosion, mine ignition, mine fire, mine inundation, mine cave-in, or other event which could have readily resulted in serious physical harm;

(9) "miner" — any individual, other than an operator or an agent, working in or about a mine;

Statutory Authority G.S. 74-24.2; 74-24.8; 95-4.

CHAPTER 7 - OFFICE OF OCCUPATIONAL SAFETY AND HEALTH

SUBCHAPTER 7A - GENERAL RULES

SECTION .0100 - PURPOSE: DEFINITIONS

.0103 DEFINITIONS

The following definitions shall apply throughout this Chapter:

(4) Employer. A person engaged in a business who has employees, including any state or political subdivision of a state, but not including the employment of domestic workers employed in the place of residence of his or her employer;

(5) Employee. An employee of an employer who is employed in a business or other capacity of his employer, including any and all business units and agencies owned and/or operated by the employer.

Statutory Authority G.S. 95-127; 95-136(g).

SECTION .0200 - ORGANIZATION

.0201 DIVISION: GENERAL (REPEALED)

.0202 STANDARDS AND INSPECTIONS SECTION (REPEALED)

.0203 EDUCATION AND TRAINING SECTION (REPEALED)

.0204 CONSULTATIVE SERVICES SECTION (REPEALED)

.0205 SAFETY AND HEALTH ENGINEERING SECTION (REPEALED)

.0206 ADVISORY COUNCIL (REPEALED)

.0207 REVIEW BOARD (REPEALED)

Statutory Authority G.S. 95-126; 95-133; 95-134; 95-136; 95-147.

SUBCHAPTER 7B - OCCUPATIONAL SAFETY AND HEALTH ACT OPERATIONAL PROCEDURES

SECTION .0100 - INSPECTIONS: CITATIONS AND PROPOSED PENALTIES

.0101 PURPOSE AND SCOPE

The North Carolina Occupational Safety and Health Act of 1973 (G.S. 95-136 et seq.) requires, in part, that every employer covered under the act furnish to his employees employment and a place of employment which

are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees. The act also requires that employers comply with occupational safety and health standards promulgated under the act, and that employees comply with standards, rules, regulations and orders issued under the act which are applicable to their own actions and conduct. The act authorizes the Department of Labor to conduct inspections, and to issue citations and proposed penalties for alleged violations. The act, under G.S. 95-149, (b), also authorizes and empowers the commissioner to enter into contracts with the Department of Public Health or any other state officer or state agency or state instrumentality, or any municipality, county, or other political subdivision of the state, for the enforcement, administration and any other application of the provisions of this article. The act contains provisions for adjudication of violations, periods prescribed for the abatement of violations, and proposed penalties by the Occupational Safety and Health Review Commission, if contested by an employer or by an employee or authorized representative of employees, and for judicial review. The purpose of this Section is to prescribe rules and to set forth general policies for enforcement of the inspection, citation, and proposed penalty provisions of the act. In situations where this Section sets forth general enforcement policies rather than substantive or procedural circumstances where the commissioner or his designee determines that an alternative course of action would better serve the objectives of the act.

Statutory Authority G.S. 95-136.

.0103 SECURITY CLEARANCE

(a) Safety officers of the Department of Labor are authorized to enter without delay and at reasonable times any factory, plant, establishment, construction site, or other area, workplace or environment where work is performed by an employee of an employer, to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment, and all pertinent conditions, structures, machines, apparatus, devices, equipment and materials therein; to question privately any employer, owner, operator, agent or employee; and to review records required by the act and regulations published in this Chapter, and other

records which are directly related to the purpose of the inspection. The commissioner is authorized to enter into contracts with the Department of Public Health or any other state office or state agency or state instrumentality, or any municipality, county, or other political subdivision of the state, for the enforcement, administration and any other application of the provisions of this article.

Statutory Authority G.S. 95-136.

.0106 ADVANCE NOTICE OF INSPECTIONS

(e) The act provides in G.S. 95-139 that any person who gives advance notice of any inspection to be conducted under the act, without authority from the commissioner or his designees, shall, upon conviction, be punished by fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than six months or by both.

Statutory Authority G.S. 95-136.

.0109 TRADE SECRETS

(a) G.S. 95-152 of the act provides: "All information reported to or otherwise obtained by the commissioner or his representative in connection with any inspection or proceeding under this act which contains or which might reveal a trade secret referred to in Section 1905 of Title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this act or when relevant in any proceeding under this act. In any such proceeding the commissioner, the board, or the court shall issue such orders as may be appropriate to protect the confidentiality of trade secrets." G.S. 95-152 of the act is considered a statute within the meaning of section 552(b)(3) of Title 5 of the United States Code, which exempts from the disclosure requirements matters that are "specifically exempted from disclosure by statute."

Statutory Authority G.S. 95-152.

**.0111 COMPLAINTS BY EMPLOYEES
(REPEALED)**

Statutory Authority G.S. 95-130.

**.0112 INSPECTION NOT WARRANTED:
INFORMAL REVIEW**

(a) If the director determines that an inspection is not warranted because there are no reasonable grounds to believe that a violation

or danger exists with respect to a complaint under ~~Rule .0111 of this Section, G.S. 95-136(d)~~, he shall notify the complaining party in writing of such determination. The complaining party may obtain review of such determination by submitting a written statement of position with the commissioner and, at the same time, providing the employer with a copy of such statement by certified mail. The employer may submit an opposing written statement of position with the commissioner, and at the same time provide the complaining party with a copy of such statement by certified mail. Upon the request of the complaining party or the employer, the commissioner, at his discretion, may hold an informal conference in which the complaining party and the employer may orally present their views. After considering all written and oral views presented, the commissioner shall affirm, modify, or reverse the determination of the director and furnish the complaining party and the employer a written notification of his decision and the reasons therefor. The decision of the commissioner shall be final and not subject to further review.

(b) If the director determines that an inspection is not warranted because the requirements of ~~Rule .0111(a) of this Section, G.S. 95-136(d)~~ have not been met, he shall notify the complaining party in writing of such determination. Such determination shall be without prejudice to the filing of a new complaint meeting the requirements of ~~Rule .0111(a) of this Section, G.S. 95-136(d)~~.

Statutory Authority G.S. 95-133.

.0114 CITATIONS: NOTICES OF DE MINIMIS VIOLATIONS

(c) If a citation or notice of de minimis violations is issued for a violation alleged in a request for inspection under ~~Rule .0111(a) of this Section, G.S. 95-136 (d)(1)~~ or a notification of violation under ~~Rule .0111(e) of this Section, G.S. 95-136 (d)(2)~~, a copy of the citation or notice of de minimis violations shall also be sent to the employee or representative of employees who made such request or notification.

(d) After an inspection, if the director determines that a citation is not warranted with respect to a danger or violation alleged to exist in a request for inspection under ~~Rule .0111(a) of this Section, G.S. 95-136 (d)(1)~~ or a notification of violation under ~~Rule .0111(e) of this Section, G.S. 95-136 (d)(2)~~, the informal review procedures prescribed in Rule .0112(a) of this Section shall be applicable. After consid-

ering all views presented, the commissioner shall affirm the determination of the director, order a reinspection, or issue a citation if he believes that the inspection disclosed a violation. The commissioner shall furnish the complaining party and the employer with written notification of his determination and the reasons therefor. The determination of the commissioner shall be final and not subject to review.

Statutory Authority G.S. 95-137.

.0116 PROPOSED PENALTIES

(a) After, or concurrent with, the issuance of a citation, and within a reasonable time after the termination of the inspection, the director shall notify the employer by certified mail or by personal service by the safety officer of the proposed penalty under ~~G.S. 95-133, G.S. 95-138~~ of the act, or that no penalty is being proposed. Any notice of proposed penalty shall state that the proposed penalty shall be deemed to be the final order of the review board and not subject to review by any court or agency unless, within 15 working days from the date of receipt of such notice, the employer notifies the director in writing that he intends to contest the citation or the modification of proposed penalty before the review board.

Statutory Authority G.S. 95-138.

.0119 FAILURE TO CORRECT A CITED VIOLATION (REPEALED)

Statutory Authority G.S. 95-137.

SECTION .0200 - STATE PLANS FOR THE DEVELOPMENT AND ENFORCEMENT OF STATE STANDARDS

.0201 DESCRIPTION OF THE PLAN

(b) The plan includes proposed draft legislation to be considered by the North Carolina General Assembly during its 1973 session. Such legislation is designed to implement major portions of the plan and to bring it into conformity with the requirements for development and enforcement of state standards.

(c) Under this legislation, all occupational safety and health standards and amendments thereto which have been promulgated by the Secretary of Labor, except those found in parts 1915, 1916, 1917, and 1918 of Title 29 of the Code of Federal Regulations (ship repairing, shipbuilding, shipbreaking, and longhoring) will be adopted upon ratification of the pro-

posed legislation. Enforcement of such standards will take place 90 days thereafter.

(d) The legislation will give the Department of Labor full authority to administer and enforce all laws, rules and orders protecting employee safety and health in all places of employment in the state. It also proposes to bring the plan into conformity in procedures for providing prompt and effective standards for the protection of employees against new and unforeseen hazards and for furnishing information to employees on hazards, precautions, symptoms, and emergency treatment; and procedures for variances.

(e) The proposed legislation will insure employer and employee representatives an opportunity to accompany inspectors and to call attention to possible violations before, during, and after inspections; protection of employees against discharge or discrimination in terms and conditions of employment; notice to employees of their protections and obligations; adequate safeguards to protect trade secrets; prompt notice to employers and employees of alleged violations of standards and abatement requirements; effective sanctions against employers; and employer's rights to review of alleged violations, abatement periods, and proposed penalties with opportunity for employee participation in the review proceedings.

(f) The plan also provides for the development of a program to encourage voluntary compliance by employers and employees.

(g) The plan includes a statement of the Governor's support for the proposed legislation and a statement of legal opinion that it will meet the requirements of the Occupational Safety and Health Act of 1970, and is consistent with the Constitution and laws of North Carolina. The plan sets out goals and provides a timetable for bringing it into full conformity with part 1902 upon enactment of the proposed legislation by the state legislature.

(h) The North Carolina plan includes the following documents as of the date of approval:

- (1) The plan description document with appendixes;
- (2) Telegram from the Governor of North Carolina, James F. Holshouser, Jr., expressing his full support for the Occupational Safety and Health Act of North Carolina and his anticipation of its passage during the 1973 session of the North Carolina General Assembly;
- (3) Letter from W. C. Creel, Commissioner, North Carolina Department of Labor, to Mr. Thomas C. Brown, Director,

Federal and State Operations, clarifying several issues raised during the review process;

- (4) Also available for inspection and copying with the plan documents will be the public comments received during the review process.

Statutory Authority G.S. 95-154.

**.0203 DEVELOPMENTAL SCHEDULE
(REPEALED)**

Statutory Authority G.S. 95-154.

**SECTION .0300 - RECORDING AND
REPORTING OCCUPATIONAL INJURIES
AND ILLNESSES**

**.0309 FALSIFICATION OR FAILURE
TO KEEP RECORDS OR REPORTS**

(a) Section G.S. 95-139 of the act provides that: "Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this article shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than ten thousand dollars (\$10,000), or by imprisonment, for not more than six months, or both."

Statutory Authority G.S. 95-143.

**SECTION .0500 - RULES OF PROCEDURE
FOR PROMULGATING; MODIFYING; OR
REVOKING OCCUPATIONAL SAFETY OR
HEALTH STANDARDS**

**.0502 PROMULGATION; MODIFICATION;
OR REVOCATION OF A STANDARD**

(a) All occupational safety and health standards promulgated under the federal act by the secretary, and any modifications, revisions, amendments or revocations in accordance with the authority conferred by the federal act or any other federal agency relating to safety and health adopted by the secretary shall in all respects be the rules and regulations of the Commissioner of Labor unless the commissioner shall make, promulgate and publish an alternative state standard.

(b) Any interested person may file with the Commissioner of Labor of the North Carolina Department of Labor, 4 West Edenton Street, Raleigh, North Carolina 27611, 27601, a written petition for the adoption, promulgation, modification, or revocation of a standard. The petition should include, or be accompanied by,

the proposed rule desired and a statement of the reasons therefor and intended effect thereof.

Statutory Authority G.S. 95-131.

SECTION .0700 - STATE ADVISORY COUNCIL ON OCCUPATIONAL SAFETY AND HEALTH

.0705 ADVICE AND RECOMMENDATIONS (REPEALED)

.0706 QUORUM (REPEALED)

Statutory Authority G.S. 95-134.

.0709 ASSISTANCE TO THE COUNCIL (REPEALED)

.0710 MINUTES: TRANSCRIPT (REPEALED)

.0711 SUBCOMMITTEES AND SUBGROUPS (REPEALED)

Statutory Authority G.S. 95-134.

SECTION .0900 - PUBLIC AGENCY OSHA PROGRAMS

.0904 AGENCY RESPONSIBILITIES

(a) It shall be the responsibility of each administrative department, commission, board, division or other agency of the state and of counties, cities, towns and subdivisions of government to establish and maintain an effective and comprehensive occupational safety and health program which is consistent with the standards and regulations promulgated by this act. The head of each agency shall comply with the requirements of G.S. 95-148 and in addition shall:

- (1) appoint a qualified person to develop and be responsible for his agency's safety program;
- (2) develop a safety plan to include a program of self administration of voluntary compliance with OSHA standards in cooperation with the North Carolina Department of Labor.
- (3) provide safe and healthful places and conditions of employment consistent with the standards and regulations required by the act;
- (4) acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees;
- (5) consult with, and encourage employees to cooperate in achieving safe and healthful working conditions;

(6) keep adequate records of all occupational accidents and illnesses for proper evaluation and corrective action;

(7) consult with the commissioner concerning the adequacy of the form and content of records kept pursuant to this Section;

(8) make an annual report (by April) to the commissioner with respect to occupational accidents and injuries and the agency's program under this Section.

The annual report required by G.S. 95-148(b) shall be made to the commissioner by April of each year.

(b) The North Carolina Commissioner of Labor shall transmit annually to the Governor and the General Assembly a report of the activities of the state agencies and instrumentalities under this Section. If the commissioner has reason to believe that any local government program or program of any agency of the state is ineffective, he shall, after unsuccessfully seeking by negotiations to abate such failure, include this in his annual report to the Governor and the General Assembly, together with the reasons therefor, and may recommend legislation intended to correct such condition.

(c) The commissioner shall have access to the records and reports kept and filed by state agencies and instrumentalities pursuant to this Section unless such records and reports are required to be kept secret in the interest of national defense, in which case the commissioner shall have access to such information as will not jeopardize national defense.

(d) The commissioner will not impose civil or criminal penalties against any state agency or political subdivision for violations described and covered by this act.

(e) Employees of any agency or department covered under this Section are afforded the same rights and protections as granted employees in the private sector.

Statutory Authority G.S. 95-148.

SECTION .1000 - DISCLOSURE AND PUBLICITY

.1003 RULES CONCERNING OSHA ACCESS TO EMPLOYEE MEDICAL RECORDS

(a) **Effective Date.** This Section shall become effective on August 21, 1980.

Statutory Authority G.S. 95-129; 95-136(g).

SUBCHAPTER 7D - STANDARDS INTERPRETATION

SECTION .0400 - OCCUPATIONAL HEALTH AND ENVIRONMENTAL CONTROL

.0408 LEAD

(b) NC-OSHA has adopted the new lead standard in the form it was published in the November 14, 1978 issue of the Federal Register. The effective date of the standard was February 1, 1979, with the various other requirements becoming effective within a period of time, as specified in the standard, after this February 1 effective date.

Several administrative postponements of the effective date were granted in February to allow the federal appellate courts to consider applications to judicially review the new standard. These applications for judicial review have come from both industry and labor organizations and were filed in different district courts of appeals.

On March 1, 1979, the United States Court of Appeals for the District of Columbia rendered a decision to partially stay the standard by deferring those requirements that involve considerable expense to the employer while allowing those requirements that will provide protection to employees to go into effect. This will allow the court to review the merits of the standard during the September 1979 sitting of the Appeals Court without causing undue hardship to employers and without subjecting employees to health risks associated with exposure to lead.

Statutory Authority G.S. 95-131.

SECTION .1200 - MACHINERY AND MACHINE GUARDING

.1205 ACCEPTABLE GUARDING FOR CIRCULAR MEAT CUTTING SAWS

(a) The referenced standard requires point of operation guarding on machines which expose an employee to injury. Because there is no standard available which gives the specific details for guard requirements for meat saws, there has resulted much confusion as to what is acceptable guarding.

It is understood that the appropriate organizations in the meat industry are presently developing standards. Until these are available, the policy in (c) of this Rule shall be followed.

Statutory Authority G.S. 95-136(g).

SECTION .1900 - INSPECTION AND ENFORCEMENT AUTHORITY

.1904 STANDARDS: OPERATIONAL

PROCEDURE: REQUIREMENTS OF OSHANC

(a) General Statute 95-129(1) states, "Each employer shall furnish to each of his employees conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or serious physical harm to his employees."

Statutory Authority G.S. 95-136(g).

CHAPTER 12 - WAGE AND HOUR

SECTION .0400 - YOUTH EMPLOYMENT

.0404 WAIVER

(a) When a proper application for a waiver of any youth employment provision is received, if the proposed employment is in the best interest of the minor youth and his health and safety will not be adversely affected, the Director of the Wage and Hour Division shall recommend that the Chief Deputy Commissioner of the Department of Labor issue a waiver for the minor youth. Absent a contrary determination by the Chief Deputy Commissioner on the hardship to the minor youth or the effect on the health and safety of the minor youth, the Chief Deputy Commissioner shall issue the waiver for the minor youth.

(b) Objection to a recommendation by the Director or a refusal to issue a waiver by the Chief Deputy Commissioner may be made by any affected person by filing a written or oral exception with the Director, Wage and Hour Division, North Carolina Department of Labor, 44 E. North Street, Raleigh, North Carolina 27601. No particular form is prescribed for the exception. The exception should clearly indicate the reasons the individual objecting contends the recommendation or refusal to issue is in error. The exception may request a hearing pursuant to 13 NCAC Subchapter 1B. Any person adversely affected by a decision of the Director or Chief Deputy Commissioner may appeal the decision by filing a petition for a hearing with the Office of Administrative Hearings pursuant to the procedures contained in Article 3 of G.S. 150B.

Statutory Authority G.S. 95-25.5; 95-25.17.

.0405 REVOCATION

(a) The Director of the Wage and Hour Division or his designated representative shall review the issuance of all youth employment certificates by county social services directors. If upon review, or because of any other cir-

cumstance, the Director determines a certificate has been issued in violation of the youth employment provisions or the rules and regulations promulgated thereunder, he shall notify the ~~minor~~, youth the county social service director and the employer of the ~~minor~~ youth that the certificate is being revoked and shall specify the reasons for the revocation.

(b) If the certificate is revoked, the employer shall cease to employ the ~~minor~~ youth and shall return the certificate to the Director of the Wage and Hour Division or to the county social service director, who shall forward it to the Wage and Hour Director.

(c) ~~The employer or minor may object to the revocation by filing a written or oral exception with the Director, Wage and Hour Division, North Carolina Department of Labor, 111 E. North Street, Raleigh, North Carolina 27601. No particular form is prescribed for the exception. The exception should clearly indicate the reasons why the individual objecting contends the revocation is in error. The exception may request a hearing pursuant to 13 NCAC Subchapter 1B. Even though an exception has been taken or a hearing requested, the certificate must be returned and the employment must cease pursuant to Paragraph (b) of this Rule. The employer or youth may object to the revocation by filing a petition for a hearing with the Office of Administrative Hearings pursuant to the procedures contained in Article 3 of Chapter 150B of the General Statutes. Even if a petition for a hearing is filed, the certificate must be returned and the employment must cease pursuant to Paragraph (b) of the Rule.~~

Statutory Authority G.S. 95-25.5; 95-25.17.

SECTION .0500 - JURISDICTION AND EXEMPTIONS

.0502 COUNTING EMPLOYEES

(a) For the purpose of establishing jurisdiction pursuant to ~~G.S. 95-25.14(a)(6), G.S. 95-25.14(b)(5)~~, a proprietor or owner who works in and about his ~~establishment~~ enterprise is not counted as a person employed in the ~~establishment~~ enterprise.

(d) Part-time employees and family members who work in an ~~establishment~~ enterprise will be counted in determining the number of persons employed for jurisdictional purposes.

(e) The number of employees at an ~~establishment~~ enterprise who work during the course of a workweek, not the number of employees working on any particular day, deter-

mines the wage and hour jurisdiction for any workweek.

Statutory Authority G.S. 95-25.14; 95-25.19.

SECTION .0700 - CIVIL MONEY PENALTIES

.0703 EXCEPTIONS TO CIVIL PENALTY

~~(a) The employer must file a written exception to the civil penalty determination within 15 days after receipt of the notification of the civil penalty or the determination will become final.~~

~~(b) The exception to the determination must be filed with the Director, Wage and Hour Division, North Carolina Department of Labor, 111 E. North Street, Raleigh, North Carolina 27601.~~

~~(c) No particular form is prescribed for the exception. However, the exception should be typed or clearly written, must be directed to the issue of the violations and the assessment, and must state the reasons why the employer contends the determination is in error.~~

~~(d) If an exception is filed within 15 days of receiving notification of the civil penalty, the employer is entitled to an administrative hearing pursuant to Article 3 of Chapter 150A.~~

An employer may take an exception to a civil penalty determination by filing a petition for a hearing with the Office of Administrative Hearings pursuant to the procedures contained in Article 3 of Chapter 150B of the General Statutes. The exception must be taken within 15 days after the employers receipt of notification of the civil penalty or the determination will become final.

Statutory Authority G.S. 95-25.19; 95-25.23.

CHAPTER 13 - BOILER AND PRESSURE VESSEL

SECTION .0300 - ENFORCEMENT OF STANDARDS

.0301 PROCEDURE FOR ISSUANCE OF INSPECTION CERTIFICATE

~~(i) Upon appeal, the commissioner, or his designee, shall conduct a hearing shall be conducted pursuant to Article 3 of G.S. Chapter 150A, 150B and shall modify, affirm, or revoke the decision in Paragraph (j) of this Rule. of the director.~~

(j) The decision of the commissioner shall constitute a final agency decision subject to judicial review pursuant to Article 4 of G.S. Chapter 150A. 150B

Statutory Authority G.S. 95-69.11; 95-69.16.

CHAPTER 14 - APPRENTICESHIP AND TRAINING DIVISION

SECTION .0500 - DE-REGISTRATION OR WITHDRAWAL

.0504 DE-REGISTRATION OR WITHDRAWAL

(b) If the sponsor desires a hearing regarding the de-registration of or withdrawal of approval from the sponsor's apprenticeship or OJT program, it shall ~~make a formal request~~ file a petition for a hearing as provided in Chapter ~~150A~~ 150B of the North Carolina General Statutes and ~~13 NCAC 1B~~, and the hearing process shall be conducted as therein provided. ~~except that the commissioner shall designate a hearing officer within 10 days of receipt of the formal request.~~

Statutory Authority G.S. 94-1; 94-2; 94-4.

.0505 DE-REGISTRATION OR WITHDRAWAL FOR INACTIVITY

(d) If the sponsor desires a hearing regarding the de-registration of or withdrawal of approval from the sponsor's apprenticeship or OJT program, it shall ~~make a formal request~~ file a petition for a hearing as provided in Chapter ~~150A~~ 150B of the North Carolina General Statutes and ~~13 NCAC 1B~~, and the hearing process shall be conducted as therein provided. ~~except that the commissioner shall designate a hearing officer within 10 days of receipt of the formal request.~~

Statutory Authority G.S. 94-1; 94-2; 94-4.

SECTION .0600 - COMPLAINTS

.0603 COMPLAINT PROCEDURE

(d) A party may appeal the decision of the director in accordance with Chapter ~~150A~~ 150B of the North Carolina General Statutes and ~~13 NCAC 1B~~ within 30 days of the appealing party's receipt of the decision.

Statutory Authority G.S. 94-1; 94-2; 94-4.

SECTION .0800 - EQUAL OPPORTUNITY IN APPRENTICESHIP

.0813 SANCTIONS

(c) If the sponsor desires a hearing, it shall ~~make a formal request~~ file a petition for a hearing as provided in Chapter ~~150A~~ 150B of the North Carolina General Statutes and ~~13 NCAC 1B~~, and the hearing process shall be conducted as therein provided. ~~except that the~~

~~commissioner shall designate a hearing officer or officers within 10 days of receipt of the formal request.~~

Statutory Authority G.S. 94-1; 94-2; 94-4.

.0815 COMPLAINT PROCEDURE

(g) A party may appeal the decision of the director, or a sponsor may appeal the determination of the director that the private review body will not adequately enforce the rules of this Section, in accordance with Chapter 150B of the North Carolina General Statutes and ~~13 NCAC 1B~~ within 30 days of the appealing party's receipt of the decision.

Statutory Authority G.S. 94-1; 94-2; 94-4.

TITLE 14A - DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Crime Control and Public Safety intends to amend regulations cited as 14A NCAC 1A .0002 - .0004; 14A NCAC 1B .0201, .0308, .0404, .0501 - .0502; 14A NCAC 1D .0401 - .0402; and repeal regulations cited as 14A NCAC 1B .0503 - .0523; 14A NCAC 1C .0102; 14A NCAC 1D .0101 - .0103, .0201 - .0202, .0301 - .0304, .0403 - .0404; 14A NCAC 3 .0101 - .0104, .0201 - .0202, .0301 - .0306, .0401 - .0405, .0501 - .0502, .0601 - .0611.

The proposed effective date of this action is July 1, 1988.

The public hearing will be conducted at 10:00 a.m. on April 14, 1988 at Library, Second Floor, Archdale Building, 512 N. Salisbury Street, Raleigh, NC.

Comment Procedures: Any interested person may present comments relevant to the action proposed at the public hearing either in written or oral form. Written statements not presented at the public hearing may be directed prior to April 14, 1988 to the Administrative Procedures Coordinator, Second Floor, Archdale Building, 512 N. Salisbury Street, Raleigh, NC or P.O. Box 27687, Raleigh, NC 27611.

CHAPTER 1 - DEPARTMENTAL RULES

SUBCHAPTER 1A - GENERAL PROVISIONS

.0002 PURPOSE OF DEPARTMENT

- (8) insure the preparation, coordination, and currency of military and ~~civil preparedness~~ emergency management plans and the effective conduct of emergency operations by all participating agencies to sustain life and prevent, minimize, or remedy injury to persons and damage to property resulting from disasters caused by enemy attack or other hostile actions or from disasters due to natural or man-made causes;
- (14) operate a deferred prosecution, community service work program, and victims assistance and compensation program;
- (15) operate a central repository for information regarding missing persons;
- (16) provide grants for community penalties programs to provide local sentencing alternatives to prison;
- (17) provide police and fire protection of Camp Butner and the Town of Butner;
- ~~(14)~~(18) perform such other functions as may be assigned by the Governor.

Statutory Authority G.S. 15B-3; 18B-500; 122C-408; 143B-10; 143B-474; 143B-475; 143B-475.1; 143B-476; 143B-477; 143B-480.1; 143B-490; 143B-495; 143B-500.

.0003 ORGANIZATION

The Department of Crime Control and Public Safety is headed by the Secretary of ~~the Department of Crime Control and Public Safety~~. ~~In addition, there is the assistant secretary and the assistant secretary for public safety. The office of the secretary is organized into administrative services, information services, state emergency communications and special projects section, and the administrative assistant.~~ The department consists of the Division of State Highway Patrol, the Division of Alcohol Law Enforcement, the Division of Crime Prevention, the Division of National Guard, the Division of Emergency Management, the Division of Civil Air Patrol, the Division of Butner Public Safety, the Division of Victim and Justice Services, and ~~the division of the Governor's Crime Commission.~~

Statutory Authority G.S. 18B-500; 122C-408; 143B-10; 143B-475; 143B-475.1; 143B-476.

.0004 SECRETARY OF CRIME CONTROL AND PUBLIC SAFETY

(a) ~~The Secretary of the Department of Crime Control and Public Safety shall have such powers and duties delegated to him by the Governor or conferred on him by the Consti-~~

tion or laws of the state. In the event of an emergency which requires two or more state agencies to be involved, the secretary is designated as the official who is empowered to coordinate the state's response to the emergency. The secretary may designate any agency as a lead agency to be in charge of the state's response.

(b) ~~The secretary, through appropriate units of the Department of Crime Control and Public Safety, shall, at the request of the Governor, provide assistance to the state and local law enforcement agencies, district attorneys, judges, and the Department of Correction when called upon by him and so directed. The secretary may delegate any authority assigned to him to any member of his department.~~

(e) ~~In the event that the Governor, in the exercise of his constitutional and statutory responsibilities, shall deem it necessary to utilize the services of more than one subunit of state government to provide protection to the people from natural or man-made disasters or emergencies, including but not limited to wars, insurrection, riots, civil disturbances, or accidents, the secretary, under direction of the Governor, shall serve as the chief coordinating officer for the state between the respective subunits so utilized.~~

(d) (c) Notwithstanding any other provisions of this Title or any rule of any division of the Department of Crime Control and Public Safety, the Secretary may review any action or failure to take action by any member of any division and may hold such hearings and gather such information in connection therewith as he deems necessary for the proper function of the department.

Statutory Authority G.S. 143B-10; 143-476.

SUBCHAPTER 1B - RULEMAKING AND ADMINISTRATIVE HEARINGS

SECTION .0200 - NOTICE OF RULEMAKING HEARINGS

.0201 TIMING OF NOTICE

Upon a determination to hold a rulemaking proceeding, either in response to a petition or otherwise, the secretary will give at least ~~10~~ 30 days notice to all interested persons of a public hearing on the proposed rule.

Statutory Authority G.S. 150B-12.

SECTION .0300 - RULEMAKING HEARINGS

.0308 TEMPORARY RULES

Whenever reasons of imminent peril to the public health, safety, or welfare require the adoption of an emergency rule, Whenever the adoption of a temporary rule is determined to be necessary and is allowed by law, the Secretary of the Department of Crime Control and Public Safety will issue such notice, written, telegraphic, telephonic, or other, and allow such comments, oral or written as time permits.

Statutory Authority G.S. 150B-13.

SECTION .0400 - DECLARATORY RULINGS

.0404 RECORD OF DECISION

A record of all declaratory rulemaking proceedings will be maintained in the Office of the Secretary of the Department of Crime Control and Public Safety for as long as the ruling is in effect and for five years thereafter. This record will contain: the petition, the notice, all written submissions filed in the request, whether filed by the petitioner or any other person, and a record or summary of oral presentations, if any. Records of declaratory rulemaking proceedings will be available for public inspection during the regular office hours of the Department of Crime Control and Public Safety.

Statutory Authority G.S. 150B-17.

SECTION .0500 - CONTESTED CASE

.0501 RIGHT TO HEARING

Whenever the action of the Department of Crime Control and Public Safety or any of its divisions affects the rights, duties and privileges of any party and the department is required by the United States Constitution, the Constitution of North Carolina or any law to determine such rights, duties and privileges after an opportunity for an adjudicatory hearing, a party shall have a right to an administrative a contested case hearing. These hearings shall not include rulemaking hearings, declaratory rulings, or award or denial of a scholarship or grant.

Statutory Authority G.S. 150B-2(2); 150B-22.

.0502 REQUEST FOR HEARING

(a) Any time an individual believes he has a right to a hearing, but has not received notice of such a right, the individual may file a formal request for a hearing.

(b) Before an individual may file a request, he must first exhaust all reasonable efforts to resolve the issue informally with the director

of the division concerned. This requirement will be satisfied by decision of the director of the division concerned.

(c) Subsequent to such informal action, if still dissatisfied, the individual should submit a request to: Secretary, Department of Crime Control and Public Safety, P.O. Box 27687, Raleigh, N.C. 27611, within 10 days after receipt of the decision of the director of the division, with the container of the request bearing the notation: RE: REQUEST FOR ADMINISTRATIVE HEARING. That request should contain the following information:

- (1) name and address of the petitioner,
- (2) a concise statement of the action taken by the division which is challenged,
- (3) a concise statement of the way in which the petitioner has been aggrieved,
- (4) a clear and specific statement of request for a hearing.

(d) Such request will be acknowledged promptly and, if deemed appropriate, a hearing will be scheduled.

(a) Informal proceedings through the department grievance procedure or other adversary proceedings should be used prior to seeking a contested case hearing.

(b) An individual who is dissatisfied with the informal proceeding, may file a request for a petition for a contested case hearing with the Office of Administrative Hearings, Post Office Drawer 11666, Raleigh, North Carolina 27604.

(c) A copy of the petition should be sent to the Secretary of Crime Control and Public Safety at the address listed in these Rules.

(d) Contested case hearings shall be conducted in accordance with Chapter 150B of the General Statutes and the rules of the Office of Administrative Hearings.

Statutory Authority G.S. 150B-23.

- .0503 GRANTING OR DENYING HEARING REQUESTS (REPEALED)
- .0504 NOTICE OF HEARING (REPEALED)
- .0505 AGENCY INITIATED PROCEEDING (REPEALED)
- .0506 WHO SHALL HEAR CONTESTED CASES (REPEALED)
- .0507 PETITION FOR INTERVENTION (REPEALED)
- .0508 TYPES OF INTERVENTION (REPEALED)

Statutory Authority G.S. 1A-1, Rule 24; 143B-10; 150B-2; 150B-23; 150B-32.

- .0509 WRITTEN ANSWER (REPEALED)
- .0510 VENUE (REPEALED)

- .0511 DISCOVERY (REPEALED)
- .0512 PRE-HEARING CONFERENCE (REPEALED)
- .0513 SUBPOENAS (REPEALED)
- .0514 CONSOLIDATION (REPEALED)
- .0515 STIPULATIONS (REPEALED)
- .0516 DISQUALIFICATION OF HEARING OFFICERS (REPEALED)
- .0517 FAILURE OF PARTY TO ATTEND HEARING (REPEALED)
- .0518 OATH (REPEALED)
- .0519 CONDUCT OF HEARING (REPEALED)
- .0520 PROPOSAL FOR DECISION (REPEALED)
- .0521 RECORD (REPEALED)
- .0522 TRANSCRIPT (REPEALED)
- .0523 FINAL DECISIONS IN ADMINISTRATIVE HEARINGS (REPEALED)

Statutory Authority G.S. 143B-10; 150B-24 through 150B-28; 150B-31 through 150B-34; 150B-37; 150B-43.

SUBCHAPTER IC - STATE LAW ENFORCEMENT ASSISTANCE DURING LABOR DISPUTE

SECTION .0100 - APPLICATIONS FOR ASSISTANCE

- .0102 WHEN REQUEST FOR ASSISTANCE WILL BE ACCEPTED (REPEALED)

Statutory Authority G.S. 153A-212; 160A-288.1.

SUBCHAPTER ID - GRIEVANCE PROCEDURE

SECTION .0100 - GENERAL PROVISIONS IN CASES NOT INVOLVING ALLEGED DISCRIMINATION

- .0101 PURPOSE (REPEALED)
- .0102 DEFINITIONS (REPEALED)
- .0103 POLICY (REPEALED)

Statutory Authority G.S. 143B-10; 143B-475.

SECTION .0200 - INFORMAL PROCEDURE IN CASES NOT INVOLVING ALLEGED DISCRIMINATION

- .0201 STEP ONE: DISCUSSION WITH IMMEDIATE SUPERVISOR (REPEALED)
- .0202 STEP TWO: DISCUSSION WITH SUPERVISOR'S SUPERVISOR (REPEALED)

Statutory Authority G.S. 143B-10; 143B-475.

SECTION .0300 - FORMAL PROCEDURE IN CASES NOT INVOLVING ALLEGED DISCRIMINATION

- .0301 STEP ONE: FILING WRITTEN GRIEVANCE WITH SUPERVISORS (REPEALED)
- .0302 STEP TWO: APPEAL TO DIVISION DIRECTOR (REPEALED)
- .0303 STEP THREE: APPEAL TO DEPARTMENT SECRETARY (REPEALED)
- .0304 STEP FOUR: APPEAL TO STATE PERSONNEL COMMISSION (REPEALED)

Statutory Authority G.S. 143B-10; 143B-475.

SECTION .0400 - GRIEVANCE PROCEDURE IN CASES INVOLVING APPLICANT

.0401 PURPOSE

The purpose of these Rules is to provide a means of ensuring prompt, orderly, and fair response to a legitimate employee grievance arising out of a claim of ~~discrimination~~ an applicant for employment.

Statutory Authority G.S. 143B-10; 143B-475.

.0402 GRIEVANCE

"Grievance" is a problem in an employee's working conditions, circumstances or relationships with other employees or supervisors which gives rise to a legitimate complaint by the employee.

(a) Any applicant who believes he was wrongly denied employment with the Department of Crime Control and Public Safety shall first contact either the director of the division in which employment was sought or the Personnel Officer for the Department of Crime Control and Public Safety at the department address.

(b) If the matter cannot be resolved, then the applicant may contact the secretary and seek to informally resolve this matter.

(c) If the applicant is unsatisfied with the decision of the secretary, he may contact the Office of State Personnel, 116 West Jones Street, Raleigh, NC 27611. Any appeal to the Office of State Personnel must be received by State Personnel within 30 days of the alleged improper action.

Statutory Authority G.S. 143B-10; 143B-475.

.0403 POLICY (REPEALED)

.0404 PROCEDURE (REPEALED)

Statutory Authority G.S. 143B-10; 143B-475.

PROPOSED RULES

CHAPTER 3 - FIRE COMMISSION

SECTION .0100 - PURPOSE AND ORGANIZATION

- .0101 DEFINITIONS (REPEALED)
- .0102 PURPOSE (REPEALED)
- .0103 ORGANIZATION (REPEALED)
- .0104 ADDRESS (REPEALED)

Statutory Authority G.S. 143B-482; 143B-483.

SECTION .0200 - GRANT APPLICATION SUBMISSION REQUIREMENTS

- .0201 GRANT APPLICATION REQUIREMENTS (REPEALED)
- .0202 APPLICATION SUBMISSION REQUIREMENTS (REPEALED)

Statutory Authority G.S. 143B-482; 143B-483.

SECTION .0300 - GENERAL GRANT GUIDELINES

- .0301 THE GRANT PERIOD (REPEALED)
- .0302 PROGRESS REPORTS (REPEALED)
- .0303 ALLOWABLE COSTS (REPEALED)
- .0304 COST DETAILS (REPEALED)
- .0305 NONPROFIT ORGANIZATIONS (REPEALED)
- .0306 COST ASSUMPTION PLANS (REPEALED)

Statutory Authority G.S. 143B-482; 143B-483.

SECTION .0400 - GRANT APPLICATION REVIEW PROCEDURES

- .0401 ACKNOWLEDGEMENT OF RECEIPT OF APPLICATION (REPEALED)
- .0402 CONSISTENCY WITH PLANS (REPEALED)
- .0403 COMPLETE APPLICATIONS (REPEALED)
- .0404 APPLICATION MODIFICATIONS (REPEALED)
- .0405 FACTORS IN AWARDING GRANTS (REPEALED)

Statutory Authority G.S. 143B-482; 143B-483.

SECTION .0500 - GRANT TERMINATION AND APPEAL

- .0501 GRANT TERMINATION (REPEALED)
- .0502 APPEAL PROCESS (REPEALED)

Statutory Authority G.S. 143B-482; 143B-483.

SECTION .0600 - FIRE INVESTIGATOR CERTIFICATION PROGRAM

- .0601 PURPOSE (REPEALED)
- .0602 FIRE INVESTIGATOR CERTIFICATION BY REVIEW BOARD (REPEALED)
- .0603 CERTIFICATION AS FIRE INVESTIGATOR (REPEALED)
- .0604 MINIMUM STANDARDS FOR CERTIFICATION BY EXAMINATION (REPEALED)
- .0605 CERTIFICATION BY REVIEW (REPEALED)
- .0606 TESTING (REPEALED)
- .0607 APPLICATIONS (REPEALED)
- .0608 CERTIFICATES ISSUED (REPEALED)
- .0609 RECERTIFICATION (REPEALED)
- .0610 SUSPENSION; REVOCATION OR DENIAL OF CERTIFICATION (REPEALED)
- .0611 APPEAL PROCESS (REPEALED)

Statutory Authority G.S. 143B-481 through 143B-485.

TITLE 15 - DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT

Notice is hereby given in accordance with G.S. 150B-12 that the N.C. Department of Natural Resources and Community Development intends to adopt regulations cited as 15 NCAC 11 .0001 - .0003.

The proposed effective date of this action is July 1, 1988.

The public hearing will be conducted at 10:00 a.m. on May 4, 1988 at Ground Floor Hearing, Archdale Building, 512 N. Salisbury St., Raleigh, NC.

Comment Procedures: Comments and statements, both written and oral, may be presented at the hearing. Written comments are encouraged and may be submitted to the Department of NRCD, Division of Marine Fisheries, P.O. Box 769, Morehead City, NC 28557. These written comments must be received no later than May 5, 1988.

CHAPTER 1 - DEPARTMENTAL RULES

SUBCHAPTER 11 - FEDERAL FUNDS: TURTLE EXCLUDER DEVICES

.0001 SCOPE AND PURPOSE

(a) Effective May 1, 1988, the United States Government will require the use of Turtle Excluder Devices (hereinafter referred to as

TEDs) by all boats and vessels 25 feet or more in length which trawl for shrimp in the Atlantic Ocean off North Carolina. Such devices consist of various combinations of net material, steel bars and other items placed in front of the tailbag of the trawl for the purpose of releasing sea turtles from the trawl net prior to entering the tailbag, thus excluding turtles from the tailbag. Acceptable designs of such devices are certified as acceptable by the United States Government.

(b) The North Carolina Department of Natural Resources and Community Development (hereinafter referred to as the Department) has received a grant of seventy-three thousand two hundred dollars (\$73,200.00) from the U.S. Department of Commerce (Contract Number 86-4631-003) for the purpose of aiding North Carolina commercial shrimp fishermen in the purchase of certified TEDs in time for use in the 1988 brown shrimp season. Funds from the grant will be provided during 1988 to commercial fishermen who comply with the standards set fourth in the Rules of this Subchapter.

Statutory Authority G.S. 113-181; 113-226; 143B-277; 150B-13.

.0002 ELIGIBILITY STANDARDS

(a) Only vessels and boats measuring 25 feet or more in overall length are eligible for this program.

(b) Only vessels or boats which hold 1987 North Carolina resident commercial fishing vessel licenses or are eligible to hold 1988 North Carolina resident commercial fishing vessel licenses are eligible for this program.

(c) Reimbursement will be made only upon presentation of a certification form stating that a certified TED (or TEDs) have been purchased; including the original invoice for such purchase. The Department will provide the certification form.

Statutory Authority G.S. 113-181; 113-226; 143B-277; 150B-13.

.0003 REQUIREMENTS TO RECEIVE REIMBURSEMENT FOR TED PURCHASE

(a) Funds will be reimbursed by the Department only in the name of the owner of eligible vessels or boats.

(b) Funds will be reimbursed by the Department on a "first-come", "first-served" basis beginning no earlier than March 1, 1988. Certification forms dated prior to March 1,

1988, will be rejected. Invoices submitted with certification forms must also be dated March 1, 1988, or later.

(c) Funds will be available until the total available seventy-three thousand two hundred dollars (\$73,200.00) is disbursed. No further funds will be available. The Department will publicly announce when all funds are expended.

(d) The maximum amount which any vessel or boat can receive is five hundred dollars (\$500.00).

(e) All recipients of funds under this program must agree to provide data to the Department on vessel performance with TEDs, fuel use, shrimp catch and other information needed to evaluate this program. Such data shall be considered confidential as provided in G.S. 113-163.

Statutory Authority G.S. 113-163; 113-181; 113-226; 143B-277; 150B-13.

Notice is hereby given in accordance with G.S. 150B-12 that the Environmental Management Commission intends to adopt regulations cited as 15 NCAC 2H .1101 - .1110.

The proposed effective date of this action is October 1, 1988.

The public hearing will be conducted at 1:30 p.m. on April 20, 1988 at Ground Floor Hearing Room, Archdale Building, 512 North Salisbury Street, Raleigh, North Carolina.

Comment Procedures: All persons interested in this matter are invited to attend. Comments, statements, data, and other information may be submitted in writing prior to, during, or within thirty (30) days after the hearing or may be presented orally at the hearing. Oral statements may be limited at the discretion of the hearing officer. Submittal of written copies of oral statements is encouraged.

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2H - PROCEDURES FOR PERMITS: APPROVALS

SECTION .1100 - BIOLOGICAL LABORATORY CERTIFICATION

.1101 PURPOSE

These Rules set forth the requirements for certification of commercial, industrial, and public laboratories to perform biological toxicity testing of water and wastewater as required for National Pollutant Discharge Elimination System (NPDES) permits by G.S. 143-215.3(a)(10) and Environmental Management Commission Rules for Classifications and Water Quality Standards Applicable to the Surface Waters of North Carolina, found in Subchapter 2B of this Chapter, Section .0200, and Rules for Surface Water Monitoring, Reporting, found in Subchapter 2B of this Chapter, Section .0500.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); 143-215.66.

.1102 SCOPE

These Rules apply to commercial, industrial, or public laboratories which perform toxicity testing of water or wastewater for persons subject to any requirements for monitoring of toxicity through direct measurement of the effects of a specific water or wastewater or aquatic organisms in laboratory tests or through field surveys.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); 143-215.66.

.1103 DEFINITIONS

The following terms as used in this Section shall have the assigned meaning:

- (1) Categories are groups of parameters which differ by measured testing end points and, in the case of toxicological assay, through the presence or absence of vertebrae in the species of test organisms used or being a member of the plant kingdom. All field population survey techniques are contained within one category. Categories are defined in the Certification Criteria Procedures Document.
- (2) Certification is a declaration by the division that personnel, equipment, records, quality control procedures, and methodology cited by the applicant are accurate and that the applicants' proficiency has been considered and found acceptable.
- (3) Commercial Laboratory means any laboratory which is seeking to analyze, for others, wastewater samples for toxicity measurements or for their resultant impacts on the receiving waters.
- (4) Decertification is the loss of certification.

- (5) Director means the Director of the North Carolina Division of Environmental Management, or his successor.
- (6) Division means the North Carolina Division of Environmental Management, or its successor.
- (7) Evaluation samples are samples submitted by the State Laboratory to the commercial, municipal, industrial, or public laboratory as an unknown toxicant for measurement of toxicity or as an unknown set of preserved organisms for identification to specified levels of taxonomic classification.
- (8) Industrial Laboratory means a laboratory operated by an industry to analyze samples from its wastewater treatment plants for toxicity measurements or resultant impacts to receiving waters.
- (9) Parameters are specific quantitative or qualitative biological effects measured by toxicological assay methods or field survey techniques. Parameters are unique and separate if they are in separate categories or are performed using different species of test organisms. In the case of biological survey, separate parameters are to be considered fish, macroinvertebrates, algae, aquatic macrophytes, and zooplankton. Parameters are further defined in the Certification Criteria/Procedures Document.
- (10) Public Laboratory means a laboratory operated by a municipality, county, water and sewer authority, sanitary district, metropolitan sewerage district, or state or federal installation or any other governmental unit to analyze samples from its wastewater treatment plant(s) for toxicity measurements or resultant impacts to receiving waters.
- (11) Recertification is reaffirmation of certification.
- (12) Split samples are samples from either a surface water effluent discharge, surface water, or aquatic biological population survey which are segregated at the point of sampling and then analyzed separately by both the State Laboratory and the commercial, public or industrial laboratory.
- (13) State laboratory means the Biological Services Unit of the North Carolina Division of Environmental Management or its successor.
- (14) Toxicant - Any specific chemical or compound or mixture of chemicals or compounds regulated within an NPDES permit and/or defined as a toxic substance

in Rule .0202(27) of Subchapter 2B of these Regulations.

- (15) Unacceptable results on performance evaluation samples or split samples are those that vary by more than two Standard Deviations of the value measured by the division. The State Laboratory may adopt specific variance or statistical limits or performance criteria for a particular testing procedure, including control population effects and taxonomic identifications, as published in the Certification Criteria/Procedures Document.
- (16) Certification Criteria/Procedures Document - A manual approved by the director defining specific performance criteria and laboratory capabilities required for certification, recertification and decertification.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); 143-215.66.

.1104 FEES ASSOCIATED WITH CERTIFICATION PROGRAM

(a) Certification Fees:

- (1) Certification Fees shall be a minimum of five hundred dollars per year (\$500.00). The first category will be certified at a cost of five hundred dollars (\$500.00). Additional categories will be certified at a cost of four hundred dollars (\$400.00) per category. The addition of parameters not included in the original certification will be certified at a cost of one hundred dollars (\$100.00) per parameter.
- (2) Certification fees are due upon application and no later than 45 days prior to the requested certification date.

(b) Renewal Fees:

- (1) The certified laboratory will pay the state a four hundred dollar (\$400.00) per year renewal fee for each category of certification or the minimum fee five hundred dollars (\$500.00) if only one category is certified.
- (2) Recertification fees shall be four hundred dollars (\$400.00) per category recertified. Out-of-state laboratories shall reimburse the state for actual travel and subsistence costs incurred in certification, recertification and maintenance of certification.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); 143-215.66.

.1105 CERTIFICATION

Certification is affirmation by the director or his delegate that the requirements specified in the Certification Criteria Document have been met for specific categories and parameters and that all fees associated with certification have been received.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.3(1)(10); 143-215.66.

.1106 DECERTIFICATION

(a) Laboratory Decertification once certified, a laboratory may forfeit its certification for all categories by failing to:

- (1) Maintain the facilities, records, personnel, equipment or quality assurance program as set forth in the application or these Rules; or
- (2) Submit truthful and accurate data reports; or
- (3) Pay required fees by the date due.

(b) Categorical Decertification once certified, a laboratory may be required to forfeit its certification for a category by failing to:

- (1) Obtain acceptable results on two consecutive evaluation sample submittals from the division; or
- (2) Obtain acceptable results on two consecutive split samples that have also been analyzed by the division; or
- (3) Submit a split sample to the division as requested; or
- (4) Use approved testing techniques; or
- (5) Report to the state laboratory equipment changes that would affect its ability to perform a test category within 30 days of such change; or
- (6) Report to the state laboratory analysis of performance evaluation samples submitted by the division within required time of completion; or
- (7) Maintain records and perform quality controls as set forth by these Rules and the division for a particular category; or
- (8) Maintain equipment required for any certified parameter; or
- (9) Obtain acceptable results on the accepted Quality Control Program; or
- (10) Maintain a qualified staff.

(c) Decertification Requirements:

- (1) A laboratory is not to analyze samples for parameters in decertified categories for programs described in Rule .1102 of this Section.
- (2) A decertified commercial laboratory must make arrangements to supply analysis through a certified laboratory

during any decertification periods or notify clients that the analysis can not be supplied. The decertified laboratory must supply the division with the name of the replacement laboratory and the client(s) involved.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); 143-215.66.

.1107 RECERTIFICATION

A laboratory decertified for any reason may be recertified after 30 days, upon satisfactory demonstration to the state laboratory that deficiencies have been corrected.

Should decertification occur due to either failure of performance samples or split samples, a written request must be made to the state laboratory requesting evaluations similar to the parameters for which the laboratory was decertified. Two consecutive samples must be successfully evaluated to achieve recertification. The first of these samples for recertification will be submitted or arranged by the division no later than 30 days after receipt of the written request. The second will be submitted or arranged no later than 30 days after the first.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); 143-215.66.

.1108 RECIPROcity

Laboratories certified by other states or federal programs may be given reciprocal certification where such programs meet the requirements of these Rules. In requesting certification through reciprocity, laboratories shall include with the application a copy of their certification and the rules of the original certifying agency.

Laboratories certified on the basis of program equivalency shall pay all fees specified by these regulations.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); 143-215.66.

.1109 ADMINISTRATION

(a) The Director of the Division of Environmental Management, Department of Natural Resources and Community Development, or his delegate, is authorized to issue certification, to reject applications for certification, to renew certification, to issue recertification, to issue decertification, and to issue reciprocity certification.

(b) Appeals:

(1) In any case where the Director of the Division of Environmental Management, Department of Natural Resources and Community Development or his delegate denies certification, or decertifies a laboratory, the laboratory may petition the director or his delegate for a hearing. Upon receipt of such a request, the director or his delegate shall convene a hearing of the type provided in Environmental Management Commission Regulations for Administrative Hearings, found in Subchapter 2I of this Chapter, Section .0300.

(2) Appeal from the decision of a hearing officer appointed by the director or his delegate shall be governed by the Environmental Management Commission Regulation on administrative hearings.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); 143-215.66.

.1110 IMPLEMENTATION

(a) All laboratories subject to these Rules are required to be certified.

(b) All laboratories subject to these Rules must submit an application, including fees, for certification within six months of the effective date of these Rules. A laboratory which has submitted a complete application under Rule .1105(a) of this Section will be deemed to be in compliance with these Rules pending action by the division on the application.

(c) Laboratories that cannot meet initial certification requirements after implementation date of these Rules must comply with the decertification and recertification requirements as set forth in these Rules.

(d) After the six month implementation period for these new Rules, all applications and fees are due 45 days prior to the requested certification date.

(e) All certifications are designated for the period of January 1 to December 31.

Statutory Authority G.S. 143-215.3(a)(1); 143-215.3(a)(10); 143-215.66.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS

Notice is hereby given in accordance with G.S. 150B-12 that the Board of Medical Examiners of the State of North Carolina intends to adopt regulations cited as 21 NCAC 32J .0001 - .0003; 32K .0101 - .0104, .0201 - .0208.

The proposed effective date of this action is July 1, 1988.

The public hearing will be conducted at 2:00 p.m. on April 15, 1988 at 1313 Navaho Drive, Raleigh, North Carolina.

Comment Procedures: Persons interested may present written or oral statements relevant to the actions proposed at a hearing to be held as indicated above. Written statements not presented at the hearing should be directed before April 1, 1988, to the following address: Administrative Procedures, N.C. Board of Medical Examiners, P.O. Box 26808, Raleigh, N.C. 27611-6808.

CHAPTER 32 - BOARD OF MEDICAL EXAMINERS

SUBCHAPTER 32J - REINSTATEMENT OF SUSPENDED LICENSE

.0001 APPLICATION FOR REINSTATEMENT

An individual whose license issued by the board has been suspended pursuant to the provisions of N.C. General Statute 90-14(a)(10) by reason of adjudication of mental incompetency may apply to the board for reinstatement of such license. Such application for reinstatement of license shall be made in writing by letter to the executive secretary of the board addressing, as the applicant deems appropriate, the reasons why the applicant believes reinstatement of license is then warranted and whether the applicant is no longer mentally incompetent. Such application may be supported, as the applicant deems appropriate, by any other written materials the applicant may choose to submit with the application. In all instances of application for reinstatement of license, the burden shall be upon the applicant to satisfy the board by a preponderance of evidence that he is no longer mentally incompetent.

Statutory Authority G.S. 90-14.

.0002 CONSIDERATION BY BOARD

(a) Upon receipt by the executive secretary of the board of an application for reinstatement of license suspended pursuant to N.C. General Statute 90-14(a)(10), such application shall be scheduled for consideration by the board as soon as reasonably possible at a regularly scheduled meeting of the board, taking into account other matters also requiring

the attention of the board. The board, in its discretion, may request or permit the applicant to appear before the board on an informal basis in connection with the board's consideration of such application.

(b) Upon consideration of such an application for reinstatement of license, the board, if satisfied that the applicant is no longer mentally incompetent, shall reinstate a license which has been suspended pursuant to N.C. General Statute 90-14(a)(10), unless the board finds that cause exists for revocation of such license as hereinafter provided.

(c) If, at the time of consideration of an application for reinstatement hereunder, the board or a committee of the board should find that probable cause exists for revocation of the applicant's license under N.C. General Statute 90-14, the applicant shall be given notice of the same and a hearing pursuant to the provisions of N.C. General Statute 90-14.2 and the applicable provisions of the Administrative Procedures Act, N.C. General Statute 150B-38 et seq., which hearing may be consolidated with the hearing provided for in Rule .0003 of this Subchapter.

Statutory Authority G.S. 90-14.

.0003 HEARING UPON DENIAL

Should the board deny an application for reinstatement of a suspended license, the board shall notify the applicant of its decision. Thereafter, if requested by the applicant, a formal hearing shall be held before the board pursuant to the provisions of N.C. General Statute 90-14.2 and the applicable provisions of the Administrative Procedures Act, N.C. General Statute 150B-38 et seq., to determine whether the applicant is no longer mentally incompetent.

Statutory Authority G.S. 90-14.

SUBCHAPTER 32K - IMPAIRED PHYSICIAN PROGRAMS

SECTION .0100 - GENERAL INFORMATION

.0101 AUTHORITY

N.C. General Statute 90-21.22, entitled "Peer Review Agreements," authorizes the Board of Medical Examiners of the State of North Carolina to adopt regulations allowing it to enter into such agreements with the North Carolina Medical Society and its local medical society components. The board is further required to adopt regulations with provisions concerning impaired physician programs. The regulations

in this Subchapter are adopted by the board pursuant to this authority.

Statutory Authority G.S. 90-21.22.

.0102 DEFINITIONS

“Board” means the Board of Medical Examiners of the State of North Carolina.

“Program” means the North Carolina Physicians Health and Effectiveness Program established for promoting a coordinated and effective peer review process.

“Committee” means the North Carolina Medical Society’s Physicians Health and Effectiveness Committee established to function as a supervisory and advisory body to the North Carolina Physicians Health and Effectiveness Program.

“Medical director” means the person employed by the program to coordinate the activities of the program.

“Impairment” means mental illness, chemical dependency, physical illness, and/or aging problems.

Statutory Authority G.S. 90-21.22.

.0103 PEER REVIEW AGREEMENTS

Peer review activities shall include investigation, review, evaluation of records, reports, complaints, litigation and other information about the practices and practice patterns of physicians licensed by the board, and shall include programs for impaired physicians. Peer review agreements may cover some or all of these activities, as deemed appropriate by the board.

The board may enter into peer review agreements with the N.C. Medical Society or its local medical society components in conformance with these Regulations.

Statutory Authority G.S. 90-21.22.

.0104 DUE PROCESS

Any action taken pursuant to a peer review agreement must afford the subject physician all due process rights enumerated in N.C. General Statutes 90-14.1 and all relevant due process rights contained in the Administrative Procedures Act, N.C. General Statute 150B.

Statutory Authority G.S. 90-21.22.

SECTION .0200 - GUIDELINES FOR PROGRAM ELEMENTS

.0201 RECEIPT AND USE OF INFORMATION

OF SUSPECTED IMPAIRMENT

(a) Information concerning suspected impairments may be received by the program through reports by physicians, family members and others, and through self-referral.

(b) The board shall provide information as required under N.C. General Statute 90-14(b).

(c) Upon receipt of information of a suspected impairment, the program shall initiate an investigation. The medical director of the program shall be personally involved in investigations whenever possible.

(d) The program may conduct routine inquiries regarding suspected impairments.

(e) Physicians suspected of impairment may be required to submit to personal interviews before the medical director of the program, the committee chairperson, a committee member or the full committee.

Statutory Authority G.S. 90-21.22.

.0202 INTERVENTION AND REFERRAL

When, following an investigation, impairment is confirmed, an intervention is conducted using specialized techniques designed to assist the physician in acknowledging responsibility for dealing with the impairment. The physician is referred to an appropriate treatment source.

- (1) Methods and objectives of interventions are decided on a case by case basis.
- (2) Interventions are arranged and conducted as soon as possible. In cases referred by the board, a representative of the board may be present.
- (3) Treatment sources are evaluated before receiving case referrals from the program.
- (4) Intervention outcomes, including treatment contracts that are elements of an intervention, are recorded by the program.

Statutory Authority G.S. 90-21.22.

.0203 MONITORING TREATMENT

A treatment source receiving referrals from the Program shall be monitored as to its ability to provide:

- (1) adequate medical and non-medical staffing;
- (2) appropriate treatment;
- (3) affordable treatment;
- (4) adequate facilities; and
- (5) appropriate post-treatment support.

Statutory Authority G.S. 90-21.22.

.0204 MONITORING REHABILITATION AND PERFORMANCE

(a) Monitoring requirements for each physician shall be designated by the program. Physicians may be tested regularly or randomly, on program demand.

(b) Treatment sources may be required to submit reports regarding a physician's rehabilitation and performance to the program.

(c) Impaired physicians may be required to submit to periodic personal interviews before the medical director of the program, the committee chairperson, a committee member, or the full committee.

(d) Appropriate case records are maintained by the program.

Statutory Authority G.S. 90-21.22.

.0205 MONITORING POST-TREATMENT SUPPORT

Post-treatment support may include family counseling, locum tenens, advocacy and other services and programs deemed appropriate to improve recoveries.

(1) Treatment sources' post-treatment support shall be monitored by the program on an ongoing basis.

(2) The program's post-treatment support will be monitored by the medical director of the program and the committee on an ongoing basis.

Statutory Authority G.S. 90-21.22.

.0206 REPORTS OF INDIVIDUAL CASES TO THE BOARD

(a) Upon investigation and review of a physician licensed by the board, the program shall report immediately to the board detailed information about any physician as required under N.C. General Statutes 90-21.22(d).

(b) The program shall quarterly submit a report to the board on the status of all physicians then involved in the program who have been previously reported by the board. The program shall monthly submit to the board a report on the status of any physician previously reported to the board then in active treatment until such time as mutually agreed to by the board and the program.

Statutory Authority G.S. 90-21.22.

.0207 PERIODIC REPORTING OF STATISTICAL INFORMATION

Statistical information concerning suspected impairments, impairments, self-referrals, post-treatment support and other significant demographic and substantive information collected through program operations shall be included

in comprehensive statistical reports compiled and annually reported to the board by the program.

Statutory Authority G.S. 90-21.22.

.0208 CONFIDENTIALITY

Any nonpublic information acquired, created, or used in good faith by the program shall be treated according to N.C. General Statute 90-21.22.

Statutory Authority G.S. 90-21.22.

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Real Estate Commission intends to adopt and amend regulations cited as 21 NCAC 58A .0107, .0111 - .0112, .0301, .0506, .0611; 58B .0501.

The proposed effective date of this action is July 1, 1988.

The public hearing will be conducted at 9:00 a.m. on April 14, 1988 at The North Raleigh Hilton, 3415 Wake Forest Road, Raleigh, North Carolina 27609.

Comment Procedures: Comments not presented at the hearing should be delivered by the hearing date to the Real Estate Commission office, 1313 Navaho Drive, P.O. Box 17100, Raleigh, North Carolina 27619.

CHAPTER 58 - REAL ESTATE

SUBCHAPTER 58A - REAL ESTATE BROKERS AND SALESMEN

SECTION .0100 - GENERAL BROKERAGE

.0107 HANDLING AND ACCOUNTING OF FUNDS

(e) Real estate brokers shall maintain ~~records sufficient to verify the maintenance and proper use of all funds which the broker may hold for another or others.~~ A real estate broker shall retain bank statements, cancelled checks, deposit tickets, copies of contracts, closing statements and any other documents necessary and sufficient to verify and explain record entries, and retain for a period of three years records sufficient to verify the adequacy and proper use of their trust accounts, including, but not limited to:

- (1) ~~the date the broker received trust monies; and bank statements;~~
- (2) ~~the amount, nature and purpose of deposits and from whom received; and cancelled checks which shall be referenced to the corresponding transaction or owner ledger sheet;~~
- (3) ~~the date trust monies are deposited in the trust or escrow account; and deposit tickets and, if necessary, a supplemental worksheet for each deposit ticket identifying the property and the parties to each transaction for which funds are deposited;~~
- (4) ~~the amount, date and purpose of withdrawals and to whom paid; and a separate ledger sheet for each sales transaction and for each owner of property managed by the broker identifying the property and the parties to the transaction, the amount, date, running balance and purpose of deposits and from whom received, and the amount, date, balance, check number and purpose of disbursements and to whom paid;~~
- (5) ~~a current running balance of trust monies held by the broker, a journal or check stubs identifying each transaction and showing a running balance for all funds in the account;~~
- (6) ~~copies of contracts, leases and management agreements;~~
- (7) ~~closing statements and property management statements; and~~
- (8) ~~any other documents necessary and sufficient to verify and explain record entries.~~

All receipts and disbursements of trust monies by a real estate broker shall be reported in such a manner as to create a clear audit trail from deposit tickets, cancelled checks, check stubs, journals and transactions or owner ledgers to bank statements which shall be reconciled to such records on a monthly basis.

Statutory Authority G.S. 93A-3(c).

.0111 DRAFTING LEGAL INSTRUMENTS

A real estate broker or salesman acting as an agent in a real estate transaction shall not draft offers, sales contracts, options, leases, promissory notes, deeds, deeds of trust or other legal instruments for others; however, a broker or salesman may complete preprinted offer, sales contract and lease forms in real estate transactions when authorized or directed to do so by the parties.

Statutory Authority G.S. 93A-3(c).

.0112 OFFERS AND SALES CONTRACTS

(a) A broker or salesman acting as an agent in a real estate transaction shall not use a preprinted offer or sales contract form unless the form adequately describes or specifically requires the entry of the following information:

- (1) the names of the buyer and seller;
- (2) a legal description of the real property sufficient to identify and distinguish it from all other property;
- (3) an itemization of any personal property to be included in the transaction;
- (4) the purchase price and manner of payment;
- (5) any portion of the purchase price that is to be paid by a promissory note, including the amount, interest rate, payment terms, whether or not the note is to be secured, and other material terms;
- (6) any portion of the purchase price that is to be paid by the assumption of an existing loan, including the amount of such loan, costs to be paid by buyer or seller, the interest rate and number of discount points and a condition that the buyer must be able to qualify for the assumption of the loan and must make every reasonable effort to qualify for the assumption of the loan;
- (7) the amount of earnest money, if any, method of payment, the name of the broker or firm that will serve as escrow agent, an acknowledgment of earnest money receipt by the escrow agency, and the criteria for determining disposition of earnest money, including disputed earnest money, consistent with commission Rule 58A .0107;
- (8) any loan that must be obtained by the buyer as a condition of the contract, including the amount and type of loan, interest rate and number of discount points, loan term, loan commitment date, and who shall pay loan closing costs; and a condition that the buyer shall make every reasonable effort to obtain the loan;
- (9) the buyer's intended use of the property and a condition that such use must be legally permissible;
- (10) the amount and purpose of any special assessment to which the property is subject and the responsibility of the parties for any unpaid charges;

- (11) the date(s) for closing and transfer of possession;
- (12) the signatures of the buyer and seller;
- (13) the date(s) of offer and acceptance;
- (14) a provision that title to the property must be delivered at closing by general warranty deed and must be fee simple marketable title, free of all encumbrances except ad valorem taxes for the current year, utility easements, and any other encumbrances specifically approved by the buyer, or a provision otherwise describing the estate to be conveyed, and encumbrances, and the form of conveyance;
- (15) the items to be prorated or adjusted at closing;
- (16) who shall pay closing expenses;
- (17) the buyer's right to inspect the property prior to closing and who shall pay for repairs and/or improvements, if any; and
- (18) a provision that the property shall at closing be in substantially the same condition as on the date of the offer (reasonable wear and tear excepted), or a description of the required property condition at closing.

(b) A broker or salesman acting as an agent in a real estate transaction shall not use a pre-printed offer or sales contract form containing the provisions or terms listed below, and shall not insert or cause such provisions or terms to be inserted into any such preprinted form at the time of completion:

- (1) any provision concerning the payment of a commission or compensation, including the forfeiture of earnest money, to any broker, salesman or firm; or
- (2) any provision that attempts to disclaim the liability of a broker or salesman for their representations in connection with the transaction.

Statutory Authority G.S. 93A-3(c).

SECTION .0300 - APPLICATION FOR LICENSE

.0301 FORM

Any person desiring to obtain a license as real estate broker or salesman shall make written application to the commission upon a prescribed form. Such forms are available upon request to the commission. In general, the form calls for information such as the applicant's name and address, a recent passport size photograph of the applicant, past and present

places of residence and employment, education, prior real estate licenses, prior arrests and convictions, unpaid judgements, bankruptcies, endorsements of good character, ~~and~~ information concerning the applicant's experience ~~or~~ and education in real estate, and such other information necessary to identify the applicant and determine his qualifications and fitness for licensure.

Statutory Authority G.S. 93A-3(c); 93A-4(a), (d); 150B-11.

SECTION .0500 - LICENSING

.0506 SALESMAN TO BE SUPERVISED BY BROKER

(a) A salesman's license is valid only while he is supervised by the broker-in-charge of the office where the salesman is engaged in the business of a real estate salesman. A salesman shall not act as or hold himself out to be a real estate broker, nor shall he act as a real estate salesman outside the supervision of the broker-in-charge of the firm or office where the salesman is employed.

Statutory Authority G.S. 93A-2 (b); 93A-3 (c); 150B-11.

SECTION .0600 - ADMINISTRATIVE HEARINGS

.0611 ANSWERS AND OTHER PLEADINGS

(a) A party who has been served with a notice of hearing may file a written answer with the commission at any time prior to the hearing.

(b) To be considered by the commission, every answer, motion, request or other pleading must be submitted to the commission in writing or made during the course of the hearing as a matter of record.

Statutory Authority G.S. 93A-3(c).

SUBCHAPTER 58B - TIME SHARES

SECTION .0500 - HANDLING AND ACCOUNTING OF FUNDS

.0501 TIME SHARE TRUST FUNDS

(c) A developer shall refund to a time share purchaser all monies paid by the purchaser in connection with a time share purchase no later than thirty days following the date of execution of the contract, provided that the purchaser has properly and timely cancelled his purchase. Where the time share purchaser has paid with

a bank card or credit card, the developer shall refund those payments by issuing a credit voucher to the purchaser within thirty days following the date of sale, provided that the purchaser has ~~property~~ properly and timely cancelled his purchase.

(d) Every project broker shall obtain and keep a written representation from the developer as to whether or not lien-free or lien-subordinated time share instruments can be recorded within 45 days of the buyer's execution of the time share purchase agreement. When a lien-free or lien-subordinated instrument cannot be recorded within said time period, on the business day following the expiration of the ten day time share payment escrow period, a project broker ~~holding purchase deposit money funds shall transfer to the developer, marked for transfer to the independent escrow agent, all time share purchase deposit monies or other payments received from a buyer who has not cancelled his time share purchase agreement.~~ shall transfer from his trust account all purchase deposit funds or other payments received from a buyer who has not cancelled his purchase agreement, to the independent escrow agent in a check made payable to the independent escrow agent. Alternatively, the check may be made payable to the developer with a restrictive endorsement placed on the back of the check providing "For deposit to the account of the independent escrow agent for the (name of time share project) only."

Statutory Authority G.S. 93A-42 (c); 93A-51.

TITLE 25 - OFFICE OF STATE PERSONNEL

Notice is hereby given in accordance with G.S. 150B-12 that the Office of State Personnel State Personnel Commission intends to amend regulations cited as 25 NCAC 1D .0201, .0511; 11 .0603, .0606.

The proposed effective date of this action is July 1, 1988.

The public hearing will be conducted at 9:00 a.m. on April 26, 1988 at 101 West Peace Street, Raleigh, North Carolina.

Comment Procedures: Interested persons may present statements orally or in writing at the hearing or in writing prior to the hearing by

mail addressed to: Drake Maynard, Office of State Personnel, 116 West Jones Street, Raleigh, North Carolina 27611.

CHAPTER 1 - OFFICE OF STATE PERSONNEL

SUBCHAPTER 1D - COMPENSATION

SECTION .0200 - NEW APPOINTMENTS

.0201 DEFINED

(d) The conditions of the probationary and trainee appointments shall be clearly conveyed to the applicant prior to appointment. During the probationary or trainee period, the supervisor has a responsibility to work closely with the employee in counseling and assisting the employee to achieve a satisfactory performance level; progress of the employee should be reviewed during discussions between the employee and the supervisor. Following the probationary period when the supervisor, in consultation with other appropriate administrators, determines that the employee's performance indicates capability to become a satisfactory performer and merits retention in the position, the employee shall be given a permanent appointment to the class. If instead, the determination is that the employee's performance indicates that the employee is not suited for the position and cannot be expected to meet acceptable standards, or for other causes related to performance of duties or personal conduct detrimental to the agency, it is expected that the employee would be separated from that position. Except in cases of discrimination, a dismissal from a probationary appointment under these conditions is not subject to the right of appeal to the State Personnel Commission. However, dismissal from a trainee appointment is subject to the right of appeal to the State Personnel Commission in cases of allegations of discrimination or if the trainee meets the following requirements for permanent status:

- (1) has a trainee appointment to a paygrade 60 or lower position and has at least 12 months of continuous state service;
- (2) has a trainee appointment to a position at paygrades 61 through 65 and has at least 36 months of continuous state service;
- (3) has a trainee appointment to a position at paygrades 66 through 70 and has at least 48 months of continuous state service;
- (4) has a trainee appointment to a position at paygrades 71 or above and has at

least 60 months of continuous state service.

Statutory Authority G.S. 126-4; 126-5.

SECTION .0500 - SEPARATION

.0511 REDUCTION IN FORCE PRIORITY CONSIDERATION

(14) Priority reemployment consideration for employees separated through reduction-in-force does not include priority to any policy-making/confidential exempt position.

Statutory Authority G.S. 126-5.

SUBCHAPTER II - SERVICE TO LOCAL GOVERNMENT

SECTION .0600 - RECRUITMENT AND SELECTION

.0603 APPLICANT INFORMATION AND APPLICATION

(d) An applicant may be disqualified if he/she:

- (3) has made a false statement of material fact in the application process; knowingly and willfully discloses false or misleading information or conceals dishonorable military service; or conceals prior employment history or other requested information, either of which are significantly related to job responsibilities on an application for employment. If employed before fraudulent

information is discovered, the employee may be subject to disciplinary action up to and including immediate dismissal from employment. Disqualification shall be mandatory where the applicant discloses false or misleading information in order to meet position qualifications.

Statutory Authority G.S. 126-4; 126.30.

.0606 SELECTION

(a) Selection of Applicants

- (2) Selection procedures and methods will be validly related to the duties and responsibilities of the vacancy to be filled. In any vacancy instance, the same selection process will be used consistently with all applicants. Equal employment consideration will be afforded. ~~Reference checking and other means of verifying applicant qualifications may be employed as necessary.~~ The employing authority shall verify the status of credentials and the accuracy of statements contained in the application of each new employee within 90 days from the date of the employee's employment. It should be recognized and explained to persons selected that the probationary period is a required extension of the selection process.

Statutory Authority G.S. 126-4; 126-30.

LIST OF RULES AFFECTED

12	.0239	Amended
14C	.1117	Amended
18I	.0120	Amended
26G	.0402	Amended
26H	.0106	Amended
	.0204	Amended
	.0303 - .0304	Amended
45H	.0202	Amended

DEPARTMENT OF INSURANCE

11	NCAC 8	.0903 - .0904	Amended
		.0906 - .0907	Amended

DEPARTMENT OF LABOR

13	NCAC 7C	.0101 - .0102	Amended
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DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT

15	NCAC II	.0001 - .0003	Temp. Adopted Expires 08-14-88
	2B	.0311	Amended
	2D	.0501	Amended
		.0524 - .0525	Amended
	2G	.0501 - .0507	Adopted
	2H	.0105	Amended
	2I	.0202	Repealed
	7B	.0203	Amended
	7H	.0209	Amended
		.0306	Amended
		.0308	Amended
		.0310	Amended
		.0507	Amended
	7J	.0701 - .0702	Amended
	7K	.0211	Adopted
	7M	.0301 - .0304	Amended
	13O	.0101 - .0104	Adopted
		.0201 - .0202	Adopted
		.0301 - .0304	Adopted
		.0401 - .0403	Adopted
		.0501 - .0503	Adopted
		.0601 - .0605	Adopted
		.0701 - .0704	Adopted

SECRETARY OF STATE

18	NCAC 6	.1601 - .1605	Adopted
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DEPARTMENT OF STATE TREASURER

20	NCAC 9	.0101 .0102	Adopted
		.0201 - .0202	Adopted
		.0301	Adopted
		.0401 - .0403	Adopted
		.0501 - .0502	Adopted
		.0601 - .0602	Adopted

BOARD OF DENTAL EXAMINERS

LIST OF RULES AFFECTED

21	NCAC 16B	.0303	Amended
		.0305	Amended
	16C	.0303	Amended
		.0305	Amended
	16M	.0001 - .0002	Amended
	16N	.0304	Amended
		.0505	Amended
		.0603	Amended
		.0605	Amended

BOARD FOR GEOLOGISTS

21	NCAC 21	.0106 - .0107	Amended
		.0301 - .0302	Amended

BOARD OF MEDICAL EXAMINERS

21	NCAC 32B	.0109	Amended
		.0607	Adopted

OFFICE OF STATE PERSONNEL

25	NCAC 1C	.0404	Amended
	1D	.0110	Repealed
	1E	.0701 - .0703	Repealed
	1H	.0604	Amended
		.0609	Amended
		.0620 - .0624	Adopted
		.0626	Adopted
		.0628	Adopted

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TITLE	DEPARTMENT
1	Administration, Department of
2	Agriculture, Department of
3	Auditor, Department of State
4	Commerce, Department of
5	Corrections, Department of
6	Council of State
7	Cultural Resources, Department of
8	Elections, State Board of
9	Governor, Office of the
10	Human Resources, Department of
11	Insurance, Department of
12	Justice, Department of
13	Labor, Department of
14A	Crime Control and Public Safety, Department of
15	Natural Resources and Community Development, Department of
16	Education, Department of
17	Revenue, Department of
18	Secretary of State, Department of
19A	Transportation, Department of
20	Treasurer, Department of State
*21	Occupational Licensing Boards
22	Administrative Procedures
23	Community Colleges, Department of
24	Housing Finance Agency
25	State Personnel, Office of
26	Administrative Hearings, Office of

NOTE: Title 21 contains the chapters of the various occupational licensing boards.

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4	Auctioneers, Commission for
6	Barber Examiners, Board of
8	Certified Public Accountant Examiners, Board of
10	Chiropractic Examiners, Board of
12	Contractors, Licensing Board for
14	Cosmetic Art Examiners, Board of
16	Dental Examiners, Board of
18	Electrical Contractors, Board of Examiners of
20	Foresters, Board of Registration for
21	Geologists, Board of
22	Hearing Aid Dealers and Fitters Board
26	Landscape Architects, Licensing Board of
28	Landscape Contractors, Registration Board of
31	Marital & Family Therapy Certification Board
32	Medical Examiners, Board of
33	Midwifery Joint Committee
34	Mortuary Science, Board of
36	Nursing, Board of
37	Nursing Home Administrators, Board of
38	Occupational Therapists, Board of
40	Opticians, Board of
42	Optometry, Board of Examiners in

44	Osteopathic Examination and Registration, Board of
46	Pharmacy, Board of
48	Physical Therapy, Examining Committee of
50	Plumbing and Heating Contractors, Board of
52	Podiatry Examiners, Board of
53	Practicing Counselors, Board of
54	Practicing Psychologists, Board of
56	Professional Engineers and Land Surveyors, Board of
58	Real Estate Commission
60	Refrigeration Examiners, Board of
62	Sanitarian Examiners, Board of
63	Social Work, Certification Board for
64	Speech and Language Pathologists and Audiologists, Board of Examiners of
66	Veterinary Medical Board

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- AO - Administrative Order
- AG - Attorney General's Opinions
- C - Correction
- E - Errata
- EO - Executive Order
- FDL - Final Decision Letters
- FR - Final Rule
- GS - General Statute
- JO - Judicial Orders or Decision
- LRA - List of Rules Affected
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