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The **NORTH CAROLINA REGISTER**

IN THIS ISSUE

NOTICE

PROPOSED RULES

Environment, Health, and Natural Resources

Human Resources

Insurance

Medical Examiners

FINAL RULES

Revenue

List of Rules Codified

RECEIVED

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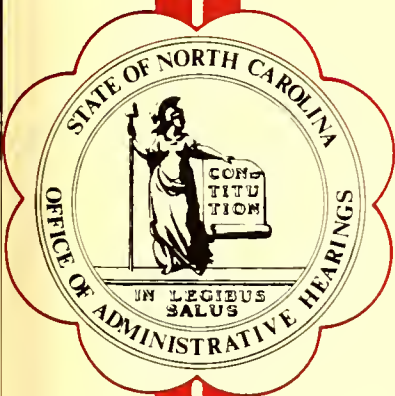
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ARRC OBJECTIONS

RULES INVALIDATED BY JUDICIAL DECISION

ISSUE DATE: JANUARY 15, 1991

Volume 5 • Issue 20 • Pages 1215-1244



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 one hundred and five dollars (\$105.00) for 24 issues.

Requests for subscriptions to the *North Carolina Register* should be directed to the Office of Administrative Hearings, P. O. Drawer 27447, Raleigh, N. C. 27611-7447, 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 1 page or less, plus fifteen cents (\$0.15) per each additional page.
- (2) The full publication consists of 53 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.

North Carolina Register. Published bi-monthly by the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, North Carolina 27611-7447, pursuant to Chapter 150B of the General Statutes. Subscriptions one hundred and five dollars (\$105.00) per year.

North Carolina Administrative Code. Published in looseleaf notebooks with supplement service by the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, North Carolina 27611-7447, pursuant to Chapter 150B of the General Statutes. Subscriptions seven hundred and fifty dollars (\$750.00). Individual volumes available.

NORTH CAROLINA REGISTER



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ISSUE CONTENTS

I. NOTICE

OAH, Change of Address1215

II. PROPOSED RULES

Environment, Health, and Natural Resources

State Registrar1221

Wildlife Resources

Commission1220

Human Resources

Facility Services1216

Mental Health, Developmental

Disabilities and Substance

Abuse Services1219

Insurance

Admission Requirements1220

Licensing Board

Medical Examiners1222

III. FINAL RULES

Revenue

Intangibles Tax Division1226

List of Rules Codified.....1230

IV. ARRC OBJECTIONS.....1236

V. RULES INVALIDATED BY

JUDICIAL DECISION.....1239

VI. CUMULATIVE INDEX.....1241

NORTH CAROLINA REGISTER

Publication Schedule

(April 1990 - December 1991)

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing & Adoption by Agency	* Earliest Effective Date
*****	*****	*****	*****	*****
04/02/90	03/12/90	03/19/90	05/02/90	08/01/90
04/16/90	03/23/90	03/30/90	05/16/90	08/01/90
05/01/90	04/09/90	04/17/90	05/31/90	09/01/90
05/15/90	04/24/90	05/01/90	06/14/90	09/01/90
06/01/90	05/10/90	05/17/90	07/01/90	10/01/90
06/15/90	05/24/90	06/01/90	07/15/90	10/01/90
07/02/90	06/11/90	06/18/90	08/01/90	11/01/90
07/16/90	06/22/90	06/29/90	08/15/90	11/01/90
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11/15/91	10/24/91	10/31/91	12/15/91	03/01/92
12/02/91	11/07/91	11/14/91	01/01/92	04/01/92
12/16/91	11/21/91	12/02/91	01/15/92	04/01/92

* 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.

NOTICE

NOTICE OF CHANGE OF ADDRESS FOR OFFICE OF ADMINISTRATIVE HEARINGS

Please take notice that the Office of Administrative Hearings is relocating its Post Office Drawer to the Main Station on New Bern Avenue in Raleigh, North Carolina. By relocating to the Main Station, OAH will have an earlier mail delivery and internal distribution. This change is effective immediately.

The physical location of this Office remains at 424 North Blount Street, Raleigh, NC 27601.

Please take notice of the following change of address:

Office of Administrative Hearings
P. O. Drawer 27447
Raleigh, NC 27611-7447

TITLE 10 - DEPARTMENT OF HUMAN RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the Certificate of Need Section, Division of Facility Services, Department of Human Resources intends to adopt rule(s) cited as 10 NCAC 3R .2801 - .2809.

The proposed effective date of this action is May 1, 1991.

The public hearing will be conducted at 1:00 p.m. on February 14, 1991 at the Division of Facility Services, Room 201, 701 Barbour Drive, Raleigh, North Carolina 27603.

Comment Procedures: Written comments concerning the rules should be submitted as soon as possible but no later than February 20, 1991 to Jackie Sheppard at 701 Barbour Drive, Raleigh, North Carolina 27603. Oral comments may be presented at the hearing.

CHAPTER 3 - FACILITY SERVICES

SUBCHAPTER 3R - CERTIFICATE OF NEED REGULATIONS

SECTION .2800 - CRITERIA AND STANDARDS FOR REHABILITATION SERVICES

.2801 DEFINITIONS

The definitions in this Rule will apply to all rules in this Section.

- (1) "Rehabilitation Facility" means a public or private health service facility licensed pursuant to 10 NCAC 3C .0201 which is operated for the primary purpose of providing rehabilitation services to disabled persons through an integrated program of medical and other services which are provided under competent, professional supervision in coordination with the patient's family.
- (2) "Rehabilitation" means the process to maintain, restore or increase the function of disabled individuals so that the individuals can live in the least restrictive environment, consistent with his or her objective.
- (3) "Outpatient Rehabilitation Clinic" is defined as a program of coordinated and integrated outpatient services, evaluation, and/or treatment with emphasis on improving the functional level of the person in coordination with the patient's family.

- (4) "Rehabilitation Beds" means inpatient beds in a facility or a unit of a facility licensed pursuant to 10 NCAC 3C .0201.
- (5) "Traumatic Brain Injury" is defined as an insult to the brain that may produce a diminished or altered state of consciousness which results in impairment of cognitive abilities or physical functioning. It can also result in the disturbance of behavioral or emotional functioning. These impairments may be either temporary or permanent and cause partial or total functional disability or psychological maladjustment.
(National Head Injury Foundation)
- (6) "Stroke" (cerebral infarction, hemorrhage) is defined as the sudden onset of a focal neurologic deficit due to a local disturbance in the blood supply to the brain.
- (7) "Spinal Cord Injury" is defined as injury to the spinal cord that results in the loss of motor or sensory function.
- (8) "Pediatric Rehabilitation" is defined as inpatient rehabilitation services provided to persons 14 years of age or younger.

Statutory Authority G.S. 131E-177; 131E-189(b).

.2802 CAPACITY IN THE FACILITY AND SERVICE AREA

- (a) Proposals filed by or on behalf of facilities for rehabilitation beds must be consistent with the policies and bed need projections in the North Carolina State Medical Facilities Plan.
- (b) A proposal to establish new or expanded rehabilitation beds must specify the total number of rehabilitation beds in the facility or unit to be operated following completion of the proposed project.
- (c) A proposal to establish new or expanded rehabilitation beds shall demonstrate in the certificate of need application that:
 - (1) The new or expanded program specifically defines its target population;
 - (2) Arrangements and responsibilities for administration and medical direction are clearly specified;
 - (3) An allocation plan for clinical personnel (e.g., rehabilitative nurses and therapists) and ancillary services exists;
 - (4) Strong referral and transfer agreements exist among all units within the program, with the facilities in which they are situated and the existing health service system in the proposed service area;
 - (5) A program plan for participation in research and educational programs for rehabilitation exists;

(6) The program provides or establishes arrangements for post-inpatient rehabilitation services and follow-up, including outpatient rehabilitation services.

(d) A proposal to establish new rehabilitation beds shall not be approved unless the average occupancy, over the 12 months immediately preceding the submittal of the proposal meets or exceeds the following levels:

- (1) 80 percent in units or facilities with 0-49 rehabilitation beds, or
- (2) 85 percent in units or facilities with 50-99 rehabilitation beds, or
- (3) 90 percent in units or facilities with more than 100 rehabilitation beds, and
- (4) utilization in any other existing rehabilitation facilities in the service area also meet the appropriate levels of occupancy in Subparagraphs (d)(1), (2), and (3) of this Rule.

Statutory Authority G.S. 131E-177; 131E-189(b).

.2803 PROJECTED UTILIZATION/ OCCUPANCY

(a) A proposal to establish new or expanded rehabilitation beds must project an occupancy level for all rehabilitation beds in the facility by specialty area and average length of stay (ALOS) for each of the first eight calendar quarters following completion of the proposed project. The applicant must clearly document all assumptions, including the specific methodologies by which occupancies are projected.

(b) A proposal to establish new or expanded rehabilitation beds shall not be approved unless occupancy is projected, based on reasonable assumptions and methodologies, to be 80 percent for 0 and 49 rehabilitation beds proposed to be operated, 85 percent for 50 and 99 rehabilitation beds proposed to be operated and 90 percent for greater than 99 rehabilitation beds proposed to be operated, no later than two years following completion of the proposed project. The applicant must clearly document all assumptions, including the specific methodologies by which occupancies are projected.

(c) A proposal to establish new or expanded rehabilitation beds via a net bed addition to the facility's total rehabilitation bed capacity shall not be approved unless occupancy is projected, based on reasonable assumptions and methodologies, to be 80 percent for between 0 and 49 total licensed rehabilitation beds, 85 percent for between 50 and 99 total licensed rehabilitation beds and 90 percent for greater than 99 total licensed rehabilitation beds proposed to be operated no later than two years following completion of the

proposed project. The applicant must clearly document all assumptions, including the specific methodologies by which occupancies are projected.

Statutory Authority G.S. 131E-177; 131E-189(b).

.2804 PROJECTED PATIENT ORIGIN

(a) A proposal to establish new or expanded rehabilitation beds must project patient origin by percentage by county of residence for each specialty area proposed (i.e., traumatic brain injury (TBI), stroke, spinal cord injury and pediatrics, etc.). All assumptions, including the specific methodology by which patient origin is projected must be clearly stated in the certificate of need application.

(b) A proposal to add rehabilitation beds to an existing facility must show the current patient origin by percentage by county of residence for each current specialty area (i.e., traumatic brain injury (TBI), stroke, spinal cord injury and pediatrics, etc.). All assumptions, including the specific methodology by which patient origin is projected must be clearly stated in the certificate of need application.

Statutory Authority G.S. 131E-177; 131E-189(b).

.2805 SITE, BUILDING AND EQUIPMENT

(a) A proposal to establish new or expanded rehabilitation beds must demonstrate that the services will be offered in a physical environment that conforms to the requirements of federal, state and local regulatory bodies.

(b) A proposal to provide new or expanded rehabilitation beds must consider the site location in relation to the availability of support services associated with a continuum of care.

(c) A proposal to provide new or expanded rehabilitation beds must demonstrate in the certificate of need application that consideration has been given to the factors that may delay or prevent the development or offering of services on the proposed site and according to the timetable proposed in the certificate of need application. (i.e., to include but not be limited to zoning, financing, obtaining water and sewer, other CON projects under development or consideration, etc.)

(d) A proposal to establish new or expanded rehabilitation beds to serve children 14 years of age or younger shall not be approved unless the applicant demonstrates that the facility will be constructed or renovated to ensure physical and programmatic separation between children and adult patients.

Statutory Authority G.S. 131E-177; 131E-189(b).

.2806 STAFFING

(a) A proposal to establish a new or expanded rehabilitation facility must identify which of the following rehabilitation services shall be provided in the facility upon licensure and operation of the new or expanded rehabilitation beds:

- (1) Case Management;
- (2) Occupational Therapy;
- (3) Physical Therapy;
- (4) Physiatrist or a physician qualified by virtue of training and experience;
- (5) Psychology;
- (6) Rehabilitation Nursing;
- (7) Respiratory Therapy;
- (8) Social Work;
- (9) Speech-Language Pathology and Audiology;
- (10) Vocational Rehabilitation;
- (11) Orthotics;
- (12) Prosthetics; and
- (13) Other.

(b) A proposal to establish a new or expanded rehabilitation facility shall identify and justify the number of rehabilitation personnel who are projected to have direct contact with the disabled person in each of the categories in Paragraph (a) of this Rule.

(c) The applicant shall not be approved unless documentation is provided in the certificate of need application showing the availability and proximity of medical, rehabilitation, ancillary and support staff to the proposed new or expanded rehabilitation program.

Statutory Authority G.S. 131E-177; 131E-189(b).

.2807 ACCESSIBILITY OF SERVICES

(a) A proposal to establish new or expanded rehabilitation beds shall provide assurance that the facility will be certified for participation in the Title XIX (Medicaid) and Title XVIII (Medicare) programs upon completion of the project and shall serve Medicare and Medicaid recipients.

(b) The applicant shall provide documentation describing the mechanism that will be used to insure that the projected number of medically underserved will be served by the facility.

(c) The applicant shall provide a copy of the written admissions policies identifying any prepayment or deposit requirements for the facility and clearly stating the admissions requirements for the following payor categories:

- (1) private pay;
- (2) medicaid beneficiaries;
- (3) medicare beneficiaries;
- (4) uninsured indigent patients;

- (5) underinsured indigent patients; and
- (6) fully insured patients.

(d) The applicant shall provide a written description of the billing procedures, including the credit collection policies, that will be utilized by the facility.

(e) The applicant shall submit documentation in the certificate of need application to demonstrate that the health care community in the proposed unit or facilities service area have been invited to comment on the proposed project, particularly with regard to the facility's referral mechanisms and admission policies for the medically underserved.

Statutory Authority G.S. 131E-177; 131E-189(b).

.2808 QUALITY OF SERVICES

(a) In competitive certificate of need reviews, preference shall be given to new or expanded rehabilitation programs that are currently program accredited or propose to be program accredited by the Commission on the Accreditation of Rehabilitation Facilities (CARF) or the Joint Commission on the Accreditation of Health Care Organizations (JCAHO) no later than by the end of the second year of operation of the project.

(b) A proposal to add rehabilitation beds to an existing facility shall not be approved if the facility has operated on a provisional license, received an administrative penalty or had its admissions suspended within the 18 month period immediately preceding the submittal of the certificate of need application.

Statutory Authority G.S. 131E-177; 131E-189(b).

.2809 RELATIONSHIP TO THE EXISTING SERVICE NETWORK

(a) An applicant proposing to establish a new or expanded rehabilitation program shall include written policies and procedures in the certificate of need application which demonstrate that the facility has or will have patient referral, transfer and follow-up procedures.

(b) The applicant shall document in the certificate of need application the proximity of the proposed facility or unit to the following services:

- (1) support services;
- (2) ancillary services;
- (3) public transportation;
- (4) outpatient rehabilitation clinics;
- (5) home health agencies;
- (6) group homes for disabled persons;
- (7) other special care units or services.

(c) In competitive certificate of need reviews, preference shall be given to proposals for rehabilitation beds which make outpatient rehabili-

tation services available to their discharges as well as to other persons in need of their services in the proposed service area.

(d) A proposal to provide new or expanded rehabilitation services must demonstrate in the certificate of need application that coordination exists or shall be arranged for with the existing health care system in each of the counties listed in Rule .2804(a) of this Section that represents at least five percent of total number of patients projected prior to completion of the project.

Statutory Authority G.S. 131E-177; 131E-189(b).

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services intends to amend rule(s) cited as 10 NCAC 14K .0408 and repeal rule(s) cited as 10 NCAC 14K .0325.

The proposed effective date of this action is May 1, 1991.

The public hearing will be conducted at 10:00 a.m. on February 14, 1991 at the Archdale Building, Public Hearing Room - Ground Floor, 512 North Salisbury Street, Raleigh, NC 27604-1159.

Comment Procedures: Any interested person may present his/her comments by oral presentation or by submitting a written statement. Persons wishing to make oral presentations should contact Marilyn Brothers, Division of Mental Health, Developmental Disabilities and Substance Abuse Services, 325 N. Salisbury St., Raleigh, NC 27603, (919) 733-4774 by February 13, 1991. The hearing record will remain open for written comments from January 15, 1991 through February 13, 1991. Written comments must be sent to the above address and must state the rule(s) to which the comments are addressed. Fiscal information on these Rules is also available from the same address.

CHAPTER 14 - MENTAL HEALTH: GENERAL

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

SECTION .0300 - FACILITY AND PROGRAM MANAGEMENT

.0325 INDOOR LIVING SPACE FOR RESIDENTIAL AND RESPITE FACILITIES (REPEALED)

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

SECTION .0400 - PHYSICAL PLANT

.0408 INDOOR LIVING SPACE: RESIDENTIAL/24-HOUR RESPITE FACILITIES

(a) ~~Except for those mental~~ Mental health, mental retardation or other developmental disabilities ~~disabilities~~ or substance abuse facilities licensed as of the effective date of these Rules, residential prior to 10/01/88 shall satisfy the minimum square footage requirements in effect at the time of the facility's initial licensure. Residential facilities licensed since that date, except for Residential Therapeutic (Habilitative) Camps for Children and Adolescents which shall meet the requirements specified in 10 NCAC 140 .0302, 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, except for Specialized Community Residential Centers for Individuals with Mental Retardation or other Developmental Disabilities which shall meet the requirements specified in 10 NCAC 14M .0104.
- (4) In facilities with overnight accommodations for persons other than clients, with the exception of therapeutic homes for children and adolescents, such accommodations shall be separate from client bedrooms.
- (5) No client shall be permitted to sleep in an unfinished basement or in an attic.
- (6) 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.
- (7) Minimum furnishings for client bedrooms shall include a separate bed, bedding, pillow, bedside table, and storage for personal belongings for each client.

- (8) Only clients of the same sex may share a bedroom except for children age six or below and for married couples.
- (9) Children and adolescents shall not share a bedroom with an adult.
- (10) ~~(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.
- (11) Each facility, except for a private home provider, shall have a reception area for clients and visitors and private space for interviews and conferences with clients.
- (12) The living room, den, kitchen and dining space shall be available to meet the clients' needs.
- (13) Each facility shall have indoor space for group activities and social gatherings.
- (14) The area in which therapeutic and habilitative activities are routinely conducted shall be separate from sleeping areas.
- (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.

TITLE 11 - DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-12 that the N.C. Department of Insurance intends to adopt rule(s) cited as 11 NCAC 14 .0308.

The proposed effective date of this action is May 1, 1991.

The public hearing will be conducted at 10:00 a.m. on February 14, 1991 at the N.C. Department of Insurance, 430 N. Salisbury Street, Dobbs Building, Raleigh, N.C. 27611.

Comment Procedures: Written comments may be sent to L.W. Cannady, P.O. Box 26387, Raleigh, NC 27611. Oral presentations may be made at the public hearing. Anyone having questions should call L.W. Cannady at (919) 733-5633 or Ellen Sprenkel at (919) 733-4700.

CHAPTER 14 - ADMISSION REQUIREMENTS

SECTION .0300 - HEALTH MAINTENANCE ORGANIZATIONS

.0308 ADMITTED ASSETS: HMO

For the purpose of determining the working capital or net worth of any HMO seeking admission to do business in this State and of any HMO admitted to do business in this State, admitted assets for an HMO do not include:

- (1) prepaid expenses;
- (2) intangible assets;
- (3) the depreciated cost of furniture and equipment, except furniture and equipment directly used in providing medical services and electronic data processing equipment;
- (4) amounts receivable from affiliates that are outstanding for over 90 days;
- (5) amounts receivable from affiliates that do not have immediate resources to repay the debts; nor
- (6) any other assets determined by the Commissioner to be of an illiquid nature.

Statutory Authority G.S. 58-2-40(1); 58-67-20; 58-67-110(b).

TITLE 15A - DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Wildlife Resources Commission intends to adopt rule(s) cited as 15A NCAC 10F .0364.

The proposed effective date of this action is May 1, 1991.

The public hearing will be conducted at 10:00 a.m. on February 18, 1991 at Room 386, Archdale Building, 512 N. Salisbury Street, Raleigh, NC 27604-1188.

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 February 1, 1991 to March 5, 1991. Such written comments must be delivered or mailed to the N.C. Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188.

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

.0364 GREENSBORO

(a) **Regulated Area.** This Rule applies to the waters of Lake Brandt, Lake Higgins, Lake Townsend (Greensboro Municipal Reservoirs) within the city limits of Greensboro in Guilford County.

(b) **Speed Limit.** No person shall operate a vessel at greater than no wake speed within 50 yards of any public boat launching ramp, bridge or pier operated by the City of Greensboro for public use.

(c) **Restricted Zones.** No person operating or responsible for the operation of any vessel should permit the same to enter any restricted zone marked to prevent entry by vessels.

(d) **Placement and Maintenance of Markers.** The Board of Commissioners of Guilford County is designated a suitable agency for placement and maintenance of markers implementing this Rule.

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

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the State Registrar intends to amend rule(s) cited as 15A NCAC 19H .0601, .1001, and .1301.

The proposed effective date of this action is May 1, 1991.

The public hearing will be conducted at 10:30 a.m. on February 18, 1991 at the Norton Board Room, 6th Floor Cooper Memorial Bldg., 225 N. McDowell Street, Raleigh, N.C.

Comment Procedures: Any person may request copies of the proposed rules by contacting John P. Barkley, DEHNR, P.O. Box 27687, Raleigh, NC 27611-7687, (919) 733-7247. Written comments on these Rules may be sent to Mr. Barkley at the above address or submitted at the public hearing. If you desire to speak at the public hearing, notify Mr. Barkley at least 3 days prior to the public hearing.

CHAPTER 19 - HEALTH: EPIDEMIOLOGY

SUBCHAPTER 19H - VITAL RECORDS

SECTION .0600 - CERTIFIED COPIES

.0601 BIRTH CERTIFICATES

(a) There shall be three forms of ~~certified~~ copies of birth certificates:

- (1) a photocopy of the original record excluding medical and health related information with facsimile of the signature of the State Registrar and raised seal and date issued; and
- (2) a typed copy prepared on a form printed on safety paper with facsimile of the signature of the State Registrar and raised seal; ~~The~~ the form shall provide at least the following items of information:
 - (A) name and sex of child;
 - (B) date and place of birth;
 - (C) names, ages (at time of birth), and birthplaces of father and mother;
 - (D) date filed with local registrar;
 - (E) certificate number;
 - (F) date of issue; and
 - (G) items amended and date of amendment; and
- (3) a typed wallet-size card with facsimile of the signature of the State Registrar providing as a minimum the following items of information:
 - (A) name and sex of child;
 - (B) date and place of birth;
 - (C) date filed with local registrar;
 - (D) certificate number;
 - (E) date of issue; and
 - (F) changes of names by court order noted on back for persons older than 15 years unless good cause is shown for deleting the notation.

(b) A wallet-size card shall be issued when specifically requested. ~~or when the birth certificate is for an illegitimate, adopted, or legitimated child and the request does not indicate a purpose which the card would not serve.~~

(c) A typed copy shall be issued when specifically requested, when the original certificate cannot be photocopied, when the original has been corrected or amended, or when the record is that of an adopted or legitimated person. ~~and a wallet-size card is not acceptable.~~

(d) A photocopy shall be issued when specifically requested or whenever it is most convenient except in cases in which a ~~card~~ or typed copy is required.

Statutory Authority G.S. 130A-92(7).

SECTION .1000 - NEW CERTIFICATES

.1001 NEW CERTIFICATES OF BIRTHS FOLLOWING ADOPTIONS

(a) When a new certificate of birth is prepared by the State Registrar as prescribed in G.S. 48-29, all copies of the original certificate and all other information concerning the original certificate in

the possession of any register of deeds shall be forwarded to the State Registrar, who shall file them in accordance with the provisions of G.S. 48-29. In the event such data have been computerized or otherwise automated, a paper copy of the pertinent data shall be prepared and sent to the State Registrar. The automated data shall then be removed from the index or otherwise rendered unusable in a manner approved by the State Registrar.

(b) The record pertaining to an adoption shall not be sealed until after the adopting parents are furnished a full certified copy or until they or their legal representatives are notified of the information entered on the new certificate, so that errors can be identified or corrected prior to the sealing of the file. After the file is sealed, corrections and amendments shall be made in accordance with same rules which pertain to birth records of non-adopted persons, except that a copy of the adoption order will be required to correct the name.

Statutory Authority G.S. 48-29(c); 130A-92(7); 130A-118(e).

SECTION 1300 - ACCESS TO RECORDS

1301 INFORMATION NEEDED FOR LOCATING RECORDS

A person wishing to obtain a copy of a vital record or obtain a copy therefrom shall be required to furnish at least the minimum amount of information needed to locate the record. The following minimum amount of information is required to locate a record: is as follows:

- (1) Births. Registrant's name, father's name (if born in wedlock), mother's full maiden name, approximate date of birth ~~or~~ and place of birth;
- (2) Deaths. Name of deceased, approximate age, approximate date of death and place of death;
- (3) Marriages. Name of bride or groom, approximate date of marriage and place of marriage;
- (4) Divorces. Name of plaintiff or defendant, approximate date of divorce and place of divorce.

Statutory Authority G.S. 130A-92(7).

TITLE 21 - OCCUPATIONAL LICENSING BOARD

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 32L .0001, .0005, and .0009.

The proposed effective date of this action is May 1, 1991.

The public hearing will be conducted at 6:30 p.m. on March 13, 1991 at the Marriott RTP, 4700 Guardian Drive, Morrisville, N.C.

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 March 1, 1991, to the following address: Administrative Procedures, NC Board of Medical Examiners, 1313 Navaho Drive, Raleigh, NC 27609.

CHAPTER 32 - BOARD OF MEDICAL EXAMINERS

SUBCHAPTER 32L - APPROVAL OF PHYSICIAN ASSISTANTS

.0001 DEFINITIONS

The following definitions apply to this Subchapter:

- (1) "Physician Assistant or PA" means an auxiliary, paramedical person who functions at the direction of or under the supervision of a physician licensed by the Board and who performs tasks traditionally performed by the physician, such as history taking, physical examination, diagnosis, and treatment.
- (2) "Physician Assistant Applicant" means the individual upon whose behalf an application is submitted who may function before approval by the Board in the same manner in which he functioned as a student under strict supervision as outlined in Rule .0002 of this Subchapter.
- (3) "Supervision" means the physician's function of overseeing, managing, and directing the medical acts performed by the PA as outlined in Rule .0009 of this Subchapter.
- (4) "Primary Supervising Physician" means the physician who, by signing the application to the Board, accepts full medical administrative responsibility for the PA's medical activities and conduct at all times whether he personally is providing supervision or supervision is being provided by a Back-up Supervising Physician. The Primary Supervising Physician shall assume total responsibility to assure the Board that the PA is

sufficiently qualified by education and training to perform all medical acts required of the PA and shall assume total responsibility for the PA's performance in the particular field or fields in which the PA is expected to perform medical acts.

- (5) "Back-up Supervising Physician" means the physician who, by signing the application to the Board, accepts the responsibility to be available to supervise the PA's activities in the absence of the Primary Supervising Physician only in the practice sites listed in the application approved by the Board. The Back-up Supervising Physician is responsible for the activities of the PA only when he is providing supervision.
- (6) "Formulary" means the document which lists generic categories of drugs to be prescribed, ordered, or dispensed by physician extenders under written standing orders from the supervising physician for patient care in approved practice sites.
- (7) "Approved practice sites" means only those practice sites specifically listed in the approved application on file in the Board's office in which the PA may legally perform medical acts.

Statutory Authority G.S. 90-18(13); 90-18.1.

.0005 PRESCRIBING PRIVILEGES

(a) The PA Applicant and the supervising physicians shall acknowledge in the application that they are familiar with laws and rules of the Board regarding prescribing; and shall agree to comply with these laws and rules by incorporating the laws and rules, including the Formulary, into their written standing orders.

(b) The generic categories listed in the Formulary are based on the American Hospital Formulary Service published by the American Society of Hospital Pharmacists. The Formulary is adopted by reference by the Board as a part of this Rule in accordance with provisions of G.S. 150B-14(c).

(c) The prescribing stipulations contained in these rules and in the Formulary apply to writing prescriptions, ordering the administration of medications in out-patient and inpatient settings, and dispensing medications. Approval to dispense must be obtained from the Board of Pharmacy.

(d) Prescribing stipulations are as follows:

(1) Controlled Substances:

- (A) No controlled substances (Schedules 2, 2N, 3, 3N, 4, 5) defined by the State and Federal Controlled Substances Acts may be prescribed, ordered, or dispensed.

(B) Verbal orders given to the PA by the supervising physician for administration of a controlled substance to a specific patient may be entered into the patient chart by the PA just as an RN may transcribe a physician's verbal order into a patient chart.

- (2) ~~Parenteral Medications - No parenteral preparations may be prescribed, ordered, dispensed, or administered unless under the order of the supervising physician as set forth in Subparagraph (3)(B) of this Rule, with the following exceptions:~~

- ~~(A) Insulin;~~
- ~~(B) Immunizations (DPT, MMR, Hib);~~
- ~~(C) Tetanus toxoid, DT, or hyperimmune serum;~~
- ~~(D) Epinephrine;~~
- ~~(E) Benadryl.~~

- (2) Parenteral Medications - No parenteral preparations may be prescribed, ordered, dispensed, or administered unless under the order of the supervising physician as set forth in Paragraph (d)(3)(B) of this Rule with the exception of those medications listed on the Formulary as allowed.

(3) Excluded Drugs:

(A) Any pure form or combination of the generic classes of drugs listed in the Formulary may be prescribed, ordered, or dispensed, unless the drug or class of drug is listed as excluded from the Formulary.

~~(B) Drugs excluded by the Formulary, except controlled substances, may be prescribed by the PA only upon specific written or verbal orders from the supervising physician for a specific patient given before the prescription or order is issued by the PA. Such a prescription or order must be signed by the PA with a notation that it is issued on the specific order of the supervising physician. For example: Mary Smith, PA, on order of John Doe, M.D.~~

(B) The PA may prescribe an excluded drug or class of drug only as follows:

- (i) after the patient has been previously seen by the supervising physician for initial treatment of that illness and a written order has been entered into the chart by the physician for future treatment by the PA; or
- (ii) upon a specific written or verbal order obtained from the supervising physician before the prescription or order is issued by the PA.

- (C) Such a prescription or order written as described in Paragraph (d)(3)(B) of this Rule must be signed by the PA with a notation that it is issued on the specific order of the supervising physician. For example: Mary Smith, PA, on order of John Doe, M.D.
- (4) Refills - A prescription may not indicate a refill with the exception of birth control medications which may be issued for a period not to exceed one year.
 - (5) Dosage Units - Amount of drug prescribed, ordered, or dispensed can be no more than 100 dosage units or a one month supply with the exception of birth control medications which may be issued for a period not to exceed one year.
 - (6) Prescription Notations - Every prescription must be noted on the patient's chart. A second prescription for the same medication may be authorized by telephone by the PA and must be entered on the patient's chart and countersigned by the supervising physician within the specified countersigning time approved by the Board.
 - (7) Prescribing Number - A prescribing number is assigned by the Board to a PA upon approval by the Board. This number must appear on all prescriptions issued by the PA. The prescribing number is used as the PA's Approval Number.
 - (8) Prescription Blank Format - All prescriptions issued by a PA ~~should~~ shall contain the name and telephone number of the supervising physician; the name, practice address, telephone number, and prescribing number of the PA, as well as all information required by law. A suggested prescription format is included in the application packet.
 - (9) Pre-signed Prescription Blanks - The supervising physician shall not leave pre-signed prescription forms for use by the PA.
- (b) The supervising physician shall be available on a regularly scheduled basis for referrals of patients from the PA.
 - (c) ~~A PA shall refer a patient to another health provider other than an approved supervising physician only on the order of an approved supervising physician.~~
- (2) Written Standing Orders:
 - (a) The supervising physician shall provide in each practice location, for use by the PA and for referral by other personnel, written standing orders and drug protocols to cover most commonly encountered problems in the practice setting.
 - (b) The written standing orders shall include a predetermined plan for emergency services.
 - (c) The PA shall refer a patient to another physician other than an approved supervising physician only in accordance with written standing orders.
 - (3) Countersigning:
 - (a) The time interval between the PA's contact with the patient and chart review and countersigning by the supervising physician shall be 72 hours.
 - (b) A longer countersigning time interval may be considered by the Board upon specific request. The request should explain the practice circumstances which necessitate the longer countersigning interval.
 - (c) All entries by a PA into patient charts in all approved practice locations must be countersigned by the supervising physician. Entries include but are not limited to: progress notes; treatment rendered; tests or procedures ordered; and notations of prescriptions or orders, and drugs dispensed or administered.
 - (4) Supervision Arrangements:
 - (a) If the PA is to perform duties away from the supervising physician, the application must clearly specify the circumstances which would justify this action and the supervisory arrangements established to protect the patient.
 - (b) Details must be submitted describing distance, time, topography, physical characteristics, and communication ability between the PA and the supervising physician.
 - (5) Supervising Physicians:
 - (a) A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, cannot be named as a supervising physician.

Statutory Authority G.S. 90-18(13); 90-18.1; 150B-14(c).

.0009 SUPERVISION OF A PA

Supervision shall be provided by the responsible physician as follows:

- (1) Availability:
 - (a) The supervising physician shall be available for direct communications by radio, telephone, or telecommunications.

- (b) A physician in a graduate medical education program who is also practicing in a non-training situation may supervise physician assistants in the non-training situation if fully licensed.
- (c) All physicians who may supervise the PA in any manner must be approved by the Board before PA supervision occurs.

- (6) The PA must be prepared to demonstrate upon request to a member of the Board, or its delegates, the ability to perform the medical acts assigned by the supervising physician.

Statutory Authority G.S. 90-18(13).

The List of Rules Codified is a listing of rules that were filed to be effective in the month indicated.

*Rules filed for publication in the NCAC may not be identical to the proposed text published previously in the Register. Rules filed with changes are noted with ** Amended, ** Adopted. Please contact this office if you have any questions.*

Adopted rules filed by the Departments of Correction, Revenue and Transportation are published in this section. These departments are not subject to the provisions of G.S. 150B, Article 2 requiring publication in the N.C. Register of proposed rules.

Upon request from the adopting agency, the text of rules will be published in this section.

*Punctuation, typographical and technical changes to rules are incorporated into the **List of Rules Codified** and are noted as * **Correction**. These changes do not change the effective date of the rule.*

TITLE 17
DEPARTMENT OF REVENUE

CHAPTER 8 - INTANGIBLES TAX DIVISION

SECTION .0400 - ACCOUNTS RECEIVABLE

.0403 ACCOUNTS RECEIVABLE SUBJECT TO TAXATION

Accounts receivable which are subject to intangibles tax include, but are not limited to, the following:

- (1) trade accounts, open book accounts and charge accounts;
- (2) revolving type charge accounts;
- (3) salaries and commissions receivable;
- (4) bonuses receivable if such bonuses were declared or were otherwise determinable as of the valuation date;
- (5) dividends receivable;
- (6) tax refunds which have been approved for payment;
- (7) dealer reserves and finance reserves due from banks, finance companies, etc;
- (8) the total amount of periodic or progress billings (excluding retainage) to which a contractor is entitled under terms of contracts in progress;
- (9) accounts receivable of all taxpayers whether they are operating on a cash or an accrual basis;
- (10) accounts receivable of professional associations and professional persons when such accounts represent amounts owing to them for professional services;
- (11) all inter-company receivables which are not evidenced by a note;
- (12) accrued rent which is due or otherwise determinable as of the valuation date;
- (13) royalties which have become due or which are otherwise determinable as of the valuation date;
- (14) patronage dividends;
- (15) accounts receivable which have a business, commercial or taxable situs in North Carolina, even though such accounts may be owned by a nonresident or foreign corporation.

History Note: Statutory Authority G.S. 105-201; 105-262;

Eff. February 1, 1976;

Amended Eff. February 1, 1991; August 1, 1986; December 1, 1985; December 1, 1983.

.0404 DEDUCTIBLE ACCOUNTS PAYABLE

Accounts payable which may be deducted from accounts receivable include, but are not limited to, the following:

- (1) trade accounts, charge accounts and certain accrued expenses not evidenced by a note or conditional sales contract;
- (2) accrued salaries, wages and commissions payable;
- (3) accrued dividends payable;
- (4) accrued bonuses payable provided such bonuses were declared or were otherwise determinable as of the valuation date;
- (5) federal and state withholding taxes and that portion of social security taxes withheld from employees;
- (6) the amount of periodic or progress billings (excluding retainage) payable to a contractor under terms of a contract in progress;
- (7) amounts due for professional services;
- (8) all inter-company payables which are not evidenced by a note;
- (9) accrued rent payable or otherwise determinable as of the valuation date;
- (10) royalties payable or otherwise determinable as of the valuation date;
- (11) certain short term notes payable may qualify as accounts payable provided they were issued or made for a term of one year or less and are not deducted as notes payable under G.S. 105-202. (This deduction does not apply to notes "payable on demand" or the current portion of long term debt.);
- (12) amounts due and payable to pension and profit-sharing trusts which qualify as exempt from state income tax;
- (13) in the case of banks, checking account and demand saving account liabilities are deductible as accounts payable.

History Note: Statutory Authority G.S. 105-201; 105-262;

Eff. February 1, 1976;

Amended Eff. February 1, 1991; August 1, 1986; December 1, 1985; December 1, 1983.

SECTION .0500 - NOTES: BONDS AND OTHER EVIDENCES OF DEBT

.0504 NOTES: BONDS: ETC. SUBJECT TO TAXATION

Notes, bonds and other evidences of debt which are subject to intangibles tax include, but are not limited to, the following:

- (1) personal and business notes receivable;
- (2) mortgage notes receivable;
- (3) commercial paper;
- (4) conditional sales contracts (written agreements whereby title to the property remains with the seller until the goods are paid for);
- (5) lease agreements with "option to purchase" which are classified as conditional sales contracts for sales tax purposes;
- (6) notes due from affiliated companies;
- (7) accrued interest receivable from notes, bonds and other evidences of debt;
- (8) participation certificates;
- (9) bonds and debentures of both domestic and foreign corporations;
- (10) church bonds;
- (11) bonds and evidences of debt of other states and their political subdivisions;
- (12) bonds, debentures and capital notes (not certificates of deposit) issued by commercial banks;
- (13) bonds and notes of the Federal National Mortgage Association;
- (14) bonds of public housing authorities organized under laws of other states;
- (15) sales or gift agreements whereby the seller or donor has only an irrevocable right to receive income on an "annuity" basis; Actual value of such agreements should be determined in the same manner as a beneficial interest in a foreign trust;
- (16) investment contracts and accumulation plans;
- (17) "Repurchase Agreements" issued by financial institutions;
- (18) notes, bonds, participation certificates (including GNMA pass-through and pooled income certificates) which are the obligations of nonexempt quasi governmental agencies, commercial banks or other mortgage lenders even though the payment of principal and interest is guaranteed by the U.S. government;
- (19) land sales contracts;

- (20) amounts due from a commercial factor as a result of the sale of accounts receivable pursuant to a factoring agreement;
- (21) receivables of banks under retail credit card plans.

History Note: Statutory Authority G.S. 105-202; 105-262;

Eff. February 1, 1976;

Amended Eff. February 1, 1991; August 1, 1986; December 1, 1985; March 1, 1982.

SECTION .0600 - SHARES OF STOCK

.0604 SHARES AND UNITS SUBJECT TO TAXATION

Securities which are subject to intangibles tax under this Section include, but are not limited to, the following:

- (1) capital stock, common stock and preferred stock of both domestic and foreign corporations;
- (2) shares and units held in brokerage accounts, including those purchased on margin;
- (3) unregistered stock, restricted stock, letter stock and "closely held" stock which is not actively traded;
- (4) shares or units of ownership of mutual funds, investment trusts and investment funds.

Note: The value of such shares or units may be reduced in whole or in part by reason of the exempt status of "direct obligations" of the United States Government and "direct obligations" of the State of North Carolina and its political subdivisions held in the fund or trust as of December 31. For further information, see Rule .0605(5) of this Section;

- (5) shares of stock in banks (including national banks) located outside North Carolina;
- (6) shares of stock in holding companies, including bank and insurance holding companies;
- (7) stocks and units held by trustees or guardians (reportable under the name of the beneficiary);
- (8) stocks and units held by executors or administrators of estates (reportable under the name of the estate);
- (9) stocks and units owned by minor children (reportable under the minor's name in care of the parent or guardian);
- (10) stocks and units owned by investment clubs (reportable under the name of the investment club);
- (11) stocks and units acquired (by purchase, gift, inheritance or any other means) as of December 31 even if the stock certificates have not been received and are not in the taxpayer's possession as of December 31;
- (12) shares and units owned by or registered to residents of North Carolina on December 31 even though the stock certificates may be physically located in another state;
- (13) units of ownership of "money market" funds and similar funds including those funds where the owner is authorized to issue checks and drafts against the funds as a means of disposing of units.

History Note: Statutory Authority G.S. 105-203; 105-262;

Eff. February 1, 1976;

Amended Eff. February 1, 1991; December 1, 1983; March 1, 1982; October 23, 1977.

.0605 EXEMPTIONS

In addition to the items specified in G.S. 105-203, the following are exempt from taxation:

- (1) Stock warrants, stock options and stock purchase rights are not taxable.
- (2) Shares and units sold on or prior to December 31 are not taxable. In the case of certain investment funds where the owner of units is authorized to dispose of such units by issuing checks or drafts, a sale may be recognized if the taxpayer can provide evidence that checks or drafts were actually issued in good faith for value or credit on or prior to December 31.
- (3) Units of ownership in an investment trust which on December 31 is composed entirely of obligations of the United States and North Carolina, 80 percent of which are obligations of North Carolina or its political subdivisions, are not taxable. In order for this exemption to apply, the trust must certify to the intangibles tax division by December 31 of the year for which the exemption applies that the requirements for exemption have been met; and then must furnish the following information within ninety days:
 - (a) a prospectus or complete description of the trust fund;
 - (b) the name and series number of the trust fund;
 - (c) the name, description and value of the obligations held in the corpus of the trust as of December 31.

- (4) Interest in a partnership (including a limited partnership) is not taxable;
- (5) The "share value" of a mutual fund, investment trust or investment fund may be reduced by a percentage equal to the ratio of "direct obligations" of the United States Government and "direct obligations" of the State of North Carolina and its political subdivisions held in the fund or trust as of December 31. (Example: If, as of December 31, 35 percent of the assets of a mutual fund are investments in United States Treasury Notes, then the share value of the mutual fund can be reduced by 35 percent.)

Important: Obligations that are merely backed or guaranteed by the United States Government (i.e. FNMA's, GNMA mortgaged-backed securities, repurchase agreements, etc.) are not considered "direct obligations" of the United States and, therefore, do not qualify in determining a percentage reduction in the share value of a mutual fund or investment trust. A taxpayer must, upon request, be able to provide information to support any percentage reduction in the share value of a mutual fund or investment trust. This information should be available through the mutual fund or investment trust.

History Note: Statutory Authority G.S. 105-203; 105-262;

Eff. February 1, 1976;

Amended Eff. February 1, 1991; December 1, 1985; December 1, 1983; March 1, 1982.

NORTH CAROLINA ADMINISTRATIVE CODE

LIST OF RULES CODIFIED

JANUARY 1991

AGENCY			ACTION TAKEN
<u>DEPARTMENT OF AGRICULTURE</u>			
2	NCAC	20B .0413	** Amended
		34 .0102	Amended
		.0301 - .0302	Amended
		.0304	Repealed
		.0305 - .0306	Amended
		.0310	** Amended
		.0313	** Amended
		.0317 - .0320	** Amended
		.0322	Repealed
		.0323	Amended
		.0326	** Amended
		.0505	** Amended
		.0506	** Adopted
		.0605	** Amended
		.0904	Amended
		.1004	** Amended
		.1102 - .1103	** Amended
	43L	.0304 - .0305	** Amended
	48A	.0601	** Amended
		.0605	** Amended
		.0611	Amended
		.1005	Amended
		.1602	Amended
<u>DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT</u>			
4	NCAC	18 .0309	Temp. Adopted Expires 06-02-91
<u>OFFICES OF THE GOVERNOR/LIEUTENANT GOVERNOR</u>			
9	NCAC	2B Executive Order Number 128 Eff. November 1, 1990	
<u>DEPARTMENT OF HUMAN RESOURCES</u>			
10	NCAC	3H .0505	* Correction
		3U .0206	** Adopted
		.0511	** Amended
		.0601 - .0603	** Amended
		.0604	** Adopted
		.0705	** Amended
		.1615	** Amended
		.1701 - .1702	** Amended
		.1716 - .1717	** Amended
		.2101	** Amended

FINAL RULES

3V	.0101	Adopted
	.0201 - .0204	** Adopted
	.0301 - .0302	** Adopted
22G	.0802	** Amended
42D	.1501	Amended

DEPARTMENT OF INSURANCE

11	NCAC	6A	.0702	* Correction
			.0801	* Correction
		8	.0708	Amended
		11A	.0502	* Correction
			.0504	* Correction
			.0507	* Correction
		11B	.0607	** Adopted
			.0610	** Adopted
		12	.0824 - .0825	* Correction

DEPARTMENT OF JUSTICE

12	NCAC	10B	.0103	Amended
			.0205 - .0206	Adopted
			.0207	** Amended
			.0208	** Adopted
			.0304	Amended
			.0307	Amended
			.0308	Repealed
			.0401 - .0403	Amended
			.0407	** Adopted
			.0408	** Amended
			.0409	Amended
			.0503	Amended
			.0505	** Amended
			.0601	** Amended
			.0603	Amended
			.0605	Amended
			.0705	Amended
			.0908	** Amended
			.0909	Amended
			.1002 - .1003	Amended
			.1006	Amended
			.1105	Amended
			.1203	Amended
			.1206	Amended
			.2102	Amended
			.2104	** Amended

DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

15A	NCAC	2D	.0525	Amended
		2J	.0002 - .0003	** Amended
		2K	.0104	Amended
			.0222 - .0223	** Adopted
		2N	.0101 - .0104	** Adopted
			.0201 - .0203	** Adopted
			.0301 - .0303	** Adopted
			.0401 - .0405	** Adopted
			.0501 - .0506	** Adopted
			.0601 - .0604	** Adopted

FINAL RULES

	.0701 - .0708	** Adopted
	.0801 - .0805	** Adopted
3A	.0001 - .0002	Repealed
	.0004 - .0005	Repealed
3B	.0101 - .0103	Repealed
	.0105	Repealed
	.0107 - .0109	Repealed
	.0111	Repealed
	.0113 - .0117	Repealed
	.0201 - .0203	Repealed
	.0205 - .0207	Repealed
	.0301 - .0302	Repealed
	.0304 - .0310	Repealed
	.0401 - .0404	Repealed
	.0408 - .0410	Repealed
	.0413	Repealed
	.0501 - .0505	Repealed
	.0602	Repealed
	.0701 - .0702	Repealed
	.0801 - .0802	Repealed
	.0901 - .0907	Repealed
	.1001 - .1002	Repealed
	.1003 - .1005	Repealed
	.1101 - .1103	Repealed
	.1105 - .1109	Repealed
	.1111	Repealed
	.1201 - .1205	Repealed
	.1401 - .1408	Repealed
	.1501 - .1507	Repealed
	.1601 - .1605	Repealed
3C	.0102 - .0104	Repealed
	.0110	Repealed
	.0114	Repealed
	.0201	Repealed
	.0203	Repealed
	.0206	Repealed
	.0209 - .0210	Repealed
	.0212	Repealed
	.0302 - .0305	Repealed
	.0308 - .0312	Repealed
	.0314	Repealed
3E	.0101	Repealed
3F	.0101 - .0107	Repealed
	.0201 - .0202	Repealed
3G	.0001 - .0011	Repealed
3H	.0001 - .0003	** Adopted
3I	.0001 - .0012	** Adopted
3J	.0101 - .0103	** Adopted
	.0105 - .0109	** Adopted
	.0107	** Amended
	.0201 - .0207	Adopted
	.0301 - .0303	** Adopted
	.0303	** Amended
	.0304	Adopted
3K	.0101 - .0107	** Adopted
	.0201 - .0205	** Adopted
	.0301 - .0305	** Adopted
	.0401 - .0403	Adopted
	.0501 - .0506	** Adopted

3L	.0101 - .0104	** Adopted
	.0201	Adopted
	.0203 - .0205	** Adopted
	.0301 - .0302	Adopted
3M	.0101 - .0102	** Adopted
	.0101	** Amended
	.0201	Adopted
	.0203 - .0206	** Adopted
	.0301 - .0302	Adopted
	.0401 - .0404	** Adopted
	.0501 - .0507	** Adopted
3N	.0001 - .0005	** Adopted
3O	.0101 - .0109	** Adopted
	.0201 - .0202	Adopted
	.0203 - .0210	** Adopted
3P	.0001 - .0002	** Adopted
3Q	.0101 - .0106	** Adopted
	.0107 - .0108	Adopted
	.0109	** Adopted
	.0201	** Adopted
3R	.0001 - .0011	** Adopted
4A	.0005	Amended
4B	.0026	* Correction
	.0027	** Adopted
	.0028	Adopted
5B	.0012	** Adopted
7H	.0309	** Amended
10C	.0107	Amended
	.0110	Adopted
	.0111	** Adopted
10F	.0340	** Amended
11		* Correction
13B	.0102 - .0103	* Correction
	.0503	* Correction
	.0807	* Correction
	.1005	* Correction
	.1101 - .1102	* Correction
	.1106 - .1107	* Correction
	.1110	* Correction
	.1202	* Correction
	.1301	* Correction
16A	.0105	* Correction
	.0111	* Correction
	.0206 - .0207	* Correction
	.0303	* Correction
	.0305 - .0306	* Correction
	.0404	* Correction
	.0407 - .0410	* Correction
	.0412	* Correction
	.0703 - .0704	* Correction
	.0706 - .0707	* Correction
17B		* Correction
17C		* Correction
18C	.0102	** Amended
	.1503 - .1504	Repealed
	.1505 - .1506	Amended
	.1523	Amended
	.1525	Amended
	.1532	** Amended

FINAL RULES

			.1534 - .1535	** Adopted
			.2001 - .2006	** Adopted
19C			.0302	* Correction
			.0400	* Correction
21A			.0204	* Correction
			.0206	* Correction
			.0301	* Correction
21D			.0202	* Correction
			.0207	* Correction
			.0703	* Correction
			.0706	* Correction
			.0911	* Correction
24A			.0202 - .0204	* Correction
			.0402	* Correction
			.0405	* Correction
			.0503	* Correction

SECRETARY OF STATE

18	NCAC	6	.1210	Temp. Adopted Expires 06-05-91
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DEPARTMENT OF STATE TREASURER

20	NCAC	3	.0305	Temp. Amended Expires 06-03-91
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BOARD OF COSMETIC ART EXAMINERS

21	NCAC	14I	.0105	** Amended
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BOARD OF MEDICAL EXAMINERS

21	NCAC	32E	.0001 - .0008	Repealed
		32L	.0001	Temp. Amended Expires 05-1-91
			.0005	Temp. Amended Expires 05-1-91
			.0009	Temp. Amended Expires 05-1-91
		32M	.0001	** Adopted
			.0002	Adopted
			.0003 - .0005	** Adopted
			.0008	Adopted
			.0009	** Adopted
			.0010 - .0011	Adopted
			.0012	** Adopted

BOARD OF MORTUARY SCIENCE

21	NCAC	34	.0123	Amended
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BOARD OF NURSING

21	NCAC	36	.0217	Temp. Amended Expires 06-05-91
			.0217	Amended
			.0222	Repealed
			.0224 - .0225	** Adopted

BOARD OF PHYSICAL THERAPY

21	NCAC	48C	.0102	
			.0501	** Amended
				** Amended

BOARD OF EXAMINERS OF PRACTICING PSYCHOLOGISTS

21	NCAC	54	.1605	Amended
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REAL ESTATE COMMISSION

21	NCAC	58C	.0302	Amended
			.0308	Amended
		58D	.0102	Amended
			.0201	** Amended
			.0302	Amended
			.0401	Amended
			.0403	Amended
			.0405 - .0407	** Amended
			.0409	** Amended

OFFICE OF STATE PERSONNEL

25	NCAC	1D	.0111	Adopted
			.0211	Amended
			.0609 - .0610	Repealed
			.0611	Adopted
			.0701	** Amended
			.0706	** Amended
			.0708	** Amended
			.0709	Amended
			.1123	** Amended
			.1124	Amended
			.1125	** Amended
			.1128	Amended
			.1401	Amended
			.2301 - .2305	** Adopted
		1O	.0304	Amended

OFFICE OF ADMINISTRATIVE HEARINGS

26	NCAC	1	.0101 - .0102	Adopted
			.0103	Recodified from
				26 NCAC 1 .0001
			.0104	Recodified from
				26 NCAC 1 .0003
			.0104	Amended
			.0201	Adopted
			.0202	Recodified from
				26 NCAC 1 .0002
		2A	.0102	Amended
			.0201 - .0203	** Amended
			.0205	** Amended
			.0301	** Amended
			.0302	** Repealed
			.0701	** Amended
		3	.0029	Amended

The Administrative Rules Review Commission (ARRC) objected to the following rules in accordance with G.S. 143B-30.2(c). State agencies are required to respond to ARRC as provided in G.S. 143B-30.2(d).

ECONOMIC AND COMMUNITY DEVELOPMENT

Credit Union Division

*4 NCAC 6C .0203 - Fields of Membership
Agency Revised Rule*

*ARRC Objection 8/16/90
Obj. Removed 9/20/90*

ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Environmental Health

*15A NCAC 18C .0102 - Definitions
15A NCAC 18C .1532 - Variances and Exemptions
15A NCAC 18C .1534 - Max Contaminant Levels for Coliform Bacteria
15A NCAC 18C .2001 - General Requirements
15A NCAC 18C .2002 - Disinfection
15A NCAC 18C .2003 - Filtration
15A NCAC 18C .2004 - Analytical and Monitoring Requirements
15A NCAC 18C .2005 - Criteria for Avoiding Filtration*

*ARRC Objection 10/18/90
ARRC Objection 10/18/90
ARRC Objection 10/18/90
ARRC Objection 10/18/90
ARRC Objection 10/18/90
ARRC Objection 10/18/90
ARRC Objection 10/18/90
ARRC Objection 10/18/90*

Environmental Management

*15A NCAC 2H .1203 - Public Notice
Agency Revised Rule
15A NCAC 2N .0703 - Initial Abatement Measures and Site Check
15A NCAC 2N .0704 - Initial Site Characterization*

*ARRC Objection 8/16/90
Obj. Removed 9/20/90
ARRC Objection 11/14/90
ARRC Objection 11/14/90*

Marine Fisheries

*15A NCAC 3C .0311 - Cancellation
Agency Revised Rule
15A NCAC 3N .0001 - Scope and Purpose
Agency Revised Rule
15A NCAC 3O .0203 - Shellfish Lease Application Processing
Agency Revised Rule*

*ARRC Objection 9/20/90
Obj. Removed 10/18/90
ARRC Objection 8/16/90
Obj. Removed 9/20/90
ARRC Objection 8/16/90
Obj. Removed 9/20/90*

Solid Waste Management

*15A NCAC 13B .1003 - Eligible Purposes
Agency Revised Rule
15A NCAC 13B .1005 - Priority Factors
Agency Revised Rule*

*ARRC Objection 8/16/90
Obj. Removed 9/20/90
ARRC Objection 8/16/90
Obj. Removed 9/20/90*

Wildlife Resources Commission

*15A NCAC 10H .0302 - Minimum Standards
Agency Revised Rule*

*ARRC Objection 9/20/90
Obj. Removed 10/18/90*

HUMAN RESOURCES

Facility Services

<i>10 NCAC 3R .2113 - Definitions</i>	<i>ARRC Objection 9/20/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 9/21/90</i>
<i>10 NCAC 3R .2115 - Need for Services</i>	<i>ARRC Objection 9/20/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 9/21/90</i>
<i>10 NCAC 3V .0303 - Insurance Required</i>	<i>ARRC Objection 11/14/90</i>

Individual and Family Support

<i>10 NCAC 42C .3301 - Existing Building</i>	<i>ARRC Objection 11/14/90</i>
<i>10 NCAC 42D .1401 - Qualifications of Administrator/Co-Administrator</i>	<i>ARRC Objection 11/14/90</i>

INSURANCE

Agent Services Division

<i>11 NCAC 6A .0702 - Prelicensing Education Schools</i>	<i>ARRC Objection 8/16/90</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed 9/20/90</i>

Financial Evaluation Division

<i>11 NCAC 11B .0607 - Application - Employers</i>	<i>ARRC Objection 8/16/90</i>
<i>Agency Returned Rule Without Change</i>	<i>9/20/90</i>
<i>11 NCAC 11B .0610 - Application - Groups</i>	<i>ARRC Objection 8/16/90</i>
<i>Agency Returned Rule Without Change</i>	<i>9/20/90</i>

Life: Accident and Health Division

<i>11 NCAC 12 .0904 - Requirements for Utilization Review</i>	<i>ARRC Objection 12/20/90</i>
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LICENSING BOARDS AND COMMISSIONS

Medical Examiners

<i>21 NCAC 32M .0007 - Termination of NP Approval</i>	<i>ARRC Objection 11/14/90</i>
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Nursing, Board of

<i>21 NCAC 36 .0217 - Revocation, Suspension, or Denial of License</i>	<i>ARRC Objection 12/20/90</i>
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Physical Therapy

<i>21 NCAC 48C .0102 - Responsibilities</i>	<i>ARRC Objection 9/20/90</i>
<i>Agency Returned Rule Unchanged</i>	<i>No Action 10/18/90</i>
<i>21 NCAC 48C .0501 - Exemption for Students</i>	<i>ARRC Objection 9/20/90</i>
<i>Agency Returned Rule Unchanged</i>	<i>No Action 10/18/90</i>

Plumbing and Heating Contractors

<i>21 NCAC 50 .1203 - Disposition of Petitions</i>	<i>ARRC Objection 11/14/90</i>
<i>21 NCAC 50 .1207 - Request to Participate</i>	<i>ARRC Objection 11/14/90</i>

PUBLIC EDUCATION

Elementary and Secondary Education

16 NCAC 6C .0312 - Certificate Suspension and Revocation Agency Revised Rule	ARRC Objection 8/16/90 Obj. Removed 9/20/90
16 NCAC 6D .0105 - Use of School Day Objection Reconsidered and Failed Clincher Motion Passed Agency Filed Rule for Codification in the NCAC	ARRC Objection 6/21/90 7/19/90 9/28/90

SECRETARY OF STATE

Securities Division

18 NCAC 6 .1210 - Securities Exchgs/Autod Quot. Sys. Approved/Admin	ARRC Objection 12/20/90
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STATE PERSONNEL

25 NCAC 1B .0107 - Personnel Commission Meetings	ARRC Objection 9/20/90
25 NCAC 1B .0108 - Commission Staff	ARRC Objection 9/20/90
25 NCAC 1B .0109 - Commission Actions	ARRC Objection 9/20/90
25 NCAC 1B .0110 - Motions	ARRC Objection 9/20/90
25 NCAC 1B .0111 - Voting	ARRC Objection 9/20/90
25 NCAC 1B .0112 - Abstention	ARRC Objection 9/20/90
25 NCAC 1B .0113 - Duties of the Chairman	ARRC Objection 9/20/90
25 NCAC 1B .0114 - Order of Business	ARRC Objection 9/20/90
25 NCAC 1B .0115 - Special Meetings	ARRC Objection 9/20/90
25 NCAC 1B .0116 - Duties of Chairman Between Meetings of the Comm	ARRC Objection 9/20/90
25 NCAC 1B .0117 - Standing/Special Committees	ARRC Objection 9/20/90
25 NCAC 1B .0118 - Minutes	ARRC Objection 9/20/90
25 NCAC 1B .0119 - Notice of Commission Action	ARRC Objection 9/20/90
25 NCAC 1B .0120 - Appointment of Vice-Chairman Agency Withdrew Rules .0107 - .0120	ARRC Objection 9/20/90 10/18/90
25 NCAC 1L .0201 - Purpose	ARRC Objection 9/20/90
25 NCAC 1L .0202 - Policy Agency Withdrew Rules .0201 - .0202	ARRC Objection 9/20/90 10/18/90
25 NCAC 1L .0206 - Anti-Discrimination Agency Revised Rule	ARRC Objection 9/20/90 Obj. Removed 9/21/90
25 NCAC 1L .0207 - Testing and Examination Agency Revised Rule	ARRC Objection 9/20/90 Obj. Removed 9/21/90

STATE TREASURER

Local Government Commission

20 NCAC 3 .1003 - Petition for Hearing Agency Revised Rule	ARRC Objection 9/20/90 Obj. Removed 9/20/90
20 NCAC 3 .1004 - Hearing Officer Agency Withdrew Rule	 9/20/90

This Section of the Register lists the recent decisions issued by the North Carolina Supreme Court, Court of Appeals, Superior Court (when available), and the Office of Administrative Hearings which invalidate a rule in the North Carolina Administrative Code.

10 NCAC 1B .0202(c) - REQUEST FOR DETERMINATION

Thomas R. West, Administrative Law Judge with the Office of Administrative Hearings, declared Rule 10 NCAC 1B .0202(c) void as applied in *New Hanover Memorial Hospital, Inc., Petitioner v. N.C. Department of Human Resources, Division of Facility Services, Certificate of Need Section, Respondent* (90 DHR 0792).

10 NCAC 1B .0202(c) - REQUEST FOR DETERMINATION

Brenda B. Becton, Administrative Law Judge with the Office of Administrative Hearings, declared Rule 10 NCAC 1B .0202(c) void as applied in *High Point Regional Hospital, Inc., Petitioner v. Department of Human Resources, Division of Facility Services, Certificate of Need Section, Respondent* (90 DHR 0770).

10 NCAC 3R .0317(g) - WITHDRAWAL OF A CERTIFICATE

Robert Roosevelt Reilly, Jr., Administrative Law Judge with the Office of Administrative Hearings, declared Rule 10 NCAC 3R .0317(g) void as applied in *Dawn Health Care, a North Carolina General Partnership, Petitioner v. Department of Human Resources, Certificate of Need Section, Respondent* (90 DHR 0296).

10 NCAC 3R .0317(g) - WITHDRAWAL OF CERTIFICATE

Michael Rivers Morgan, Administrative Law Judge with the Office of Administrative Hearings, declared Rule 10 NCAC 3R .0317(g) void as applied in *Autumn Corporation, Petitioner v. N.C. Department of Human Resources, Division of Facility Services, Certificate of Need Section, Respondent* (90 DHR 0321 and 90 DHR 0318).

10 NCAC 26I .0101 - PURPOSE: SCOPE/NOTICE OF CHANGE IN LEVEL OF CARE

10 NCAC 26I .0102 - REQUESTS FOR RECONSIDERATION AND RECIPIENT APPEALS

10 NCAC 26I .0104 - FORMAL APPEALS

Thomas R. West, Administrative Law Judge with the Office of Administrative Hearings, declared Rules 10 NCAC 26I .0101, 10 NCAC 26I .0102 and 10 NCAC 26I .0104 void as applied in *Linda Allred, Petitioner v. North Carolina Department of Human Resources, Division of Medical Assistance, Respondent* (90 DHR 0940).

10 NCAC 42W .0003(c) - COUNTY DEPT OF SOCIAL SERVICES RESPONSIBILITIES

10 NCAC 42W .0005 - REPORTING CASES OF RAPE AND INCEST

The North Carolina Court of Appeals per, Judge Robert F. Orr, declared Rules 10 NCAC 42W .0003(c) and 10 NCAC 42W .0005 void as applied in *Rankin Whittington, Daniel C. Hudgins, Dr. Takey Crist, Dr. Gwendolyn Boyd and Planned Parenthood of Greater Charlotte, Inc., Plaintiffs v. The North Carolina Department of Human Resources, David Flaherty, in his capacity as Secretary of the North Carolina Department of Human Resources, The North Carolina Social Services Commission, and C. Barry McCarty, in his capacity as Chairperson of the North Carolina Social Services Commission, Defendants* [100 N.C. App. _____ (1990)].

The North Carolina Administrative Code (NCAC) has four major subdivisions of rules. Two of these, titles and chapters, are mandatory. The major subdivision of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters which shall be numerical in order. The other two, subchapters and sections are optional subdivisions to be used by agencies when appropriate.

TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE

TITLE	DEPARTMENT	LICENSING BOARDS	CHAPTER
1	Administration	Architecture	2
2	Agriculture	Auctioneers	4
3	Auditor	Barber Examiners	6
4	Economic and Community Development	Certified Public Accountant Examiners	8
5	Correction	Chiropractic Examiners	10
6	Council of State	General Contractors	12
7	Cultural Resources	Cosmetic Art Examiners	14
8	Elections	Dental Examiners	16
9	Governor	Electrical Contractors	18
10	Human Resources	Foresters	20
11	Insurance	Geologists	21
12	Justice	Hearing Aid Dealers and Fitters	22
13	Labor	Landscape Architects	26
14A	Crime Control and Public Safety	Landscape Contractors	28
15A	Environment, Health, and Natural Resources	Marital & Family Therapy	31
16	Public Education	Medical Examiners	32
17	Revenue	Midwifery Joint Committee	33
18	Secretary of State	Mortuary Science	34
19A	Transportation	Nursing	36
20	Treasurer	Nursing Home Administrators	37
*21	Occupational Licensing Boards	Occupational Therapists	38
22	Administrative Procedures	Opticians	40
23	Community Colleges	Optometry	42
24	Independent Agencies	Osteopathic Examination and Registration	44
25	State Personnel	Pharmacy	46
26	Administrative Hearings	Physical Therapy Examiners	48
		Plumbing and Heating Contractors	50
		Podiatry Examiners	52
		Practicing Counselors	53
		Practicing Psychologists	54
		Professional Engineers and Land Surveyors	56
		Real Estate Commission	58
		Refrigeration Examiners	60
		Sanitarian Examiners	62
		Social Work	63
		Speech and Language Pathologists and Audiologists	64
		Veterinary Medical Board	66

Note: Title 21 contains the chapters of the various occupational licensing boards.

CUMULATIVE INDEX

CUMULATIVE INDEX (April 1990 - March 1991)

1990 - 1991

Pages	Issue
1 - 151	1 - April
152 - 235	2 - April
236 - 285	3 - May
286 - 312	4 - May
313 - 407	5 - June
408 - 473	6 - June
474 - 513	7 - July
514 - 603	8 - July
604 - 635	9 - August
636 - 723	10 - August
724 - 791	11 - September
792 - 859	12 - September
860 - 895	13 - October
896 - 956	14 - October
957 - 1009	15 - November
1010 - 1059	16 - November
1060 - 1106	17 - December
1107 - 1176	18 - December
1177 - 1214	19 - January
1215 - 1244	20 - January

- AO - Administrative Order
- AG - Attorney General's Opinions
- C - Correction
- FR - Final Rule
- GS - General Statute
- JO - Judicial Orders or Decision
- M - Miscellaneous
- NP - Notice of Petitions
- PR - Proposed Rule
- SO - Statements of Organization
- TR - Temporary Rule

ADMINISTRATION

Auxiliary Services, 860 PR
State Property and Construction, 411 PR

ADMINISTRATIVE HEARINGS

Rules Division, 792 PR

AGRICULTURE

Markets, 737 PR
Plant Conservation Board, 1 PR
Plant Industry, 739 PR

State Fair, 737 PR
Structural Pest Control Committee, 7 PR

COMMUNITY COLLEGES

Community Colleges, Department of, 1031 PR

CORRECTION

Division of Prisons, 762 FR, 867 FR, 938 FR, 1035 FR

CRIME CONTROL AND PUBLIC SAFETY

State Highway Patrol, 53 PR, 804 PR
Butner Public Safety Division, 419 PR

ECONOMIC AND COMMUNITY DEVELOPMENT

Banking Commission, 16 PR, 1062 PR, 1108 PR
Community Assistance, 25 PR, 317 PR, 1110 PR
Credit Union, 317 PR, 860 PR
Energy Division, 1013 PR
Hazardous Waste Management, 742 PR, 1109 PR
Milk Commission, 24 PR, 741 PR

ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Coastal Management, 136 PR, 292 PR, 707 PR, 979 PR
Environmental Management, 54 PR, 193 PR, 420 PR, 542 PR, 706 PR, 744 PR, 912 PR, 1019 PR, 1121 PR, 1185 PR
Health Services, 190 PR, 565 PR, 816 PR, 860 PR, 1123 PR, 1188 PR
Land Resources, 744 PR
Marine Fisheries, 63 PR, 484 PR, 805 PR
State Registrar, 1221 PR
Wastewater Treatment Plant Operators Certification Commission, 551 PR
Water Treatment Facility Operators Board of Certification, 621 PR, 983 PR
Wildlife Resources and Water Safety, 137 PR, 206 PR, 293 PR, 349 PR, 438PR, 563 PR, 748 PR, 815 PR, 924 PR, 1020 PR, 1074 PR, 1186 PR, 1220 PR

FINAL DECISION LETTERS

Voting Rights Act, 241, 286, 316, 605, 638, 792, 957, 1011, 1061, 1107

FINAL RULES

List of Rules Codified, 143 FR, 226 FR, 302 FR, 463 FR, 587 FR, 710 FR, 842 FR, 944 FR, 1047 FR, 1166 FR, 1230 FR

GOVERNOR/LT. GOVERNOR

Executive Orders, 236, 313, 408, 474, 514, 604, 636, 724, 896, 1010, 1060

HUMAN RESOURCES

Aging, Division of, 704 PR
Drug Commission, 870 FR, 939 FR
Facility Services, 516 PR, 702 PR, 958 PR, 1116 PR, 1216 PR
Health Services, 152 PR, 245 PR
Medical Assistance, 191 PR, 911 PR, 1018 PR
Mental Health, Developmental Disabilities and Substance Abuse Services, 29 PR, 318 PR, 475 PR, 898 PR, 1219 PR
Services for the Blind, 412 PR
Services for the Deaf and the Hard of Hearing, 1065 PR
Social Services, 247 PR, 607 PR, 976 PR
Water Treatment Facility Operators Board of Certification, 27 PR
Youth Services, 261 PR

INSURANCE

Actuarial Services Division, 480 PR
Admission Requirements, 1220 PR
Agent Services Division, 321 PR, 520 PR
Engineering and Building Codes, 793 PR
Financial Evaluation Division, 342 PR, 525 PR
Fire and Casualty Division, 335 PR, 478 PR, 796 PR
Life: Accident and Health, 264 PR, 287 PR, 529 PR, 798 PR
Medical Database Commission, 1120 PR

JUSTICE

Attorney General, Office of the, 192 PR, 273 PR
Criminal Justice Education and Training Standards Commission, 704 PR, 1178 PR
Sheriffs' Standards Division, 608 PR

LICENSING BOARDS

Architecture, Board of, 1162 PR
Auctioneers Commission, 1093 PR
Certified Public Accountant Examiners, 983 PR
Cosmetic Art Examiners, Board of, 355 PR, 708 PR, 927 PR
Dental Examiners, Board of, 1196 PR
Electrical Contractors, Board of Examiners of, 356 PR
Medical Examiners, Board of, 207 PR, 838 PR, 862 PR, 1222 PR
Midwifery Joint Committee, 994 PR
Mortuary Science, Board of, 749 PR
Nursing, Board of, 300 PR, 496 PR, 994 PR, 1096 PR, 1199 PR
Nursing Home Administrators, Board of, 750 PR, 1203 PR
Pharmacy, Board of, 1031 PR
Physical Therapy Examiners, Board of, 443 PR
Plumbing and Heating Contractors, Examiners, 621 PR, 1204 PR
Practicing Psychologists, Board of, 755 PR
Real Estate Commission, 625 PR, 863 PR

NOTICE

OAH, Change of Address, 1215

NOTICE OF PETITION

Municipal Incorporation, 1177

PUBLIC EDUCATION

Elementary and Secondary, 141 PR, 275 PR, 351 PR, 1028 PR, 1160 PR

REVENUE

Individual Income Tax, 359 FR, 1036 FR
Intangibles Tax Division, 1226 FR
License and Excise Tax Division, 445 FR
Sales and Use Tax, 213 FR, 453 FR, 872 FR

SECRETARY OF STATE

Corporations Division, 489 PR
Securities Division, 293 PR, 495 PR, 927 PR, 1029 PR

STATE PERSONNEL

State Personnel Commission, 277 PR, 500 PR, 756 PR, 996 PR, 1206 PR

STATE TREASURER

Department Rules, 352 PR
Local Government Commission, 352 PR, 442 PR, 1195 PR
Solid Waste Management Capital Projects Financing Agency, 354 PR

STATEMENTS OF ORGANIZATION

Statements of Organization, 639 SO

TRANSPORTATION

Highways, Division of, 765 FR, 883 FR, 1038 FR

Motor Vehicles, Division of, 222 FR, 773 FR, 943 FR

NORTH CAROLINA ADMINISTRATIVE CODE

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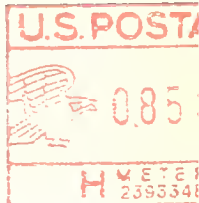
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