

INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

NORTH CAROLINA REGISTER

The *North Carolina Register* is published bi-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 fifty 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 24 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 (\$0.15) 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
(September 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
*****	*****	*****	*****	*****
09/01/88	08/11/88	08/18/88	10/01/88	01/01/89
09/15/88	08/26/88	09/02/88	10/15/88	01/01/89
10/03/88	09/12/88	09/19/88	11/02/88	02/01/89
10/14/88	09/26/88	10/03/88	11/13/88	02/01/89
11/01/88	10/11/88	10/18/88	12/01/88	03/01/89
11/15/88	10/26/88	11/02/88	12/15/88	03/01/89
12/01/88	11/07/88	11/15/88	12/31/88	04/01/89
12/15/88	11/23/88	12/02/88	01/14/89	04/01/89
01/02/89	12/08/88	12/15/88	02/01/89	05/01/89
01/16/89	12/27/88	01/03/89	02/15/89	05/01/89
02/01/89	01/10/89	01/17/89	03/03/89	06/01/89
02/15/89	01/26/89	02/02/89	03/17/89	06/01/89
03/01/89	02/08/89	02/15/89	03/31/89	07/01/89
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.

**TITLE 1 - DEPARTMENT OF
ADMINISTRATION**

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Administration intends to amend rule(s) cited as 1 NCAC 30D .0103(a) (3) and (8).

The proposed effective date of this action is April 1, 1989.

The public hearing will be conducted at 1:00 p.m. on January 17, 1989 at Large Conference Room, State Construction Office, Legislative office Building, Room 403, 300 N. Salisbury Street, Raleigh, North Carolina 27611.

Comment Procedures: Any interested person may present his or her views and comments either in writing prior to or at the hearing or orally at the hearing. Any person may request information, permission to be heard or copies of the proposed regulation by writing or calling Becky Barbee, Department of Administration, 116 West Jones Street, Raleigh, North Carolina 27603-8003 (919) 733-7232.

CHAPTER 30 - STATE CONSTRUCTION

**SUBCHAPTER 30D - STATE BUILDING
COMMISSION DESIGNER SELECTION
PROCEDURES**

SECTION .0100 - GENERAL PROVISIONS

.0103 DEFINITIONS

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

- (3) "Designer" means any individual, firm, partnership, corporation, association or other legal entity permitted by law to practice architecture, engineering or landscape architecture ~~or surveying~~ in the State of North Carolina.
- (8) "Professional services" means those services within the scope of the practice of architecture, engineering or landscape architecture ~~or surveying~~ as defined by the public laws of North Carolina.

Statutory Authority G.S. 143-135.25; 143-135.26.

TITLE 12 - DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-12 that the N. C. Private Protective Services

Board intends to adopt rule(s) cited as 12 NCAC 7D .1001, .1002 and .1003.

The proposed effective date of this action is May 1, 1989.

The public hearing will be conducted at 12 Noon on February 17, 1989 at McKimmon Center, Gorman Street at Western Blvd., Raleigh, N. C.

Comment Procedures: File all WRITTEN COMMENTS by 5:00 p.m. on February 3, 1989 with:

*James F. Kirk, Administrator
P. O. Box 29500
Raleigh, N. C. 27626*

**CHAPTER 7 - PRIVATE PROTECTIVE
SERVICES**

**SUBCHAPTER 7D - PRIVATE PROTECTIVE
SERVICES BOARD**

SECTION .1000 - RECOVERY FUND

.1001 DEFINITIONS

In addition to the definitions under Article 2 of Chapter 74C of the General Statutes of North Carolina, the following definitions shall apply throughout this Section:

- (1) "Board" means the Private Protective Services Board.
- (2) "Fund" means the Recovery Fund of the Private Protective Services Act.
- (3) "Aggrieved Party" means a person who has suffered a reimbursable loss because of a licensee defaulting on an obligation owed to the person while providing private protective services.
- (4) "Licensee" means a person who, at the time of the act complained of, was licensed by the Private Protective Services Board.
- (5) "Reimbursable Loss" means:
 - (a) only those losses of money or other property which meet all of the following tests:
 - (i) The obligation was incurred on or after July 1, 1983;
 - (ii) The loss was caused by a licensee or trainee defaulting on an obligation owed where such obligation was entered into by the licensee or trainee within the scope of the licensee's or trainee's employment in providing private protective services; and
 - (iii) The aggrieved party has exhausted all civil remedies against the licensee or his estate and has complied with these rules.

- (b) the following shall be excluded from "reimbursable losses":
 - (i) Losses of spouses, children, parents, grandparents, siblings, partners, associates and employees of the licensee or trainee causing the losses;
 - (ii) Losses covered by any bond, surety agreement, or insurance contract to the extent covered thereby; and
 - (iii) Losses which have been otherwise received from or paid by or on behalf of the licensee who defaulted on an obligation.
- (6) "Trainee" means a person who, at the time of the act complained of, was licensed as a trainee by the Private Protective Services Board.

Statutory Authority G. S. 74C-31.

**.1002 PETITION FOR HEARING/
APPLICATION FOR RELIEF**

The board shall prepare a Form of Petition for Hearing and Application for Relief which shall require the following minimum information:

- (1) The name and address of the aggrieved party;
- (2) The name and address of the licensee or trainee who defaulted on an obligation;
- (3) The amount of the alleged loss for which application is made;
- (4) The date or period of time during which the alleged loss was incurred;
- (5) A general statement of facts relative to the application;
- (6) Verification by the aggrieved party;
- (7) All supporting documents, including, but not limited to:
 - (a) Copies of all contracts, invoices, returned checks, etc.;
 - (b) Copies of all court proceedings against the licensee/trainee; and
 - (c) Copies of all documents showing any reimbursement or receipt of funds in payment of any portion of the loss.

Statutory Authority G. S. 74C-31.

.1003 PROCESSING APPLICATIONS

(a) The board shall cause each application to be sent to the administrator for investigation and report. A copy of the application shall be served upon or sent by registered mail to the last known address of the licensee/trainee who it is claimed defaulted on an obligation.

(b) The administrator shall conduct such investigation in such manner as he deems necessary and desirable in order to determine whether the application is for a reimbursable loss and in order

to guide and advise the board in determining the extent, if any, for which the application should be paid from the fund.

(c) A report from the administrator shall be submitted to the chairman of the board within a reasonable time.

(d) The board shall hold a hearing on every application filed by an aggrieved party. The hearing shall be held before the board and shall follow the guidelines set out in Chapter 150B of the General Statutes of North Carolina.

Statutory Authority G. S. 74C-31.

**TITLE 15 - DEPARTMENT OF NATURAL
RESOURCES AND COMMUNITY
DEVELOPMENT**

Notice is hereby given in accordance with G.S. 150B-12 that the Wildlife Resources Commission intends to amend rule(s) cited as 15 NCAC 10F .0347.

The proposed effective date of this action is April 1, 1989.

The public hearing will be conducted at 10:00 a.m. on January 17, 1989 at Room 386, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from January 2, 1989 to February 1, 1989. Such written comments must be delivered or mailed to the Wildlife Commission, 512 N. Salisbury St., Raleigh, NC 27611.

**CHAPTER 10 - WILDLIFE RESOURCES AND
WATER SAFETY**

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

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

.0347 CRAVEN COUNTY

(a) Regulated Areas. This Rule applies to the following waters in Craven County:

- (1) that portion of Northwest Creek between the entrance buoys at Fairfield Harbour Marina and the mouth of Spring Creek, and to all of Spring Creek, including the bulkheaded area of Fairfield Harbour, in Craven County;

(2) that area of water between the entrance buoys of the Olde Towne Lake, from the Trent River and including all of Olde Towne Lake and the bulkhead area of Olde Towne Harbour itself.

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

(c) **Placement and Maintenance of Markers.** The Board of Commissioners of Craven County is hereby designated a suitable agency for placement and maintenance of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

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

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the NRCD - Division of Community Assistance intends to adopt and amend rule(s) cited as 15 NCAC 13L .0106, .0407, .0903, .0908, .0910, .1401 and .1405.

The proposed effective date of this action is April 1, 1989.

The public hearing will be conducted at 3:00 p.m. on Tuesday, January 17, 1989 at Ground Floor Hearing Room, Archdale Building, 512 N. Salisbury Street, Raleigh, N. C.

Comment Procedures: All persons interested in the subject of the public hearing are invited to attend. Comments may be submitted in writing or may be presented orally at the hearing. Additional information concerning the hearing or the proposed adoptions or amendments may be obtained from: Mr. Steve Culnum, Division of Community Assistance, P. O. Box 27687, Raleigh, NC 27611. (919) 733-2850.

CHAPTER 13 - DIVISION OF COMMUNITY ASSISTANCE

SUBCHAPTER 13L - NORTH CAROLINA COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

SECTION .0100 - GENERAL PROVISIONS

.0106 AMENDMENTS ADOPTED BY REFERENCE

All referenced federal documents in this Subchapter are hereby adopted by reference to in-

clude any later amendments pursuant to G.S. 150B-14(c).

Statutory Authority 143-323; 143B-10; 150B-14.

SECTION .0400 - DISTRIBUTION OF FUNDS

.0407 GENERAL APPLICATION REQUIREMENTS

(h) Applications submitted for Economic Development projects under Section .1400 of this Subchapter may be rated or funded for up to ~~three consecutive months~~ 90 days from the date of original submission. In addition, for applications that met the requirements of .0407(c) and .1002 of this Subchapter at the time of original application submission and in which the original project has not been changed significantly, there shall be no additional public hearing requirements during the ~~three consecutive months~~ 90 days. NRCD shall determine whether significant changes have been made in a proposed project.

(i) Applications for CDBG assistance under the Economic Development category must be submitted with adequate evidence that both public hearings were held in accordance with Rule .1002(b) of this Subchapter.

Authority G.S. 143-323; 143B-10; 42 U.S.C.A. 5304(a); 24 C.F.R. 570.489.

SECTION .0900 - GRANT ADMINISTRATION

.0903 METHOD OF PAYMENT

(a) Advance payments will be made by NRCD to recipients when the following conditions are met:

- (5) All requests for advance payments are required to meet immediate disbursing needs. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursement by the recipient except as described in Paragraph (a) ~~(3)~~ (4) of this Rule.

Authority G.S. 143-323; 143B-10; 24 C.F.R. 570.489; 42 U.S.C.A. 5304(g).

.0908 PROCUREMENT STANDARDS

(a) Local governments shall follow the procurement standards established in ~~Attachment Q of the Office of Management and Budget Circular No. A-102 Revised, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.~~ Attachment Q of OMB A-102, the following definitions shall apply:

- (4) "Grantee" means the recipient of CDBG funds as defined in Rule .0103 of this Subchapter.

(2) "Federal Grantor agency" means NRCD.

(3) "Executive Agencies" means NRCD.

the Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments (24 C.F.R., Part 85).

Authority G.S. 14-234; 143-128 through 143-135; 143-323; 143B-10; 153A-158 through 153A-165; 159-15; 42 U.S.C.A. 5304(b)(4); 24 C.F.R. 570.489.

.0910 PROGRAM AMENDMENTS

(b) Citizen Participation. Recipients proposing amendments and other changes to the approved application which require prior NRCD approval pursuant to Paragraph (a) of this Rule shall hold one public hearing in accordance with Paragraph (2) (f) of Rule .1002, CITIZEN PARTICIPATION.

(c) Citizen objections to the amendment. Persons wishing to object to the approval of an amendment by NRCD shall make such objection in writing to NRCD in accordance with Paragraph (2) (f) of Rule .1002 CITIZEN PARTICIPATION.

Authority G.S. 143-323; 143B-10; 159-15; 159-34; 42 U.S.C.A. 5304(a)(2), (d)(2); 24 C.F.R. 570.489; 24 C.F.R. 570.499.

SECTION .1400 - ECONOMIC DEVELOPMENT PROJECTS

.1401 DEFINITION

The Economic Development grant category includes activities in which a majority of funds are directed toward promoting the creation or retention of jobs principally for persons of low- and moderate-income. Projects in this category must result in direct creation or retention of jobs within the grant program period. All eligible CDBG activities may be undertaken for the purposes of economic development. All CDBG expenditures which directly assist participating private entities must be returned to grant recipients or to NRCD as provided in Rule .0907 of this Subchapter. NRCD may allocate up to one million dollars (\$1,000,000) of any annual allocation of Economic Development funds for projects designed to assist small businesses. A small business is defined as a private entity which employs 20 or fewer full time or full time equivalent employees; and which generates no more than seven hundred and fifty thousand dollars (\$750,000) in average annual gross sales in the latest three year period as indicated by federal and state tax records. Any funds not utilized for the

Small Business Loan Program will revert to the regular Economic Development grant category. Applications for the Small Business Loan Program must meet the eligibility requirements and preliminary award requirements as provided in Rule .1402(a)-(f) and .1404. Selection criteria for the Small Business Loan Program are outlined in Rule .1405.

Authority G.S. 143-323; 143B-10; 42 U.S.C.A. 5301; 24 C.F.R. 570.489.

.1405 SELECTION CRITERIA - SMALL BUSINESS LOAN PROGRAM

(a) Projects must meet the minimum standards established under each of the following criteria:

- (1) The percentage of CDBG funds directly benefitting low- and moderate-income persons;
- (2) The CDBG cost per proposed job created, and
- (3) The ratio of the amount of non-CDBG investment in the proposed project to the amount of CDBG funds in the proposed project.

(b) Projects which meet the standards established in (a) of this Rule will be selected based upon the following criteria:

- (1) The extent to which the project exceeds the minimum standards outlined in Rule .1405(a);
- (2) The demonstrated need for and appropriateness of funding;
- (3) The probability of success of the project as described in the financial statements and other information submitted with the application; and
- (4) Significant local economic problems.

Authority G.S. 143-323; 42 U.S.C.A. 5301; 24 C.F.R. 570.489.

TITLE 21 - LICENSING BOARDS

Notice is hereby given in accordance with G.S. 150B-12 that the N. C. State Board of Certified Public Accountant Examiners intends to amend rule(s) cited as 21 NCAC 8G .0301 and .0304.

The proposed effective date of this action is May 1, 1989.

The public hearing will be conducted at 9:30 a.m. on January 23, 1989 at N.C. State Board of CPA Examiners, 1101 Oberlin Road, Suite 104, Raleigh, N. C. 27605.

Comment Procedures: Any person interested in these rules may present oral comments relevant to the action proposed at the public rule-making hearing or deliver written comments to the board office not later than 9:00 a.m. on Monday, January 23, 1989. Anyone planning to attend the hearing should notify the Executive Director at the Board office by noon on Wednesday, January 18, 1989, whether they wish to speak on the proposals and whether they will speak in favor of the proposals or against them.

CHAPTER 8 - BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

SUBCHAPTER 8G - PROFESSIONAL ETHICS AND CONDUCT

SECTION .0300 - OTHER RESPONSIBILITIES

.0301 ADVERTISING OR OTHER FORMS OF SOLICITATION

(a) A certified public accountant shall not seek to obtain clients by advertising or other forms of solicitation in a manner that is false, misleading or deceptive.

(b) Certified public accountants residing in North Carolina may advertise the nature of services provided to clients. However, the licensee may not advertise or indicate a specialty or other title unless the licensee has completed a course of study from an organization granting a separate title or specialty which has been recognized by the board. A list of specialties and titles and recognized sponsoring organizations shall be regularly published in the board newsletter.

Statutory Authority G.S. 55B-12; 93-12(9).

.0304 QUALIFICATION OF PARTNERS

A certified public accountant shall not engage in the public practice of accountancy with a partner who is have as a partner anyone other than the holder of an unrevoked and currently valid certified public accountant certificate.

Statutory Authority G.S. 55B-12; 93-12(9).

* * * * *

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 amend rule(s) cited as 21 NCAC 32B .0101, .0201; 32F .0003.

The proposed effective date of this action is April 1, 1989.

The public hearing will be conducted at 2:00 p.m. on January 19, 1989 at NC Board of Medical Examiners, 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 January 6, 1989, to the following address: Administrative Procedures, NC Board of Medical Examiners, P.O. Box 26808, Raleigh, NC 27611-6808.

CHAPTER 32 - BOARD OF MEDICAL EXAMINERS

SUBCHAPTER 32B - LICENSE TO PRACTICE MEDICINE

SECTION .0100 - LICENSE BY WRITTEN EXAMINATION

.0101 MEDICAL EDUCATION

In order to be eligible for N.C. written examination, FLEX (Federation Licensing Examination), a physician applicant must:

- (1) be a graduate of a medical school approved by either:
 - (a) LCME (Liaison Commission on Medical Education), or
 - (b) AOA (American Osteopathic Association), or
- (2) if graduated from a medical school not approved by LCME or AOA, the applicant must:
 - (a) be enrolled in a graduate medical education and training program in N.C. approved by the board (see Rule .0113); or
 - (b) furnish proof of satisfactory completion of three years of graduate medical education and training approved by the board (see Rule .0113).
- (3) if graduated from a medical school not approved by the LCME or AOA, and if clinical clerkships are taken in the U.S.A., the applicant must:
 - (a) furnish evidence that he has satisfactorily completed clinical clerkships at teaching hospitals in the U.S.A. with ACGME (Accreditation Council for Graduate Medical Education) or AOA approved graduate medical education and training programs in the areas of the specific clerkships;

(b) If clerkships do not meet the above requirement, deficiencies may be remedied as follows:

- (i) re-apply to medical school so that the school may arrange for the applicant to complete approved clinical clerkships as required; or
- (ii) apply for admission to advanced standing at a medical school approved by the LCME or AOA to repeat one year of clinical clerkships.

No applicant graduated from a medical school which has been disapproved by the board shall be eligible for examination or licensure in North Carolina.

Burden of proof of medical education is on the applicant.

Statutory Authority G.S. 90-9.

SECTION .0200 - LICENSE BY ENDORSEMENT

.0201 MEDICAL EDUCATION

In order to be eligible for license by endorsement of credentials, a physician applicant must:

- (1) be a graduate of a medical school approved by either:
 - (a) LCME (Liaison Commission on Medical Education), or
 - (b) AOA (American Osteopathic Association), or
- (2) if graduated from a medical school not approved by LCME or AOA, the applicant must:
 - (a) take the North Carolina written examination, FLEX; and
 - (b) furnish proof of satisfactory completion of three years of graduate medical education and training approved by the board (see Rule .0113).
- (3) if graduated from a medical school not approved by the LCME or AOA, and if clinical clerkships are taken in the U.S.A., the applicant must:
 - (a) furnish evidence that he has satisfactorily completed clinical clerkships at teaching hospitals in the U.S.A. with ACGME (Accreditation Council for Graduate Medical Education) or AOA-approved graduate medical education and training programs in the areas of the specific clerkships;
 - (b) if clerkships do not meet the above requirement, deficiencies may be remedied as follows:
 - (i) re-apply to medical school so that the school may arrange for the applicant to

complete approved clinical clerkships as required; or

- (ii) apply for admission to advanced standing at a medical school approved by the LCME or AOA to repeat one year of clinical clerkships.

No applicant graduated from a medical school which has been disapproved by the board shall be eligible for examination or licensure in North Carolina.

Burden of proof of medical education is on the applicant.

Statutory Authority G.S. 90-13.

SUBCHAPTER 32F - BIENNIAL REGISTRATION

.0003 FEE

Each physician shall pay a registration fee of ~~forty dollars (\$40.00)~~ seventy dollars (\$70.00) to the board; except, beginning with the 1988 registration, each physician holding a resident's training license shall pay a registration fee of twenty-five dollars (\$25.00).

Statutory Authority G.S. 90-15.1.

TITLE 24 - INDEPENDENT AGENCIES

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Housing Finance Agency intends to amend rule(s) cited as 24 NCAC 1M .0201 - .0205.

The proposed effective date of this action is April 1, 1989.

The public hearing will be conducted at 10:00 a.m. on January 16, 1989 at North Carolina Housing Finance Agency, 3300 Drake Circle, Suite 200, Raleigh, N. C. 27607.

Comment Procedures: Written comments concerning this amendment must be submitted to the APA Coordinator by January 16, 1989. Oral comments may be presented at the hearing.

CHAPTER 1 - NORTH CAROLINA HOUSING FINANCE AGENCY

SUBCHAPTER 1M - NORTH CAROLINA HOUSING TRUST FUND

SECTION .0200 - HOUSING AND ENERGY CONSERVATION INCENTIVE PROGRAM

.0201 PURPOSE

The purpose of the Housing and Energy Conservation and Housing Rehabilitation Incentive Program (the "Program") is to provide funding to encourage the production and rehabilitation of upgrading and energy efficient efficiency of housing for very low-, low- and moderate-income households. Program funds will be used both to leverage other funds for new housing production or comprehensive housing rehabilitation projects improvements and independently for weatherization improvements.

Statutory Authority G.S. 122A-5; 122A-5.1; 122E-4; 122E-5; 122E-8.

.0202 ELIGIBILITY

(a) Eligible projects under the program will include:

- (1) Comprehensive housing rehabilitation projects that utilize program funds for energy conservation improvements and other funding sources for the other rehabilitation improvements;
- (2) Projects that exclusively involve energy conservation improvements to existing residential structures. Specific activities eligible for program funds will be identified in the application material and funding documents.
- (3) New construction projects that utilize program funds for energy conservation-related elements of the projects and other funding sources for the remainder of the construction.
- (4) Demonstration projects involving one or more of the approaches identified in (1), (2) or (3) of this Rule.

(b) Specific activities eligible for program funds will be identified in the application material and funding documents. A portion of the program funds may be made available for predevelopment costs, program support and program administration, as determined by the partnership and consistent with the requirements of the act.

~~(b)~~ (c) Eligible applicants for program funds include units of state and local government, public agencies, Public Housing Authorities, lead regional organizations, Community Action Agencies, nonprofit organizations, and for-profit developers. Eligible recipients of program funds must directly operate the program funded.

~~(c)~~ (d) Housing units assisted under the program must be occupied by very low-, low- or moderate-income households, as defined in the act. Specific targeting of funds required under the program will be identified in the program application materials and funding documents.

~~(d)~~ (e) All rental housing units assisted under the program must remain affordable to the occupant, as required by the act. Applicants for program funding will be required to demonstrate how affordability will be maintained. The agency, through its funding agreement, will include measures to help ensure that affordability is maintained.

~~(e)~~ (f) Eligible forms of assistance under the program will include loans, grants, combination grant/loans and other comparable forms of assistance which are consistent with the purposes of the act. Loans will be repaid to the Housing Trust Fund. The agency may establish standards for grants and loans in program documents.

Statutory Authority G.S. 122A-5; 122A-5.1; 122E-4; 122E-5; 122E-8.

.0203 APPLICATION PROCEDURES

(a) Funding cycles for program funds will be established on an annual basis, or more frequently, depending on the need and the availability of funds. Separate funding cycles may be utilized for new construction, rehabilitation/ weatherization and demonstration projects.

(b) The agency will solicit applications for program funds by advertising in newspapers and other media, mailing information to eligible applicants [as defined in .0202 ~~(b)~~ (c)] and by other methods of public announcement.

(c) Eligible applicants may apply for funding under the program by submitting an application to the agency in a manner described in the program application material available from the agency. The agency will develop the application material which will include, but not be limited to, a program description, application instructions and the application form(s) and supporting documents. The agency may from time-to-time amend the contents of the application material.

(d) The agency will provide technical assistance to prospective applicants to assist them in preparing applications for program funds.

Statutory Authority G.S. 122A-5; 122A-5.1; 122E-4; 122E-5; 122E-8.

.0204 SELECTION PROCEDURES

(a) In distributing program funds, the partnership will develop an allocation formula that will promote the distribution of funds across the state based on the following allocation factors: lower-income housing need; an equitable distribution of funds among the state's geographic regions; and a balance between the availability of funds in urban and rural areas.

(b) The agency's evaluation of applications for funding will take into consideration the following criteria:

- (1) Consistency of the application with the purposes and requirements of the Act;
- (2) Consistency of the application with the purposes and requirements of the Stripper Well Litigation Settlement Agreement;
- (3) Benefit to very low- and low-income households;
- (4) Extent to which program funds are recycled;
- (5) Experience of the applicant and its administrative plan; and
- (6) Community support for the project.

(c) In addition, priority will be given to projects that:

- (1) Address special housing needs;
- (2) Expand opportunities in areas where there is a shortage of standard and affordable housing; and
- (3) Upgrade housing currently failing to meet minimum standards of health and safety.

The Partnership may establish additional evaluation criteria. All criteria utilized for evaluating applications will be described in the application materials

(d) ~~All applications received by the agency will be reviewed at the time they are received to determine if the application is complete. Applicants submitting incomplete applications will be notified by the agency and be given the opportunity to submit additional information. All application information must be submitted before the applicable application deadline. The agency will evaluate applications based on the allocation categories and the evaluation criteria described in Rule .0204(a) and (b) and (c). Additional information on the review process may be provided in the program application material.~~

(e) If applications received by the applicable application deadline are insufficient to utilize all of the funds allocated to a funding cycle, geographic region and urban or rural area, or other funding category, the partnership, at its discretion, may extend the application deadline. ~~for that region or area.~~ Funds allocated to a funding category ~~regions/areas~~ may also be reallocated by the partnership, in a manner defined by the partnership, if the available funds are underutilized within the region or area category.

(f) Upon completion of its review, the agency will determine whether funding approval will be granted or denied. The agency will notify applicants selected for funding in writing of the amount of funding awarded, the timeframe for the funding awarded and will provide additional

information about the funding awarded. When the agency is unable to approve an application for funding, it will notify the applicant in writing and specify the reason for the denial of funding.

Statutory Authority G.S. 122A-5; 122A-5.1; 122E-4; 122E-5; 122E-8.

.0205 ADMINISTRATION

(a) The agency will enter into a funding agreement with each applicant selected as a program recipient. The agreement will include, but not be limited to:

- (1) The amount of funding;
- (2) The obligations of the recipient;
- (3) The terms of the disbursement of funds from the Housing Trust Fund;
- (4) The maximum loan or grant amount per housing unit assisted with program funds; and
- (5) Provisions for the repayment of grants and loans to the Housing Trust Fund by recipients, subrecipients and their successors and assigns.

(b) The agency will periodically review the performance of project recipients according to the funding agreement. This will be done at least annually and may be done on a more frequent basis.

(c) Recipients will submit such periodic reports as required by the agency to facilitate the monitoring process. The reports will be described in greater detail in the program funding documents. The reports will include, but not be limited to, progress on the accomplishment of program objectives including information on program beneficiaries and housing units improved and annual audited financial statements.

(d) If the agency finds there has been substantial nonperformance under the funding agreement and the situation is not corrected within a period of time, as established in the funding agreement and after notice to the recipient of such finding, the agency may terminate or modify the agreement after written notice is provided.

Statutory Authority G.S. 122A-5; 122A-5.1; 122E-4; 122E-5; 122E-8.

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Agricultural Finance Authority intends to adopt rule(s) cited as 24 NCAC 2A .0001 - .0003; 2B .0001 - .0002; 2C .0001.

The proposed effective date of this action is April 1, 1989.

The public hearing will be conducted at 1:00 p.m. on January 18, 1989 at Offices of North Carolina Agricultural Finance Authority, Suite 406, 19 West Hargett Street, Raleigh, NC 27601.

Comment Procedures:

- a. By appearance at hearing.
- b. By written comment 3 days prior to hearing.

CHAPTER 2 - N.C. AGRICULTURAL FINANCE AUTHORITY

SUBCHAPTER 2A - GENERAL PROVISIONS

.0001 OBJECTIVES

(a) The primary objective of the Authority is to provide capital and credit at interest rates within the financial means of persons engaged in all aspects of agriculture, including agribusiness.

(b) The Authority will periodically make loans, either directly or through an originating agent, to borrowers from Authority funds available for this purpose. These may be direct loans or loans with FmHA guarantee for the purposes of farm real estate, farm operating loans, or agricultural business loans for providing agricultural services, processing, marketing or exporting of products.

Statutory Authority G.S. 122D-2; 122D-6; 122D-7.

.0002 DEFINITIONS

The following words and terms, unless their context shall clearly indicate a different definition, shall be defined and mean as follows:

- (1) "Applicant" is a person applying to the Authority for a loan.
- (2) "Authority" means the North Carolina Agricultural Finance Authority.
- (3) "Agriculture" is defined in G.S. 122D-3(2).
- (4) "Agribusiness" means the business of processing, marketing, distributing, manufacturing or exporting the products of agriculture.
- (5) "Agricultural Loan" is defined in G.S. 122D-3(1).
- (6) "Borrower" means a person to whom the Authority or a lender has made a loan who is a person engaged in agriculture or agribusiness in the state of North Carolina.
- (7) "FmHA" means the United States of America, acting through the Farmers' Home Administration of the United States Department of Agriculture.

- (8) "Holder" means a person or lender purchasing all or a portion of a loan from the Authority.
- (9) "Guaranteed Loan" means any loan made by a lender or the Authority which is subject to a guarantee of repayment of principal and accrued interest by the FmHA pursuant to any guaranteed loan program authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. § 1921 et. seq.) and described in various subparts of 7 C.F.R. Part 1980.
- (10) "Lender" or "Lending Institution" means any bank or bank trust company, federal land bank, production credit association, bank for cooperatives, building and loan association, homestead insurance company, investment banker, mortgage banker or company, pension or retirement fund, savings bank or savings and loan association, small business investment company, credit union, the Federal Government or any other financial institution authorized to do business in the state or operating under supervision of any federal agency or any corporation organized or operating pursuant to Section 25 of the Federal Reserve Act.
- (11) "Loan" means a loan made by the Authority to a borrower or a loan made by a lender to any borrower which is purchased by the Authority.
- (12) "Members" means the members of the North Carolina Agricultural Finance Authority constituted pursuant to North Carolina G.S. 122D-4.
- (13) "Note" means a note made by a borrower in favor of the Authority or a note made by a borrower in favor of a lender purchased by the Authority.
- (14) "Originating Agent" means an agent acting on behalf of the Authority pursuant to an originating agreement.
- (15) "Originating Agreement" means the one or more agreements by that name between the Authority and an originating agent or agents pursuant to which the originating agent or agents will originate loans on behalf of the Authority.
- (16) "Person" or "Persons" shall mean any individual, partnership, firm, corporation, company, cooperative, association, society, trust, joint operator or any other business unit or entity, including any state or federal agency.

Statutory Authority G.S. 122D-6; 122D-7; 122D-10.

.0003 SALE OF LOANS BY AUTHORITY

The Authority may, for value received, sell all or a portion of any agricultural loan made or purchased by the Authority.

Statutory Authority G.S. 122D-7.

SUBCHAPTER 2B - FARM REAL ESTATE LOAN PROGRAMS

.0001 LENDING PROCEDURES

(a) The Authority will make agricultural loans to eligible borrowers to finance the acquisitions or improvement of real property from funds available to the Authority for this purpose. The Authority shall have overall administrative responsibility for the Real Estate Loan Program.

(b) Applicants will apply for loans on an application to be provided by the Authority. The applicant must adhere to the requirements of the application process including providing all relevant documents requested by the Authority or FmHA, in the case of guaranteed loans. The following application process will be implemented by the Authority:

- (1) The Authority will review the application from the applicant and make a decision as to whether to approve the application.
- (2) For guaranteed loans, approval by the Authority requires the application to be forwarded to FmHA for approval.
- (3) A denial of approval by either the Authority or FmHA does not provide the applicant any recourse unless the reason for disapproval of the loan can be remedied and is allowed by either the Authority or FmHA.
- (4) Following approval, the Authority or an agent thereof will originate and document the closing of the loan.

(c) The Authority, or its agent, will service the loans made pursuant to this program in accordance with sound banking practices and, for guaranteed loans, applicable FmHA requirements.

Statutory Authority G.S. 122D-6; 122D-7.

.0002 ELIGIBLE BORROWERS

Eligible borrowers are applicants who demonstrate to the Authority that they satisfy the following criteria:

- (1) Need for an agricultural loan to finance agriculture or agribusiness;
- (2) Have the ability to repay the loan;
- (3) Establish the sufficiency of the collateral for the loan; and
- (4) Any other requirements which may be imposed by the Authority, or FmHA in the

case of guaranteed loans, in the exercise of sound banking practices.

Statutory Authority G.S. 122D-2; 122D-6.

SUBCHAPTER 2C - AGRIBUSINESS LOANS

.0001 LENDING PROCEDURE

(a) The Authority will make loans to persons engaged in agribusiness for the purpose of financing agribusiness from funds available to the Authority for this purpose.

(b) Each agribusiness loan shall be separately underwritten and separately approved by the Authority.

Statutory Authority G.S. 122D-6(4).

TITLE 26 - OFFICE OF ADMINISTRATIVE HEARINGS

Notice is hereby given in accordance with G.S. 150B-12 that the Office of Administrative Hearings intends to amend and adopt rule(s) cited as 26 NCAC 4 .0001, .0008, .0009 and .0010.

The proposed effective date of this action is April 1, 1989.

The public hearing will be conducted at 10:00 a.m. on January 16, 1989 at Hearing Room 1, Lee House, 422 North Blount Street, Raleigh, North Carolina.

Comment Procedures: Comments may be submitted in person or in writing at the public hearing or in writing prior to January 16, 1989, to Edward T. Smith, Director of the Civil Rights Division, Office of Administrative Hearings, P. O. Drawer 11666, Raleigh, North Carolina 27604.

CHAPTER 4 - CIVIL RIGHTS DIVISION

.0001 INTRODUCTION

(a) The Equal Employment Opportunity Commission (EEOC) has designated the North Carolina State Office of Administrative Hearings as a 706 Deferral Agency. ~~effective August 27, 1986.~~ The North Carolina General Assembly has designated the Office of Administrative Hearings as the State's 706 Deferral Agency in G.S. ~~7A-754~~ 7A-759.

(b) The Office of Administrative Hearings (OAH) ~~hereby~~ accepts deferral by the EEOC

over of the following classes of charges filed with the EEOC in North Carolina:

All charges alleging race, color, sex, religion, age or national origin discrimination in employment, or retaliation for opposition to such alleged discrimination, filed by previous and current state employees or applicants for employment who were or are subject to North Carolina General Statutes Section 126-16 and Article 8 of Chapter 126, North Carolina General Statutes, which have been filed with the EEOC within the time limits set forth in North Carolina General Statutes Section 126-38.

(c) The Civil Rights Division is the unit within the Office of Administrative Hearings charged with the responsibility of carrying out the investigations and conciliations of deferred charges.

Statutory Authority G.S. 7A-759; 150B-11.

.0008 CONTESTED CASE HEARING

(a) Cause determinations which have not resulted in a settlement ~~or conciliation agreement~~ constituting full relief will be heard as a contested case as provided in G.S. 7A-759, ~~followed by an informal hearing, and a 706 Final Decision~~ final decision will be issued which will be binding upon the parties.

(b) At the conclusion of the ~~informal~~ contested case hearing, the investigation ~~Report, report,~~ the

~~706 Final Decision,~~ final decision in the contested case, and the case file will be forwarded to EEOC.

Statutory Authority G.S. 7A-759; 150B-11.

.0009 AUTHORITY TO ADMINISTER OATHS OR AFFIRMATIONS

When it is necessary to have the power to administer oaths or affirmations in investigating a specific charge, the Director or any employee of the Civil Rights Division may apply to the Chief Administrative Law Judge for such authority setting out the reasons therefore.

Statutory Authority G.S. 7A-759(c).

.0010 SUBPOENAS

If any subpoena, including a subpoena ducis tecum, is required for the proper investigation of a charge, the Director or any employee of the Civil Rights Division may apply to the Chief Administrative Law Judge for issuance of the subpoena under the authority of G.S. 7A-756(2). The subpoena shall issue in the discretion of the Chief Administrative Law Judge.

Statutory Authority G.S. 7A-756(2).

LIST OF RULES AFFECTED

NORTH CAROLINA ADMINISTRATIVE CODE

EFFECTIVE: December 1, 1988

AGENCY			ACTION TAKEN
<u>DEPARTMENT OF ADMINISTRATION</u>			
1	NCAC 21F	.0101 - .0102	Adopted
		.0201 - .0205	Adopted
		.0301 - .0304	Adopted
		.0401 - .0405	Adopted
		.0501 - .0504	Adopted
<u>DEPARTMENT OF AGRICULTURE</u>			
2	NCAC 38	.0301	Amended
		.0401	Amended
		.0701	Amended
		.0704	Amended
	48A	.0209	Amended
		.0221	Amended
		.0238	Adopted
		.0608	Amended
		.1501 - .1508	Adopted
	48C	.0002	Amended
		.0005	Amended
		.0023	Amended
		.0026	Adopted
<u>GOVERNOR'S OFFICE</u>			
9	NCAC 2	Executive Order Number 78 Eff. November 1, 1988	
<u>DEPARTMENT OF HUMAN RESOURCES</u>			
10	NCAC 3U	.0712 - .0713	Adopted
	4C	.0303	Amended
	7F	.0107	Amended
	10A	.0309	Amended
	10D	.1006	Amended
		.1313	Amended
		.1624	Amended
		.2604	Amended
	10F	.0030	Amended
		.0032 - .0033	Amended
	14B	.0501 - .0508	Adopted
	15A	.0501 - .0504	Adopted
	20F	.0401 - .0418	Adopted
	26H	.0104	Amended
		.0107	Amended
		.0401	Amended
	42C	.2002	Amended
<u>DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT</u>			
15	NCAC 4A	.0001	Amended

LIST OF RULES AFFECTED

5F	.0005	Amended
10F	.0330	Amended
	.0356	Adopted

DEPARTMENT OF REVENUE

17	NCAC	6B	.0320	Amended
		6C	.0102	Amended
		7B	.4604	Amended
		7C	.0103 - .0104	Amended
			.0201 - .0203	Repealed
			.0301 - .0302	Repealed
			.0401 - .0402	Repealed
			.0501 - .0503	Repealed

BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

21	NCAC	8F	.0401	Amended
		8I	.0004	Amended
		8J	.0006	Amended
		8K	.0201	Amended

BOARD OF CHIROPRACTIC EXAMINERS

21	NCAC	10	.0101 - .0102	Repealed
			.0103 - .0104	Amended
			.0203 - .0205	Amended
			.0302	Amended
			.0401	Amended
			.0402	Repealed
			.0403	Amended
			.0404	Repealed
			.0405 - .0406	Amended
			.0501	Amended
			.0502	Repealed
			.0503	Adopted
			.0601	Repealed
			.0602 - .0603	Amended
			.0604 - .0606	Repealed
			.0609 - .0610	Repealed
			.0701 - .0704	Repealed
			.0707	Amended
			.0801 - .0802	Repealed

BOARD OF MORTUARY SCIENCE

21	NCAC	34	.0109	Amended
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BOARD OF PODIATRY EXAMINERS

21	NCAC	52	.0101 - .0102	Amended
			.0201 - .0202	Amended
			.0203	Repealed
			.0204 - .0208	Amended
			.0209	Adopted
			.0301 - .0302	Amended
			.0303	Adopted
			.0401	Repealed
			.0402 - .0404	Amended

LIST OF RULES AFFECTED

.0405 - .0407	Repealed
.0408	Amended
.0501 - .0504	Repealed
.0601 - .0606	Amended
.0607 - .0609	Repealed
.0610	Adopted
.0701 - .0703	Amended
.0801 - .0803	Repealed
.0901 - .0908	Repealed
.1001	Amended
.1002	Amended
.1004 - .1005	Amended
.1101 - .1107	Repealed
.1201	Repealed
.1202 - .1204	Amended
.1301 - .1302	Amended

INDEPENDENT AGENCIES

24	NCAC	1M	.0201 - .0205	Adopted
		2A	.0001 - .0003	Temp. Adopted Expires 05-17-89
		2B	.0001 - .0002	Temp. Adopted Expires 05-17-89
		2C	.0001	Temp. Adopted Expires 05-17-89

OFFICE OF STATE PERSONNEL

25	NCAC	1C	.0411	Amended
		1D	.0201	Amended
		1E	.0201	Amended
			.0208	Amended
			.0210	Amended
			.0212	Amended
			.0305	Amended
			.0309	Amended
			.0501 - .0503	Amended
			.0506 - .0510	Amended
			.0706 - .0710	Amended
			.0803	Amended
			.0814 - .0815	Amended
			.0901 - .0902	Amended
			.1001	Amended
			.1004 - .1005	Amended
			.1102 - .1103	Amended
			.1105	Amended
			.1201 - .1203	Amended
		1F	.0104	Amended
			.0201	Amended
			.0205	Amended
			.0301	Amended
			.0303 - .0305	Amended
			.0307	Amended
			.0401	Amended
			.0502 - .0503	Amended
		1H	.0603	Amended
			.0605	Amended
			.0624	Amended

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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	Independent Agencies
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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2	Architecture, Board of
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
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22	Hearing Aid Dealers and Fitters Board
26	Landscape Architects, Licensing Board of
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31	Marital & Family Therapy Certification Board
32	Medical Examiners, Board of
33	Midwifery Joint Committee
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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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