

NORTH CAROLINA

IN THIS ISSUE



REGISTER

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This issue contains documents officially filed through February 23, 2004.

Office of Administrative Hearings
Rules Division
424 North Blount Street (27601)
6714 Mail Service Center
Raleigh, NC 27699-6714
(919) 733-2678
FAX (919) 733-3462

Julian Mann III, Director
Camille Winston, Deputy Director
Molly Masich, Director of APA Services
Ruby Creech, Publications Coordinator
Linda Dupree, Editorial Assistant
Dana Sholes, Editorial Assistant
Julie Brincefield, Editorial Assistant

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NORTH CAROLINA ADMINISTRATIVE CODE CLASSIFICATION SYSTEM

The North Carolina Administrative Code (NCAC) has four major classifications of rules. Three of these, titles, chapters, and sections are mandatory. The major classification 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. Subchapters are optional classifications to be used by agencies when appropriate.

NCAC TITLES		TITLE 21 LICENSING BOARDS	TITLE 24 INDEPENDENT AGENCIES
1	ADMINISTRATION	1 Acupuncture	1 Housing Finance
2	AGRICULTURE & CONSUMER SERVICES	2 Architecture	2 Agricultural Finance Authority
3	AUDITOR	3 Athletic Trainer Examiners	3 Safety & Health Review Board
4	COMMERCE	4 Auctioneers	4 Reserved
5	CORRECTION	6 Barber Examiners	5 State Health Plan Purchasing Alliance Board
6	COUNCIL OF STATE	8 Certified Public Accountant Examiners	
7	CULTURAL RESOURCES	10 Chiropractic Examiners	
8	ELECTIONS	11 Employee Assistance Professionals	
9	GOVERNOR	12 General Contractors	
10A	HEALTH AND HUMAN SERVICES	14 Cosmetic Art Examiners	
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13	LABOR	18 Electrical Contractors	
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		60 Refrigeration Examiners	
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Note: Title 21 contains the chapters of the various occupational licensing boards and Title 24 contains the chapters of independent agencies.

NORTH CAROLINA REGISTER
 Publication Schedule for January 2004 – December 2004

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment period	Deadline to submit to RRC for review at next meeting	Earliest Eff. Date of Permanent Rule	Delayed Eff. Date of Permanent Rule (first legislative day of the next regular session)	270 th day from publication in the Register
18:13	01/02/04	12/08/03	01/17/04	03/02/04	03/22/04	05/01/04	05/10/04	09/28/04
18:14	01/15/04	12/19/03	01/30/04	03/15/04	03/22/04	05/01/04	05/10/04	10/11/04
18:15	02/02/04	01/09/04	02/17/04	04/02/04	04/20/04	06/01/04	01/26/05	10/29/04
18:16	02/16/04	01/26/04	03/02/04	04/16/04	04/20/04	06/01/04	01/26/05	11/12/04
18:17	03/01/04	02/09/04	03/16/04	04/30/04	05/20/04	07/01/04	01/26/05	11/26/04
18:18	03/15/04	02/23/04	03/30/04	05/14/04	05/20/04	07/01/04	01/26/05	12/10/04
18:19	04/01/04	03/11/04	04/16/04	06/01/04	06/21/04	08/01/04	01/26/05	12/27/04
18:20	04/15/04	03/24/04	04/30/04	06/14/04	06/21/04	08/01/04	01/26/05	01/10/05
18:21	05/03/04	04/12/04	05/18/04	07/02/04	07/20/04	09/01/04	01/26/05	01/28/05
18:22	05/17/04	04/26/04	06/01/04	07/16/04	07/20/04	09/01/04	01/26/05	02/11/05
18:23	06/01/04	05/10/04	06/16/04	08/02/04	08/20/04	10/01/04	01/26/05	02/26/05
18:24	06/15/04	05/24/04	06/30/04	08/16/04	08/20/04	10/01/04	01/26/05	03/12/05
19:01	07/01/04	06/10/04	07/16/04	08/30/04	09/20/04	11/01/04	01/26/05	03/28/05
19:02	07/15/04	06/23/04	07/30/04	09/13/04	09/20/04	11/01/04	01/26/05	04/11/05
19:03	08/02/04	07/12/04	08/17/04	10/01/04	10/20/04	12/01/04	01/26/05	04/29/05
19:04	08/16/04	07/26/04	08/31/04	10/15/04	10/20/04	12/01/04	01/26/05	05/13/05
19:05	09/01/04	08/11/04	09/16/04	11/01/04	11/22/04	01/01/05	01/26/05	05/29/05
19:06	09/15/04	08/24/04	09/30/04	11/15/04	11/22/04	01/01/05	01/26/05	06/12/05
19:07	10/01/04	09/10/04	10/16/04	11/30/04	12/20/04	02/01/05	05/00/06	06/28/05
19:08	10/15/04	09/24/04	10/30/04	12/14/04	12/20/04	02/01/05	05/00/06	07/12/05
19:09	11/01/04	10/11/04	11/16/04	12/31/04	01/20/05	03/01/05	05/00/06	07/29/05
19:10	11/15/04	10/22/04	11/30/04	01/14/05	01/20/05	03/01/05	05/00/06	08/12/05
19:11	12/01/04	11/05/04	12/16/04	01/31/05	02/21/05	04/01/05	05/00/06	08/28/05
19:12	12/15/04	11/22/04	12/30/04	02/14/05	02/21/05	04/01/05	05/00/06	09/11/05

EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

GENERAL

The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:

- (1) temporary rules;
- (2) notices of rule-making proceedings;
- (3) text of proposed rules;
- (4) text of permanent rules approved by the Rules Review Commission;
- (5) notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165;
- (6) Executive Orders of the Governor;
- (7) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H;
- (8) orders of the Tax Review Board issued under G.S. 105-241.2; and
- (9) other information the Codifier of Rules determines to be helpful to the public.

COMPUTING TIME: In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.

FILING DEADLINES

ISSUE DATE: The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month after the first or fifteenth that is not a Saturday, Sunday, or holiday for State employees.

LAST DAY FOR FILING: The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.

NOTICE OF TEXT

EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days after the date a notice of the hearing is published.

END OF REQUIRED COMMENT PERIOD
An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.

DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION: The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.

FIRST LEGISLATIVE DAY OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY: This date is the first legislative day of the next regular session of the General Assembly following approval of the rule by the Rules Review Commission. See G.S. 150B-21.3, Effective date of rules.

This Section contains public notices that are required to be published in the Register or have been approved by the Codifier of Rules for publication.

U.S. Department of Justice

Civil Rights Division

JDR:MSR:MDS:par
DJ 166-012-3
2003-3278

*Voting Section – NWB.
950 Pennsylvania Ave., NW
Washington, D.C. 20530*

October 29, 2003

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

Dear Mr. Crowell:

This refers to the procedures for conducting the November 4, 2003, special referendum election for Franklin County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on September 5, 2003; supplemental information was received on September 17, 2003.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41 and 51.43).

Section 5 preclearance is required for any change affecting voting (e.g., increase in the number of commissioners, the districting plan, the method of election, the implantation schedule, the residency requirement, etc.) which are adopted as a result of the special election.

Sincerely,

Joseph D. Rich
Chief, Voting Section

U.S. Department of Justice

Civil Rights Division

JDR:JBG:MDS:par
DJ 166-012-3
2003-3549

Voting Section – NWB.
950 Pennsylvania Ave., NW
Washington, D.C. 20530

November 13, 2003

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

Dear Mr. Crowell:

This refers to the change in the term of office from two to four years for the mayor and board of aldermen of the Town of Cove City in Craven County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on September 26, 2003.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

Joseph D. Rich
Chief, Voting Section

U.S. Department of Justice

Civil Rights Division

JDR:MJP:DC:par
DJ 166-012-3
2003-3716

*Voting Section – NWB.
950 Pennsylvania Ave., NW
Washington, D.C. 20530*

December 4, 2003

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

Dear Mr. Crowell:

This refers to the change in method of election to five members elected from single-member districts and two members elected at large, and the 2003 redistricting plan for the Franklin County School District in Franklin County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on October 7, 2003; supplemental information was received on November 19, 2003.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

Joseph D. Rich
Chief, Voting Section

U.S. Department of Justice

Civil Rights Division

JDR:MJP:DC:par
DJ 166-012-3
2003-4223

*Voting Section – NWB.
950 Pennsylvania Ave., NW
Washington, D.C. 20530*

January 14, 2004

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

Dear Mr. Crowell:

This refers to the increase in the number of commissioners; the change in the method of election to five commissioners elected from single-member districts and two commissioners elected at large; and districting plan for the board of commissioners in Franklin County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on November 18, 2003.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41).

Sincerely,

Joseph D. Rich
Chief, Voting Section

U.S. Department of Justice

Civil Rights Division

JDR:TCH:VNR:par
DJ 166-012-3
2003-4542

*Voting Section – NWB.
950 Pennsylvania Ave., NW
Washington, D.C. 20530*

February 10, 2004

Mr. Gary O. Bartlett
Executive Director
State Board of Elections
P.O. Box 27255
Raleigh, North Carolina 27611-7255

Dear Mr. Bartlett:

This refers to revisions to the English and Spanish versions of the voter registration application/update forms for the State of North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on December 12, 2003; supplemental information was received on February 2, 2004.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41).

Sincerely,

Joseph D. Rich
Chief, Voting Section

U.S. Department of Justice

Civil Rights Division

JDR:TCH:DC:par
DJ 166-012-3
2003-4465

*Voting Section – NWB.
950 Pennsylvania Ave., NW
Washington, D.C. 20530*

February 5, 2004

Susan K. Nichols, Esq.
Special Deputy Attorney General
P.O. Box 629
Raleigh, North Carolina 27602-0629

Dear Ms. Nichols:

This refers to Sections 5, 6, 13, and 14, of North Carolina Session Law 2003-434 (Extra Session), which provide that: the State Board of Elections ("Board") shall postpone the May 4, 2004, primary elections for all offices if redistricting plans for the State House or Senate are not capable of implementation as of February 9, 2004; the Board has enabling authority to issue temporary orders modifying election statutes or regulations affecting the primary and general elections in 2004 and to set a new primary election schedule in 2004; there are certain limitation on the Board's authority in 2004 (including that the new schedule for absentee balloting shall provide as nearly as practical the same amount of time as existing statutes, that the new schedule shall provide one filing period and one election date for all offices normally scheduled for the primary election date, that the new schedule must include a second primary, and that the new schedule for the candidate filing period must be no shorter than 10 business days); the date on which members of certain local boards of education elected in 2004 will take office is changed to the first board meeting date after the election is certified; the existing statewide election precinct freeze will be extended until December 31, 2004; there are modifications for 2004 in the procedures for filling candidate vacancies due to the death of a candidate before the primary; there is a permanent change in situations where primaries for the State House or Senate are temporarily moved from their regularly scheduled date in which case all primaries shall be held on the same day; and there is a permanent change in situations where a primary or nominating convention is temporarily postponed in which case the chair of a qualified political party may still request funds from the North Carolina Political Parties Financing Fund after the regularly scheduled date even if the primary has not yet occurred, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on December 10, 2003; supplemental information was received on February 4, 2004.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41).

We note that your letter indicates that the submitted sections of Session Law 2003-434 include "enabling legislation, and the State Board recognizes additional preclearance will be required for any changes it adopts pursuant to this authority." Accordingly, any further changes affecting voting that are adopted pursuant to this legislation will be subject to Section 5 review (e.g., setting of election schedules for 2004, changes in election procedures for 2004, etc.) See 28 C.F.R. 51.15.

We also note that our review has been confined to the four sections of Session Law 2003-434 which your letter submitted to us for review, because, as your letter indicates, certain other sections of that act are pending before the United States District Court for the District of Columbia in *State of North Carolina v. Ashcroft*, Civil Action No. 1:03CV2477 (D.D.C) and have not been submitted for administrative review.

Sincerely,

Joseph D. Rich
Chief, Voting Section

North Carolina Department of Labor
Division of Occupational Safety and Health
4 West Edenton Street
Raleigh, NC 27601

(919) 662-4597

NOTICE OF VERBATIM ADOPTION OF FEDERAL STANDARDS

In consideration of G.S. 150-B-21.5(c) the Occupational Safety and Health Division of the Department of Labor hereby gives notice that:

- rule changes have been submitted to update the *North Carolina Administrative Code* at 13 NCAC 07F .0101 to incorporate by reference the occupational safety and health related provisions of Title 29 of the *Code of Federal Regulations* Part 1910 promulgated as of December 31, 2003, except as specifically described, and
- the *North Carolina Administrative Code* at 13 NCAC 07A .0301 automatically includes amendments to certain parts of the *Code of Federal Regulations*, including Title 29, Part 1904—Recording and Reporting Occupational Injuries and Illnesses.

This update encompasses recent verbatim adoptions concerning:

- Respiratory Protection for M. Tuberculosis
(29 CFR 1910.139; 29 CFR 1910.134)
(68 FR 75776-75780, December 31, 2003)

The *Federal Register* (FR), as cited above, contains both technical and economic discussions that explain the basis for each change.

For additional information, please contact:

Bureau of Education, Training and Technical Assistance
Occupational Safety and Health Division
North Carolina Department of Labor
4 West Edenton Street
Raleigh, North Carolina 27601

For additional information regarding North Carolina's process of adopting federal OSHA Standards verbatim, please contact:

Barbara A. Jackson, General Counsel
North Carolina Department of Labor
Legal Affairs Division
4 West Edenton Street
Raleigh, NC 27601

**SUMMARY OF NOTICE OF
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY**

CNR PROPERTIES, RLLLP

Pursuant to N.C.G.S. § 130A-310.34, CNR Properties, RLLLP has filed with the North Carolina Department of Environment and Natural Resources (“DENR”) a Notice of Intent to Redevelop a Brownfields Property (“Property”) in Charlotte, Mecklenburg County, North Carolina. The Property consists of 15.34 acres and is located at 4750 South Boulevard. The Property is bordered to the north by the rest of the shopping center of which the Property is part, beyond which lies Woodlawn Road; to the south by the C&TR parcel; to the east by South Boulevard, across which is retail development (and, beyond that, residential parcels); and to the west by Norfolk Southern Railroad tracks, beyond which lies commercial development. Environmental contamination exists on the Property in soil and groundwater. CNR Properties, RLLLP has committed itself to retail/restaurant use, with a Home Depot home improvement store planned on the Property. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and CNR Properties, RLLLP which in turn includes (a) a map showing the location of the Property, (b) a description of the contaminants involved and their concentrations in the media of the Property, (c) the above-stated description of the intended future use of the Property, and (d) proposed investigation and remediation; and (2) a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35. The full Notice of Intent to Redevelop a Brownfields Property may be reviewed at the Charlotte-Mecklenburg Public Library, 310 North Tryon Street, Charlotte, North Carolina 28202, by contacting Rita Rouse at that address or at (704) 336-2725; or at 401 Oberlin Rd., Raleigh, NC 27605 by contacting Shirley Liggins at that address, at shirley.liggins@ncmail.net or at (919) 733-2801, ext. 336, where DENR will provide auxiliary aids and services for persons with disabilities who wish to review the documents.

Written public comments may be submitted to DENR within 60 days after the date this Notice is published in a newspaper of general circulation serving the area in which the brownfields property is located, or in the North Carolina Register, whichever is later.

Written requests for a public meeting may be submitted to DENR within 30 days after the period for written public comments begins. All such comments and requests should be addressed as follows:

Mr. Bruce Nicholson
Brownfields Program Manager
Division of Waste Management
NC Department of Environment and Natural Resources
401 Oberlin Road, Suite 150
Raleigh, North Carolina 27605

Note from the Codifier: The notices published in this Section of the NC Register include the text of proposed rules. The agency must accept comments on the proposed rule(s) for at least 60 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. If the agency adopts a rule that differs substantially from a prior published notice, the agency must publish the text of the proposed different rule and accept comment on the proposed different rule for 60 days.

Statutory reference: G.S. 150B-21.2.

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the DHHS – Division of Medical Assistance intends to adopt the rules cited as 10A NCAC 22N .0101-.0102, .0201-.0203, .0301-.0303.

Proposed Effective Date: July 1, 2004

Public Hearing:

Date: April 7, 2004

Time: 10:00 a.m.

Location: Kirby Building, Room 297, Dorothea Dix Campus, Raleigh, NC

Reason for Proposed Action: *The Division of Medical Assistance (DMA) is proposing to adopt permanent rules to comply with Session Laws 2003-294 and 2002-164 (SB 163 & SB 926). This legislation grants the Secretary of DHHS authority to deny enrollment in the Medicaid program to certain providers if the "Secretary has concluded the applicant will likely be unable to comply with licensing or enrollment statutes, rules or regulations." This legislation also applies to the Division of Facility Services (DFS), Division of Social Services (DSS), Division of Mental Health (DMH), and Division of Child Development (DCD). The permanent adoption of these Rules will enable DMA to comply to S.L. 2003-294 and S.L. 2002-164.*

Procedure by which a person can object to the agency on a proposed rule: *Objections to any of the proposed permanent rules should be directed to Kris Horton, DMA's Rule-making Coordinator. She can be contacted via mail at NC DHHS, DMA, 2501 Mail Service Center, Raleigh, NC 27699-2501 Phone: (919) 857-4016 or Fax: (919) 733-6608.*

Written comments may be submitted to: *Kris Horton, Rule-making Coordinator, NC DHHS, DMA, 2501 Mail Service Center, Raleigh, NC 27699-2501, Phone: (919) 857-4016 or Fax: (919) 733-6608.*

Comment period ends: May 14, 2004

Procedure for Subjecting a Proposed Rule to Legislative Review: Any person who objects to the adoption of a permanent rule may submit written comments to the agency. A person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The

Commission will receive written objections until 5:00 p.m. on the 6th business day preceding the end of the month in which a rule is approved. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact

- State
- Local
- Substantive (>\$3,000,000)
- None

CHAPTER 22 – MEDICAL ASSISTANCE ELIGIBILITY

SUBCHAPTER 22N – PROVIDER ENROLLMENT

SECTION .0100 – GENERAL

10A NCAC 22N .0101 DEFINITIONS

For the purpose of this Subchapter, a "provider" is any individual, facility or entity that applies to furnish services to authorized Medicaid recipients and bill Medicaid directly for reimbursement. The term "provider" also includes suppliers of medical equipment and supplies.

Authority G.S. 108A-54; 143B-139.1.

10A NCAC 22N .0102 SIGNED AGREEMENTS

Each provider must have a signed participation contract agreement with the Division of Medical Assistance and shall not be reimbursed for services rendered prior to the effective date of the participation agreement.

Authority G.S. 108A-54; 143B-139.1.

SECTION .0200 - ENTITIES LICENSED UNDER NCGS 122C OR NCGS 131D

10A NCAC 22N .0201 DEFINITIONS

As used in this Section, the term "owner" means any entity or individual who is a sole or co-owner, partner or shareholder that holds an ownership or controlling interest of five percent or more of the provider entity. As used in this Section, the term "Owner" includes a "principal" or "affiliate" of the provider.

Authority G.S. 108A-54; 143B-139.1.

10A NCAC 22N .0202 DISCLOSURE OF OWNERSHIP

Providers licensed under G.S. 122C or G.S. 131D must comply with the following disclosure conditions.

- (1) When applying to participate in the North Carolina Medicaid program, the provider shall supply the legal name and social security number of each individual who is an owner.
- (2) An enrolled provider shall notify the Division of Medical Assistance in writing of a change in the legal name of any owner. The notification must be received within 30 business days following the change.
- (3) An enrolled provider shall notify the Division of Medical Assistance in writing if a new owner joins the provider. The notification must include the new owner's legal name and social security number. The notification must be received no later than 30 business days following the change.
- (4) Notify the Division of Medical Assistance in writing if an owner withdraws his ownership interest in the provider. The notification must include the name of the departing owner and be received no later than 30 business days following the change.

Authority G.S. 108A-54; 143B-139.1; 150B-21.1(a10).

10A NCAC 22N .0203 ENROLLMENT RESTRICTIONS

(a) The Department shall deny enrollment, including enrollment for new or additional services in accordance with G.S. 122C-23(e1) and G.S. 131D-10.3(h); these statutes are hereby adopted by reference under G.S. 150B-21.6, including subsequent amendments and editions. They may be accessed online at <http://www.ncleg.net/Statutes/Statutes.html>.

(b) The Department may deny enrollment when an applicant meets any of the following conditions:

- (1) if the Department has initiated revocation or summary suspension proceedings against any facility licensed pursuant to G.S. 122C, Article 2, G.S. 131D, Articles 1 or 1A, or G.S. 110, Article 7 which was previously held by the applicant and the applicant voluntarily relinquished the license;
- (2) there is a pending appeal of a denial, revocation or summary suspension of any facility licensed pursuant to G.S. 122C, Article 2, G.S. 131D, Articles 1 or 1A, or G.S. 110, Article 7 which is owned by the applicant;
- (3) the applicant had an individual as part of their governing body or management who previously held a license which was revoked or summarily suspended under G.S. 122C, Article 2, G.S. 131D, Articles 1 or 1A, and G.S. 110, Article 7 and the rules adopted under these laws; or
- (4) the applicant is an individual who has abused, neglected, misappropriated property, diverted drugs or committed fraud.

(c) When an application for enrollment of a new service is denied:

- (1) Pursuant to G.S. 150B-22, the applicant shall be given an opportunity to provide reasons

why the enrollment should be granted or the matter otherwise settled;

(2) DMA shall give the applicant written notice of the denial, the reasons for the denial and advise the applicant of the right to request a contested case hearing pursuant to G.S. 150B; and

(3) The provider shall not provide the new service until a decision is made to enroll the provider, despite an appeal action.

(d) If the action is reversed on appeal, the owner may re-apply for enrollment and may be approved back to the date of the denied application if all qualifications are met.

Authority G.S. 108A-54; 143B-139.1; 150B-21.1(a10).

SECTION .0300 – ENTITIES PROVIDING SPECIFIED HABILITATIVE AND REHABILITATIVE SERVICES

10A NCAC 22N .0301 DEFINITIONS

For purposes of this Section:

(1) Specified rehabilitative services are services as defined in 42 CFR 440.130(d), and 42 CFR 440.90. These regulations are hereby adopted by reference under G.S. 150B-21.6, including subsequent amendments and editions. A copy of these regulations may be obtained by contacting the Government Printing Office, Superintendent of Documents, Post Office Box 37194, Pittsburgh, Pennsylvania 15250-7954 or they may be accessed online at <http://www.access.gpo.gov/nara/cfr>.

(2) Specified habilitative services are as defined in 42 CFR 440.180. This regulation is hereby adopted by reference under G.S. 150B-21.6, including subsequent amendments and editions. A copy of this regulation may be obtained by contacting the Government Printing Office, Superintendent of Documents, Post Office Box 37194, Pittsburgh, Pennsylvania 15250-7954 or it may be accessed online at <http://www.access.gpo.gov/nara/cfr>.

(3) The term "Division" means a Division of the North Carolina Department of Health and Human Services.

(4) The term "owner" has the same meaning as defined in 10A NCAC 22N .0201.

Authority G.S. 108A-54; 143B-139.1; 150B-21.1(a10).

10A NCAC 22N .0302 DISCLOSURE OF OWNERSHIP

Providers of Medicaid specified rehabilitative services defined in 10A NCAC 22N .0301 must comply with the following disclosure conditions:

(1) When applying to participate in the North Carolina Medicaid program, the provider shall supply the legal name and social security number of each individual who is an owner.

(2) The provider shall notify the Division of Medical Assistance in writing of a change in

the legal name of any owner. The notification must be received within 30 business days following the change.

- (3) Notify the Division of Medical Assistance in writing if a new owner joins the provider entity. The notification must include the new owner's legal name and social security number. The notification must be received no later than 30 business days following the change.
- (4) Notify the Division of Medical Assistance in writing if an owner withdraws his ownership interest. The notification must include the name of the departing owner and be received no later than 30 business days following the change.

Authority G.S. 108A-54; 143B-139.1; 150B-21.1(a10).

10A NCAC 22N .0303 ENROLLMENT RESTRICTIONS

(a) The Department shall terminate a provider's participation in the Medicaid program for the specified rehabilitative services and specified habilitative services as before defined in 10A NCAC 22N .0301 when notified in writing that the Division responsible for approving the provider's enrollment has withdrawn its approval. The termination becomes effective the date the Division of Medical Assistance is notified the approval has been withdrawn. The provider may re-apply for enrollment if said provider receives approval from the Division responsible for approving enrollment.

(b) The Department shall deny enrollment, including enrollment for new or additional services, to any entity applying to provide Medicaid habilitative or rehabilitative services when an owner of the applicant entity was the owner of another entity that had its approval withdrawn by the Division responsible for approving the provider's enrollment. The restriction becomes effective the date Division of Medical Assistance is notified the approval has been withdrawn. The provider may re-apply for enrollment if said provider subsequently receives approval from the Division responsible for approving enrollment.

Authority G.S. 108A-54; 143B-139.1; 150B-21.1(a10).

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the DENR – Environmental Management Commission intends to amend the rule cited as 15A NCAC 02B .0304.

Proposed Effective Date: September 1, 2004

Public Hearing:

Date: April 6, 2004

Time: 5:30 p.m.

Location: Haywood Community College, Student Center Auditorium, 185 Freeland Dr., Clyde, NC

Reason for Proposed Action: North Carolina Wildlife Resources Commission staff requested the reclassification of a segment of Richland Creek (Haywood County, French Broad River Basin) from Class B to Class B Tr (Trout). This proposed reclassification consists of the main stem of Richland Creek from the source to a point approximately 11 miles from the source (where Boyd Avenue crosses the creek). This proposal also consists of several tributaries to the above-mentioned main stem portion of Richland Creek that are proposed to receive the supplemental Tr classification. The purpose of this rule change is to protect the existing waters' trout populations. Tr waters are those freshwaters that have conditions which shall sustain as well as allow and protect for natural trout propagation and survival of stocked trout on a year-round basis. A water quality study conducted in July 2001 indicated that the proposed waters are eligible for reclassification to Tr.

Procedure by which a person can object to the agency on a proposed rule: You may attend the public hearing and make relevant verbal comments, and/or submit written comments, data or other relevant information by May 15, 2004. The Hearing Officer may limit the length of time that you may speak at the public hearing, if necessary, so that all those who wish to speak may have an opportunity to do so. The EMC is very interested in all comments pertaining to the proposed reclassification. All persons interested and potentially affected by the proposal are strongly encouraged to read this entire notice and make comments on the proposed reclassification. The EMC may not adopt a rule that differs substantially from the text of the proposed rule in this notice unless the EMC publishes the text of the proposed different rule and accepts comments on the new text (see G.S. 150B-21.2(g)). Written comments may be submitted to Elizabeth Kountis of the Division of Water Quality Planning Branch at 1617 Mail Service Center, Raleigh, NC 27699-1617, Elizabeth.kountis@ncmail.net, phone (919) 733-5083, ext. 369, or fax (919) 715-5637.

Written comments may be submitted to: Elizabeth Kountis, DENR/Division of Water Quality, Planning Branch, 1617 Mail Service Center, Raleigh, NC 27699-1617, phone (919) 733-5083, ext. 369, fax (919) 715-5637, and email Elizabeth.kountis@ncmail.net.

Comment period ends: May 15, 2004

Procedure for Subjecting a Proposed Rule to Legislative Review: Any person who objects to the adoption of a permanent rule may submit written comments to the agency. A person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the 6th business day preceding the end of the month in which a rule is approved. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact

- State
- Local
- Substantive (>\$3,000,000)
- None

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02B - SURFACE WATER AND WETLAND STANDARDS

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

15A NCAC 02B .0304 FRENCH BROAD RIVER BASIN

(a) The schedule may be inspected at the following places:

- (1) Clerk of Court:
 - Avery County
 - Buncombe County
 - Haywood County
 - Henderson County
 - Madison County
 - Mitchell County
 - Transylvania County
 - Yancey County
- (2) North Carolina Department of Environment and Natural Resources
 - Asheville Regional Office
 - Interchange Building
 - 59 Woodfin Place
 - Asheville, North Carolina.

(b) Unnamed Streams. Such streams entering Tennessee will be classified "B."

(c) The French Broad River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) September 22, 1976;
- (2) March 1, 1977;
- (3) August 12, 1979;
- (4) April 1, 1983;
- (5) August 1, 1984;
- (6) August 1, 1985;
- (7) February 1, 1986;
- (8) May 1, 1987;
- (9) March 1, 1989;
- (10) October 1, 1989;
- (11) January 1, 1990;
- (12) August 1, 1990;
- (13) August 3, 1992;
- (14) October 1, 1993;
- (15) July 1, 1995;
- (16) November 1, 1995;
- (17) January 1, 1996;
- (18) April 1, 1996;
- (19) August 1, 1998;
- (20) August 1 2000;
- (21) August 1, 2002;
- (22) September 1, 2004.

(d) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective March 1, 1989 as follows:

- (1) Cataloochee Creek (Index No. 5-41) and all tributary waters were reclassified from Class C-trout and Class C to Class C-trout ORW and Class C ORW.
- (2) South Fork Mills River (Index No. 6-54-3) down to Queen Creek and all tributaries were reclassified from Class WS-I and Class WS-III-trout to Class WS-I ORW and Class WS-III-trout ORW.

(e) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective October 1, 1989 as follows: Cane River (Index No. 7-3) from source to Bowlens Creek and all tributaries were reclassified from Class C trout and Class C to Class WS-III trout and Class WS-III.

(f) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective January 1, 1990 as follows: North Toe River (Index No. 7-2) from source to Cathis Creek (Christ Branch) and all tributaries were reclassified from Class C trout and Class C to Class WS-III trout and Class WS-III.

(g) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 2B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(h) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective October 1, 1993 as follows: Reasonover Creek [Index No. 6-38-14-(1)] from source to Reasonover Lake Dam and all tributaries were reclassified from Class B Trout to Class WS-V and B Trout, and Reasonover Creek [Index No. 6-38-14-(4)] from Reasonover Lake Dam to Lake Julia Dam and all tributaries were reclassified from Class C Trout to Class WS-V Trout.

(i) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective July 1, 1995 with the reclassification of Cane Creek [Index Nos. 6-57-(1) and 6-57-(9)] from its source to the French Broad River from Classes WS-IV and WS-IV Tr to Classes WS-V, WS-V Tr and WS-IV.

(j) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective November 1, 1995 as follows: North Toe River [Index Numbers 7-2-(0.5) and 7-2-(37.5)] from source to a point 0.2 miles downstream of Banjo Branch, including tributaries, has been reclassified from Class WS-III, WS-III Trout and WS-III Trout CA (critical area) to Class WS-IV Trout, WS-IV, WS-IV Trout CA, and C Trout.

(k) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended

effective January 1, 1996 as follows: Stokely Hollow [Index Numbers 6-121.5-(1) and 6-121.5-(2)] from source to mouth of French Broad River has been reclassified from Class WS-II and Class WS-II CA to Class C.

(l) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended April 1, 1996 with the reclassification of the French Broad River [Index No. 6-(1)] from a point 0.5 miles downstream of Little River to Mill Pond Creek to Class WS-IV; French Broad River [Index No. 6-(51.5)] from a point 0.6 miles upstream of Mills River to Mills River to Class WS-IV CA (Critical Area), from Mills River to a point 0.1 miles upstream of Boring Mill Branch to Class C; and the Mills River [Index No. 6-54-(5)] was reclassified from City of Hendersonville water supply intake to a point 0.7 miles upstream of mouth of Mills River to Class WS-III, and from a point 0.7 miles upstream of mouth of Mills River to French Broad River to Class WS- III CA (Critical Area).

(m) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 1998 with the revision to the primary classification for portions of the French Broad River [Index No. 6-(38.5)] and the North Toe River 7-2-(10.5) from Class IV to Class C.

(n) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 1998 with the reclassification of Clear Creek [Index No. 6-55-(1)] from its source to Lewis Creek from Class C Tr to Class B Tr.

(o) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 2000 with the reclassification of Rough Creek [Index No. 5-8-4-(1)], including all tributaries, from its source to the Canton Reservoir from Class WS-I to Class WS-I Tr ORW.

(p) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 2002 with the revision to the primary classification for the French Broad River [Index No. 6-(1), 6-(27), 6-(47.5), 6-(52.5), and 6-(54.5)] including its four headwater forks' mainstems, watershed of tributary Davidson River, and watershed of tributary Bent Creek below Powhatan Dam, and the Nolichucky River [Index No. 7] including a lower portion of the North Toe River from Class C and Class WS-IV to Class B.

(q) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 2002 with the reclassification of the North Toe River [Index No. 7-2-(0.5)], including all tributaries, from source to a point 0.2 mile upstream of Pyatt Creek, from Class C Tr to Class WS-V Tr.

(r) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended September 1, 2004 with the reclassification of a portion of Richland Creek [Index No. 5-16-(1)], from source to a point approximately 11.2 miles from source (Boyd Avenue), from Class B to Class B Tr, and all tributaries to the portion of the creek referenced in this Paragraph from C, C HQW, and WS-I HQW to C Tr, C HQW Tr, and WS-I HQW Tr, respectively, except Hyatt Creek [Index No. 5-16-6], Farmer Branch [Index No. 5-16-11], and tributaries already classified as Tr.

Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).

Notice is hereby given in accordance with G.S. 150B-21.2 that the Soil and Water Conversation Commission intends to amend the rules cited as 15A NCAC 06G .0101-0105.

Proposed Effective Date: July 1, 2004

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): Any person requesting that the Soil and Water Conversation Commission conduct a public hearing on any portion of these rules must submit a written request to Vernon Cox, Division of Soil and Water Conversation, 1614 Mail Service Center, Raleigh, NC 27699-1614.. Mailed written requested must be postmarked no later than March 30, 2004.*

Reason for Proposed Action: *These amendments are being proposed so as to reduce acquisition costs and to increase participation in the state portion of the Conversation Reserve Enhancement Program, particularly for permanent easements.*

Procedure by which a person can object to the agency on a proposed rule: *Persons may submit objections to the proposed amendments by contacting Vernon Cox, Division of Soil and Water Conversation, 1614 Mail Service Center, Raleigh, NC 27699-1614. Voice Mail (919)715-6109, Fax (919)715-3559, E-Mail Vernon.cox@ncmail.net.*

Written comments may be submitted to: *Vernon Cox 1614 Mail Service Center, Raleigh, NC 27699-1614, Phone (919)715-6109, Fax (919)715-6109, E-Mail Vernon.cox@ncmail.net.*

Comment period ends: May 14, 2004

Procedure for Subjecting a Proposed Rule to Legislative Review: Any person who objects to the adoption of a permanent rule may submit written comments to the agency. A person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the 6th business day preceding the end of the month in which a rule is approved. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

- Fiscal Impact**
 State
 Local
 Substantive (>\$3,000,000)
 None

SUBCHAPTER 6G – CONSERVATION RESERVE ENHANCEMENT PROGRAM (CREP) – STATE PORTION OF THE PROGRAM

**SECTION .0100 - CONSERVATION RESERVE
ENHANCEMENT PROGRAM (CREP) -- STATE
PORTION OF THE PROGRAM**

15A NCAC 06G .0101 OBJECTIVES

(a) The North Carolina Conservation Reserve Enhancement Program (CREP) is a state/federal/local partnership that combines existing federal Conservation Reserve Program (CRP) funding and state funding from various sources, including the Agriculture Cost Share Program (ACSP), to take environmentally sensitive land out of crop production. For purposes of this Rule the generic term "CREP" references either the federal portion or the combined federal and state portions of the program. The combined federal and state portion of CREP is referred to as NC-CREP. Under CREP, landowners may voluntarily enroll eligible land in 10-year, 15-year, 30-year or permanent agreements or contracts. The Commission operates the state portion of NC CREP program as the lead agency for the State of North Carolina (State), and may from time to time delegate activities to the Division.

(b) The program objectives for the Commission, which are the same as those of the multi-agency CREP team, are the following: to reduce agricultural non-point source pollution; to enroll eligible land in 10-year, 15-year, 30-year or permanent ~~contracts~~; contracts or easements; to encourage voluntary sign-ups for the program; and to enhance ecological aspects and wildlife habitat of areas near watercourses.

(c) There will initially be an enrollment period beginning March 1, 1999, which will last five years, unless otherwise extended during which time requests to enroll acreage will be received. The Division, or its agent, will seek eligible applicants for enrollment into the program. Landowner payments will be made in accordance with state and federal requirements, and are subject to the availability of funds.

(d) The applicable standards, rules, regulations, and practices of the Natural Resource Conservation Service (NRCS) NRCS Field Office Technical Guide, the Farm Service Agency (FSA) 2-CRP Manual, the Division of Forest Resources, 15A NCAC 09C .0400 and the Wetlands Restoration Program, G.S. 143-214.8 are incorporated herein by reference, and such incorporation includes subsequent amendments and editions of the referenced material. Likewise, the provisions of the United States Department of Agriculture's 2-CRP Manual are incorporated herein by reference, and such incorporation includes subsequent amendments and editions of the referenced material. Copies of all of these materials are available at the offices of the Division, and the cost of any copies may not exceed ten cents (\$.10) per page.

Authority G.S. 113A-235; 139-4; 143-215.74(a); 143B-294; S.L. 1998-165.

15A NCAC 06G .0102 ELIGIBILITY

(a) Persons may offer to enroll acreage to CREP at any time within the ~~5-year~~ enrollment period or any extension thereof. Acreage enrolled into the CREP is referred to as "CREP Enrollments." Acreage enrolled into NC-CREP is referred to as NC-CREP ~~3~~ Enrollments. In order to be enrolled into the CREP, all of the following must be met:

- (1) Applicant meets the producer eligibility requirements within the 2-CRP Manual;
- (2) Acreage offered meets the cropland and marginal pasture land requirements within the 2-CRP Manual;
- (3) Acreage offered is eligible under the 2-CRP Manual, and applicable NRCS standards, and is suitable for the intended practice; and
- (4) Producer accepts the maximum payment rate based on ~~one of the following~~; the payment formula described in Rule .0105 of this Section.

- ~~(A) the county average rental for enrollments of less than 10 acres; or~~
- ~~(B) the 3 predominant soil types for enrollments of 10 acres or greater; or;~~
- ~~(C) marginal pastureland rental rate~~

(b) In addition to meeting the requirements in Paragraph (a) of this Section, the land must meet all other applicable land eligibility criteria and enrollment expectations as set forth in the 2-CRP Manual. The Commission may refuse enrollment where water quality benefits do not justify the payments, or where the acquisition is impractical or nuisance conditions exist on the land.

(c) The following acreage is ineligible to be enrolled in CREP:

- (1) federally-owned land unless the applicant has a prior written lease for the time frame in which the land is under the Conservation Reserve Program (CRP);
- (2) land on which a federal agency restricts the use in a mortgage or an easement;
- (3) acreage permanently under water, including acreage currently enrolled in CRP;
- (4) land currently enrolled in other federal programs and still under lifespan requirements;
- (5) land already enrolled in CRP; or
- (6) acreage withdrawn, terminated or otherwise released from the CRP after enrollment and before the contract expiration date.

(d) For the NC-CREP landowners may enroll in one of the following options:

- (1) 30-year contract or easement;
- (2) Permanent easement with timber harvest allowed outside the 100 foot no-cut zone; or
- (3) Permanent easement with no timber harvest allowed.

(e) Existing forested buffers may be enrolled under NC-CREP if the following conditions are met:

- (1) land must be enrolled in a permanent easement;
- (2) land must be adjacent to and contiguous to enrolled cropland/marginal pasture land (land between enrolled cropland/ marginal pasture land and waterbody, adjacent to cropland/marginal pasture land, across the qualifying waterbody of the enrolled cropland/marginal pasture land if owned by same landowner, or up gradient from enrolled cropland /marginal pasture land if it meets condition 3 below;

- (3) existing buffer must be either within 300-foot of qualifying waterbody or in the 100-year floodplain, whichever is greater;
- (4) landowner may enroll existing forest buffers up to an equal number of cropland acres (1:1) that are adjacent and contiguous to existing buffer;
- (5) landowner may enroll acreage in excess of the 1:1 ratio if the additional acreage plus the original enrollment is $\geq 80\%$ of the parent tract and the entire tract is enrolled, eliminating the need for a survey.

(f) The portion of a unmanageable field remnants that does not qualify for enrollment under FSA rules may be enrolled under NC-CREP and will qualify for the current state bonus payment being applied to the total NC-CREP enrollment, if the landowner uses one of the permanent easement options for the total enrollment.

(g) Landowners may switch from a 30-year contract/easement to one of the permanent easement options under the payment schedule existing at the time of the change in enrollment.

(h) Landowners may enroll additional forested buffers into one of the permanent easement options under the payment schedule existing at the time of additional enrollment.

(i) Landowners may enroll field remnants into one of the permanent easement options under the payment schedule existing at the time of change in the enrollment.

~~(4)(j)~~ Eligibility for the CREP shall be determined by the local District, Farm Service Agency (FSA), NRCS and the Division. An eligible applicant may enter into the federal agreements (10-years to 15-years), as well as the State agreements (30-year or permanent). Persons and land qualifying for the federal portion of CREP may also be qualified for enrollment under NC-CREP. Any landowner enrolling 10 acres or greater per tract, regardless of the length of enrollment, must enter into a 30-year or permanent State agreement. ~~30-year or permanent State agreements also require granting of a conservation easement to the State.~~

Authority G.S. 113A-235; 139-4; 143-215.74(a); 143B-294; S.L. 1998-165.

15A NCAC 06G .0103 CONSERVATION PLAN

(a) A conservation plan is required for all CREP Enrollments. The conservation plan is a record of the applicant's decisions and supporting information for the treatment of a unit of land or water as a result of the planning process that meets the NRCS Field Office Technical Guide quality criteria for each natural resource and that addresses economic and social considerations. The plan shall describe the schedule of operations and activities required to solve identified natural resource concerns. Conservation plans shall be prepared according to all applicable federal, state and local environmental laws, executive orders, and rules. The conservation plan shall be consistent with any conservation easement protecting the enrollment area. This applies regardless of eligibility for cost-share funds. Participants shall also agree to establish and maintain approved practices according to the conservation plan of operations and forest management plans, for the duration of the agreement. Practices included in the conservation plan must cost-effectively achieve a reduction in soil erosion and nutrient transport. All forestry

management practices must be completed according to a forestry management plan approved by a registered forester. The Division and the Commission may review conservation plans at any time while CREP agreements are effective.

(b) All CREP Enrollments must provide interception of water from the crop or pasture land into the enrollment area. All CREP Enrollments must maintain a contiguous buffer with the water course. Enrollments of wetland restoration areas shall only be accepted if lands are hydrologically restored to the greatest extent practicable and, if enrollments shall be in trees, in those areas where trees would be the natural cover. The riparian forested buffer or wetland practice may include an outer buffer layer of native grasses between cropped areas and the trees, as specified in the practice criteria. Hydrologic restoration to the greatest extent practicable shall occur on all NC-CREP Enrollments. Hydrologic restoration to the greatest extent practicable means to improve/increase hydrology and/or retain water to the maximum extent as long as there are no adverse impacts to non-enrolled lands. This will be accomplished through the following means: creating sheet flow; reducing concentrated flow areas; blocking or filling artificial drainage; or using water control structures in conjunction with buffers. All shall meet or exceed appropriate NRCS standards. Water infiltration and retention should be maximized on non-hydric soils by creating sheet flow and by reducing concentrated flow areas. Plans should provide for improved wildlife habitat. The establishment of CREP practices shall be:

- (1) consistent with conservation compliance provisions;
- (2) at the participant's own expense;
- (3) included in the approved conservation plan;
- (4) approved by the local District; and
- (5) subject to FSA and Division approval where applicable.

(c) 30-year contracts/easements and permanent easements for which the participant chooses the timber harvest option will require a 100-foot no-cut zone adjacent to the qualifying waterbody. Timber management and harvesting will be allowed in the remaining portion of the CREP enrollment as outlined in the contract/easement.

~~(e)(d)~~ A modification to an approved conservation plan must be in the best interest of CREP, and consistent with any conservation easement protecting the enrollment area. Such plans should be revised on an as-needed basis. Acceptable modifications include but are not limited to:

- (1) adding or improving a CREP practice;
- (2) changing CREP practices;
- (3) scheduling reapplication of a CREP practice;
- (4) reflecting change in ownership; or
- (5) implementing other non-cost shared conservation measures, if producer agrees to install according to the approved conservation plan on CREP land already seeded to an acceptable cover.

Authority G.S. 113A-235; 139-4; 143-215.74(a); 143B-294; S.L. 1998-165.

15A NCAC 06G .0104 APPROVING STATE AGREEMENTS

(a) Final approval for all NC-CREP agreements shall be the responsibility of the Division. ~~The 30-year and 30-year agreements including more than 9.9 acres and all permanent agreements~~ require recording of a conservation easement in the appropriate county registry. The intent is to provide that the NC-CREP Enrollment Area will be protected for the life of the signed agreement. The Division will provide a mechanism to acquire and record easements for NC-CREP. The Division shall provide a survey ~~for all permanent easements, where needed to~~ develop an acceptable legal description of the easement area. Conservation easements entered into will be consistent with the requirements of the Department of Administration and with 1 NCAC 06B .0210.

- (b) For approval under NC-CREP, the Division must receive:
 - (1) the State CREP form signed by the local District and the applicant;
 - (2) a copy of landowner's deed(s) to the land to be enrolled;
 - (3) a completed conservation easement(s);
 - (4) latitude and longitude coordinates locating the easement site; and
 - (5) descriptions (maps, surveys, directions to site, etc.) identifying the easement site.

(c) Under a CREP 30-year or permanent conservation easement, the title of the land still resides with the landowner. The landowner may use the land under the conservation easement in a manner that does not violate the conditions and terms of the easement. The conservation easement does not restrict the owner from selling or devising the land, however the easement will run with the land and remain an encumbrance thereon. The State must be allowed access to monitor the NC-CREP conservation easement area.

Authority G.S. 113A-235; 139-4; 143-215.74(a); 143B-294; S.L. 1998-165.

15A NCAC 06G .0105 PAYMENT

(a) The NC-CREP combines federal and state funding to achieve the goals of the program. For that reason, the eligible person may receive two separate payments (i.e. federal and state) to meet expectations set by the applicable contracts.

(b) The State payment shall be dependent on the length of the contract signed. The State payment will consist of a one-time bonus payment for executed contracts for 30-year contracts and 30-year and permanent easement enrollments ~~which that~~ require a conservation easement. The State shall also pay a portion of cost-sharable practices implemented within the guidelines of the ACSP subject to availability of funds to the District. Any agricultural cost share payments will be consistent with all Commission requirements, including but not limited to those in 15A NCAC 06E .0101-.0108.

(c) For enrollments involving the ACSP, all cost-share practices are subject to terms and policies as set forth in the ACSP rules and best management practices manual. State cost-share percentages, listed below, shall be dependent on the length of enrollment. All payments involving ACSP funds require approval of the local District Board of Supervisors, and are subject to the availability of funds to the District.

10 year	25%
15 year	30%
30 year	40%

permanent agreement 50%

(d) The maximum one-time bonus payment under NC-CREP that an eligible person can receive will be limited by the maximum payment allowed under the federal payment. The payment for enrollment of land in 30-year contracts, 30-year or permanent conservation easements will be made once the contract is executed or when the conservation easement has been recorded by the State and it has been determined that the participant is actively engaged in the applicable practices.

(e) The formula for payment of the one-time State bonus will be as follows on a per acre basis:

- (1) permanent agreement bonus payment = (15 x federal payment) x 0.30;
- (2) 30-year agreement bonus payment = (15 x federal payment) x 0.125;
- (3) the Commission may modify or replace the formula with an alternate formula, if required by a source grant restriction.

(f) An additional payment of one hundred dollars (\$100.00) per contract will be made to a participant for applying tree-planting practices on land enrolled in a 15-year, 30-year or permanent agreement, if consistent with the provisions of the 2-CRP Manual.

Authority G.S. 113A-235; 139-4; 143-215.74(a); 143B-294; S.L. 1998-165.

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Wildlife Resources Commission intends to adopt the rule cited as 15A NCAC 10A .1101 and amend the rules cited as 15A NCAC 10B .0121; 10D .0104.

Proposed Effective Date: July 1, 2004

Public Hearing:

Date: April 1, 2004

Time: 3:00 p.m.

Location: Wildlife Resources Conference Room, 3rd Floor, Archdale Building, 512 N. Salisbury St., Raleigh, NC

Reason for Proposed Action:

15A NCAC 10A .1101 – To adopt as permanent the rule permitting WRC to issue waivers.

15A NCAC 10B .0121 – Clarify definition of pigeon.

15A NCAC 10D .0104 – To adjust gamelands and seasons.

Procedure by which a person can object to the agency on a proposed rule: Notification of rulemaking coordinator, Joan Troy, by email or by letter prior to close of the comment period on May 14, 2004.

Written comments may be submitted to: Joan Troy, 1701 Mail Service Center, Raleigh, NC 27699-1701, phone (919) 733-3391, ext. 227 and email joan.troy@ncwildlife.org.

Comment period ends: May 14, 2004

Procedure for Subjecting a Proposed Rule to Legislative Review: Any person who objects to the adoption of a permanent

rule may submit written comments to the agency. A person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the 6th business day preceding the end of the month in which a rule is approved. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact

- State
- Local
- Substantive (>\$3,000,000)
- None

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10A - WILDLIFE RESOURCES COMMISSION

SECTION .1100 – WAIVER

15A NCAC 10A .1101 WAIVER

(a) The Wildlife Resources Commission authorizes the executive director or his designee to waive rules adopted by the Commission provided that the executive director or his designee finds:

- (1) that the rule provisions create an unnecessary hardship to the regulated community relative to the purpose for which they were enacted; or
- (2) the purpose for which the rules were enacted no longer exists.

In the event a substitute requirement is necessary to safeguard the original purpose of the rule being waived, an applicant for a waiver under this Paragraph shall comply with the substituted requirement.

(b) The Commission authorizes the executive director or his designee to waive rule provisions listed in Paragraph (c) of this Rule and subsequent Paragraphs under specified conditions and according to the following standards:

- (1) The applicant's history of past compliance or noncompliance with the laws of North Carolina and with rules promulgated by the Wildlife Resources Commission;
- (2) The Commission's ability to safeguard the interests of the resource while granting the waiver; and
- (3) The applicant's ability to meet the conditions of the waiver.

(c) The Commission authorizes the executive director or his designee to waive the rule banning intrastate transfer of cervids and to issue a transportation permit to an applicant for such a waiver provided that:

- (1) The executive director or his designee determines that the applicant is eligible for a waiver according to standards listed in Paragraph (b) of this Rule;
- (2) The eligible applicant shall first notify the Commission of the following:
 - (A) the tag number(s) assigned to the cervid;
 - (B) the facility of origination;
 - (C) the facility of destination;
 - (D) the date(s) upon which the transfer is to take place; and
 - (E) the means by which the cervid is to be transported; and
- (3) The executive director or his designee confirms receipt of the information requested in Subparagraph (c)(2) of this Rule.

Transportation of cervids between facilities that are licensed to the same individual shall be permitted upon the condition that the licensed applicant log the information required by Subparagraph (c)(2) of this Rule rather than submit a separate application for each transportation.

(d) The Commission authorizes the executive director or his designee to waive the rule against cervid facility expansion and to amend a license to permit expansion to an applicant for such a waiver provided that:

- (1) The executive director or his designee confirms the applicant's eligibility for a waiver according to standards listed in Paragraph (b) of this Rule;
- (2) The eligible applicant shall first notify Commission of the following:
 - (A) the location of the facility for which expansion is desired;
 - (B) the number of cervids held at that facility;
 - (C) the number of births or purchases of cervids expected within a year of the application; and
 - (D) the proposed capacity for which expansion is desired; and
- (3) The executive director or his designee confirms receipt of the information requested in Subparagraph (d)(2) of this Rule.

Authority G.S. 113-134; 113-274; 150B-19(6).

SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0100 - GENERAL REGULATIONS

15A NCAC 10B .0121 WILD BIRDS DEFINED

The English sparrow (*Passer domesticus*), the pigeon (*Columba livia*) and the starling (*Sturnus vulgaris*) are specifically excluded from the definition of "wild birds" contained in G.S. 113-129 (15a).

Authority G.S. 113-129; 113-134.

SUBCHAPTER 10D - GAME LANDS REGULATIONS

SECTION .0100 - GAME LANDS REGULATIONS

15A NCAC 10D .0104 FISHING ON GAME LANDS

(a) Generally. Except as otherwise indicated herein, fishing on game lands which are open to fishing shall be in accordance with the statewide rules. All game lands are open to public fishing except restocked ponds when posted against fishing, Hunting Creek Swamp Waterfowl Refuge, Grogan Creek in Transylvania County, and in the case of private ponds where fishing may be prohibited by the owners thereof. No trotline or set-hook or any net, trap, gig, bow and arrow or other special fishing device of a type mentioned in 15A NCAC 10C .0404(b)(c)(d) and (f) may be used in any impounded waters located entirely on game lands. Bow and arrow may be used to take nongame fishes in impounded waters located entirely on gamelands with the exception of those waters mentioned in 15A NCAC 10C .0404(a). Blue crabs taken by hook and line (other than set-hooks) in designated waterfowl impoundments located on game lands must have a minimum carapace width of five inches (point to point) and the daily possession limit is 50 per person and 100 per vessel.

(b) Designated Public Mountain Trout Waters

(1) Fishing Hours. It is unlawful to fish in designated public mountain trout waters on any game land and in all waters on the Dupont State Forest Game Land from one-half hour after sunset to one-half hour before sunrise, except in Hatchery Supported Trout waters as stated in 15A NCAC 10C .0305(a), Delayed Harvest waters as stated in 15A NCAC 10C .0205(a)(5), game lands sections of the Nantahala River located downstream from the Swain County line, and in the sections of Green River in Polk County located on Green River Game Lands from Cove Creek downstream to Brights Creek.

(2) Location. All waters located on the game lands listed in this Subparagraph are designated public mountain trout waters except Cherokee Lake, Grogan Creek, and Big Laurel Creek downstream from the US 25-70 bridge to the French Broad River, Pigeon River downstream of Waterville Reservoir to the Tennessee state line, Nolichucky River, Mill Ridge Pond Cheoah River downstream of Santeetlah Reservoir, Little River from Hooker Falls downstream to the Dupont State Forest boundary, Lake Imaging, Lake Dense, Lake Alfred, Lake Julia, Fawn Lake, the portion of West Fork Pigeon River below Lake Logan, North Fork Catawba River downstream of the mouth of Armstrong Creek and Little Tennessee River.

Dupont State Forest Game Lands in Henderson and Transylvania counties

Three Top Mountain Game Land, Ashe County

Nantahala National Forest Game Lands in the Counties of

Cherokee, Clay, Graham, Jackson, Macon, Swain and Transylvania Pisgah National Forest Game Lands in the Counties of Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Madison, McDowell, Mitchell, Transylvania and Yancey Thurmond Chatham Game Land in Wilkes County Toxaway Game Land in Transylvania County South Mountains Game Land in the counties of Cleveland and Rutherford Cold Mountain Game Land in Haywood County Buffalo Cove Game Land in Caldwell and Wilkes counties Needmore Game Land in Macon and Swain counties

(3) All designated public mountain trout waters located on the game lands listed in Subparagraph (b)(2) of this Rule are wild trout waters unless classified otherwise. [See 15A NCAC 10C .0205(a)(1)].

(c) Ponds. In all game lands ponds, it is unlawful to take channel, white or blue catfish (forked tail catfish) by means other than hook and line and the daily creel limit for forked tail catfish is six fish in aggregate.

Authority G.S. 113-134; 113-264; 113-272; 113-292; 113-305.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Health Services intends to amend the rule cited as 15A NCAC 18A .2532.

Proposed Effective Date: July 1, 2004

Public Hearing:

Date: April 28, 2004

Time: 2:00 p.m.

Location: Conference Room G1A, 1330 St. Mary's St., Raleigh, NC

Reason for Proposed Action: To allow spas to exceed the current maximum slope of 11 degrees from plumb which is required for all public swimming pools but not to exceed 15 degrees plumb. The maximum slope of 11 degrees presents a manufacturing problem with fabrication of some spas. The maximum slope is primarily a driving safety requirement for deeper swimming pools and is not needed for shallow spas.

Procedure by which a person can object to the agency on a proposed rule: Jim Hayes, Branch Head, DENR/Environmental Health Services Section, 1632 Mail Service Center, Raleigh, NC 27699-1632, email jim.hayes@ncmail.net, or phone (919) 715-0924.

Written comments may be submitted to: *Jim Hayes, Branch Head, DENR/Environmental Health Services Section, 1632 Mail Service Center, Raleigh, NC 27699-1632, email jim.hayes@ncmail.net, phone (919) 715-0924, and fax (919) 715-4739.*

Comment period ends: *May 14, 2004*

Procedure for Subjecting a Proposed Rule to Legislative Review: Any person who objects to the adoption of a permanent rule may submit written comments to the agency. A person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the 6th business day preceding the end of the month in which a rule is approved. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact

- State
- Local
- Substantive (>\$3,000,000)
- None

CHAPTER 18 - ENVIRONMENTAL HEALTH

SUBCHAPTER 18A – SANITATION

SECTION .2500 - PUBLIC SWIMMING POOLS

15A NCAC 18A .2532 SPAS AND HOT TUBS

Spas and hot tubs shall meet all design specifications for swimming pools and wading pools included in Rules .2512-.2530 of this Section with the following exceptions:

- (1) The circulation system equipment shall provide a turnover rate for the entire water capacity at least once every 30 minutes.
- (2) The arrangement of water inlets and outlets shall produce a uniform circulation of water so as to maintain a uniform disinfectant residual throughout the spa.
- (3) A minimum of two inlets shall be provided with inlets added as necessary to maintain required flowrate.
- (4) Water outlets shall be designed so that each pumping system in the spa (filter systems or booster systems if so equipped) provides the following:
 - (a) Two drains connected by "T" piping. Connecting piping shall be of the same diameter as the main drain outlet. Filter system drains shall be capable of emptying the spa

completely. In spas constructed after April 1, 2000 drains shall be installed at least three feet apart or located on two different planes of the pool structure.

- (b) Filtration systems shall provide at least one surface skimmer per 100 square feet, or fraction thereof of surface area.
- (5) The water velocity in spa or hot tub discharge piping shall not exceed 10 feet per second (3.05 m/second); except for copper pipe where water velocity shall not exceed eight feet per second (2.44 m/second). Suction water velocity in any piping shall not exceed six feet per second (1.83 m/second).
- (6) Spa recirculation systems shall be separate from companion swimming pools.
 - (a) Where a two-pump system is used, one pump shall provide the required turnover rate, filtration and disinfection for the spa water. The other pump shall provide water or air for hydrotherapy turbulence without interfering with the operation of the recirculation system. The timer switch shall activate only the hydrotherapy pump.
 - (b) Where a single two-speed pump is used, the pump shall be designed and installed to provide the required turnover rate for filtration and disinfection of the spa water at all times without exceeding the maximum filtration rates specified in Rule .2519 of this Section. The timer switch shall activate only the hydrotherapy portion of the pump.
 - (c) Where a single one-speed pump is used, a timer switch shall not be provided.
- (7) A timer switch shall be provided for the hydrotherapy turbulence system with a maximum of 15 minutes on the timer. The switch shall be placed such that bathers must leave the spa to reach the switch.
- (8) The maximum operational water depth shall be four feet (1.22 m) measured from the water line.
- (9) The maximum depth of any seat or sitting bench shall be two feet (61 cm) measured from the waterline.
- (10) A minimum height between the top of the spa/hot tub rim and the ceiling shall be 7 ½ feet.
- (11) Depth markers are not required at spas.
- (12) Steps, step-seats, ladders or recessed treads shall be provided where spa and hot tub depths are greater than 24 inches (61 cm).

PROPOSED RULES

- (13) Contrasting color bands or lines shall be used to indicate the leading edge of step treads, seats, and benches.
- (14) A spa or hot tub shall be equipped with at least one handrail (or ladder equivalent) for each 50 feet (15.2 m) of perimeter, or portion thereof, to designate points of entry and exit.
- (15) Where water temperature exceeds 90° Fahrenheit (32° C), a caution sign shall be mounted adjacent to the entrance to the spa or hot tub. It shall contain the following warnings in letters at least 2 inch in height:
 - (a) CAUTION:
 - (b) -Pregnant women; elderly persons, and persons suffering from heart disease, diabetes, or high or low blood pressure should not enter the spa/hot tub without prior medical consultation and permission from their doctor;
 - (c) -Do not use the spa/hot tub while under the influence of alcohol, tranquilizers, or other drugs that cause drowsiness or that raise or lower blood pressure;
 - (d) -Do not use alone;
 - (e) -Unsupervised use by children is prohibited;
 - (f) -Enter and exit slowly;
 - (g) -Observe reasonable time limits (that is, 10-15 minutes), then leave the water and cool down before returning for another brief stay;
 - (h) -Long exposure may result in nausea, dizziness, or fainting;
 - (i) -Keep all breakable objects out of the area.
- (16) Spas shall meet the emergency telephone and signage requirements for swimming pools in Rule .2530(f).
- (17) A sign shall also be posted requiring a shower for each user prior to entering the spa or hot tub and prohibiting oils, body lotion, and minerals in the water.
- (18) Spas shall not be required to provide the lifesaving equipment described in Rule .2530(a) of this Section.
- (19) In spas less than four feet deep the slope of the pool wall may exceed 11 degrees from plumb, but shall not exceed 15 degrees from plumb.

Authority G.S. 130A-282.

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

EXPIRED EMERGENCY RULES

The following emergency rule has expired and has been removed from the NC Administrative Code. The dates shown to the right of the rule citation are the original effective date and the date the rule expired.

<u>Rule Citation</u>	<u>Effective Date</u>	<u>Expiration Date</u>
Marine Fisheries Commission 15A NCAC 03S .0103	October 14, 2003	January 2, 2004

TEMPORARY RULES

Note from the Codifier: The rules published in this Section of the NC Register are temporary rules reviewed and approved by the Rules Review Commission (RRC) and have been delivered to the Codifier of Rules for entry into the North Carolina Administrative Code. A temporary rule expires on the 270th day from publication in the Register unless the agency submits the permanent rule to the Rules Review Commission by the 270th day.

This section of the Register may also include, from time to time, a listing of temporary rules that have expired. See G.S. 150B-21.1 and 26 NCAC 02C .0500 for adoption and filing requirements.

EXPIRED TEMPORARY RULES

The following temporary rules have expired and are removed from the NC Administrative Code. The dates shown to the right of the rule citation are the original effective date and the date the rule expired.

<u>Rule Citation</u>	<u>Effective Date</u>	<u>Expiration Date</u>
Department of Administrative		
1 NCAC 30H .0203-.0205	July 1, 2002	November 20, 2003
1 NCAC 30H .0303-.0305	July 1, 2002	November 20, 2003
1 NCAC 30H .0701	July 1, 2002	November 20, 2003
1 NCAC 30H .0801	July 1, 2002	November 20, 2003
1 NCAC 30H .0901	July 1, 2002	November 20, 2003
1 NCAC 30H .1001	July 1, 2002	November 20, 2003
1 NCAC 30J .0101	February 1, 2003	December 18, 2003
DHHS/Social Services Commission		
10A NCAC 71V .0301-.0306	February 17, 2004	February 28, 2004
DENR/Environmental Management Commission		
15A NCAC 02D .1205	March 1, 2003	December 12, 2003
15A NCAC 02H .0126	November 1, 2002	January 22, 2004 (RRC ret'd to agency)
DENR/Wildlife Commission		
15A NCAC 10A .1101	May 21, 2003	March 12, 2004
15A NCAC 10F .0326	March 15, 2003	October 12, 2003
15A NCAC 10F .0336	March 15, 2003	October 12, 2003
15A NCAC 10F .0352	March 15, 2003	October 12, 2003

TITLE 10A– DEPARTMENT OF HEALTH AND HUMAN SERVICES

Editor's Note: This publication will serve as Notice of Proposed Temporary Rule-making as required by S.L. 2002-160, and S.L. 2003-284, s. 10.8C.

Rulemaking Agency: Medical Care Commission

Rule Citations: 10A NCAC 13F .0301-.0307, .0309-.0312, .0403-.0404, .0704, .0905, .0907, .0909, .1201, .1210; 13G .0202, .0403-.0404, .0703-.0704, .0905, .0907, .0909, .1201, .1212

The rules proposed for temporary amendment published as .0301-.0312 are recodified as requested by the rule-making coordinator of the Division of Facility Services to allow for reorganization of Section .0300 without numerous repeals.

Authority for the rulemaking: S.L. 2002-160 (HB 1777)

Public Hearing:

Date: April 13, 2004

Time: 10:00 a.m.

Location: Dorothea Dix Campus, Council Building, Rm. 201, 701 Barbour Dr., Raleigh, NC

Comment Procedures: Comments from the public shall be directed to Doug Barrick, Division of Facility Services, 2708 Mail Service Center, Raleigh, NC 27699-2708. The comment period begins March 16, 2004 and ends April 19, 2004.

CHAPTER 13 - NC MEDICAL CARE COMMISSION

SUBCHAPTER 13F - LICENSING OF HOMES FOR THE AGED AND INFIRM

SECTION .0300 - PHYSICAL PLANT

10A NCAC 13F .0301 APPLICATION OF PHYSICAL PLANT REQUIREMENTS

The physical plant requirements for each facility shall be applied as follows:

- (1) New construction shall comply with the requirements of Rules .0301 - .0311 of this Section;

- (2) Except where otherwise specified, existing licensed facilities or portions of existing licensed facilities shall meet licensure and code requirements in effect at the time of construction, change in service or bed count, addition, renovation, or alteration, however in no case shall the requirements for any licensed facility where no addition or renovation has been made, be less than those requirements found in the 1971 "Minimum and Desired Standards and Regulations" for "Homes for the Aged and Infirm", copies of which are available at the Division of Facility Services, 701 Barbour Drive, Raleigh, North Carolina, 27603 at no cost;
- (3) New additions, alterations, modifications and repairs shall meet the technical requirements of Rules .0301 - .0311 of this Section; however, where strict conformance with current requirements would be impractical, the Division may approve alternative measures where the facility can demonstrate to the Division's satisfaction that the alternative measures do not reduce the safety or operating effectiveness of the facility;
- (4) Effective July 1, 1987, resident bedrooms and resident services shall not be permitted on the second floor of any facility licensed prior to April 1, 1984 and classified as two-story wood frame construction by the North Carolina State Building Code;
- (5) Rules .0301 - .0311 of this Section are minimum requirements and are not intended to prohibit buildings, systems or operational conditions that exceed minimum requirements;
- (6) The bed capacity and services provided in a facility shall be in compliance with G.S. 131E, Article 9 regarding Certificate of Need. A facility shall be licensed for no more beds than the number for which required physical space and other required facilities are available;
- (7) Equivalency: Alternate methods, procedures, design criteria and functional variations from the physical plant requirements, because of extraordinary circumstances, new programs or unusual conditions, may be approved by the Division when the facility can effectively demonstrate to the Division's satisfaction, that the intent of the physical plant requirements are met and that the variation does not reduce the safety or operational effectiveness of the facility; and
- (8) Where rules, codes or standards have any conflict, the most stringent requirement shall apply.

construction. . All new construction, additions and renovations to existing buildings shall meet the requirements of the North Carolina State Building Code for I-2 Institutional Occupancy if the facility houses 13 or more residents or the North Carolina State Building Code requirements for Large Residential Care Facilities if the facility houses seven to twelve residents. The North Carolina State Building Code, all applicable volumes, which is incorporated by reference, including all subsequent amendments may be purchased from the Department of Insurance Engineering Division located at 322 Chapanoke Road, Suite 200, Raleigh, North Carolina 27603 at a cost of three hundred eighty dollars (\$380.00). The facility shall also meet all of the rules of this Section.

- (b) Each facility shall be planned, constructed, equipped and maintained to provide the services offered in the facility.
- (c) Any existing building converted from another use to an Adult Care Home shall meet all requirements of a new facility.
- (d) Any existing licensed facility that is closed or vacant for more than one year shall meet all requirements of a new facility.
- (e) The sanitation, water supply, sewage disposal and dietary facilities shall comply with the rules of the North Carolina Division of Environmental Health, which are incorporated by reference, including all subsequent amendments. The "Rules Governing the Sanitation of Hospitals, Nursing and Rest Homes, Sanitariums, Sanatoriums, and Educational and Other Institutions", 15A NCAC 18A .1300 are available for inspection at the Department of Environment and Natural Resources, Division of Environmental Health, 2728 Capital Boulevard, Raleigh, North Carolina. Copies may be obtained from Environmental Health Services Section, 1632 Mail Service Center, Raleigh, North Carolina 27699-1632 at no cost.

Authority G.S. 131D-2; 143B-153; 143B-165; S.L. 2002-160; 2003-0284.

10A NCAC 13F.0303 LOCATION

- (a) The proposed facility shall be in a location approved by local zoning boards. The home shall be located so that the occupants are protected from hazards.
- (b) Plans for the building and site are to be reviewed and approved by the Construction Section of the Division of Facility Services prior to licensure.
- (c) An adult care home may be located in an existing building or in a building newly constructed specifically for that purpose.
- (d) The site of the proposed facility shall be approved by the Department prior to construction and shall:
 - (1) be accessible by streets, roads and highways and be maintained for motor vehicles and emergency vehicle access;
 - (2) be accessible to fire fighting and other emergency services;
 - (3) have a water supply, sewage disposal system, garbage disposal system and trash disposal system approved by the local health department having jurisdiction;
 - (4) meet all local ordinances and zoning laws; and
 - (5) be free from exposure to hazards and pollutants.

Authority G.S. 131D-2; 143B-153; 143B-165; S.L. 2002-0160;

Authority G.S. 131D-2; 143B-165; S.L. 2002-160; 2003-0284.

10A NCAC 13F .0302 DESIGN AND CONSTRUCTION

- (a) Any building licensed for the first time shall meet the requirements of the North Carolina State Building Code for new

2003-0284.

10A NCAC 13F .0304 PLANS AND SPECIFICATIONS

- (a) When construction or remodeling is planned, two copies of Construction Documents and specifications shall be submitted by the applicant or his appointed representative to the Department for review and approval. As a preliminary step to avoid last minute difficulty with final plan approval, Schematic drawings and Design Development drawings may be submitted for approval prior to the required submission of Construction Documents.
- (b) Approval of Construction Documents and specifications shall be obtained from the Division prior to licensure. Approval of Construction Documents shall expire after one year unless a building permit for the construction has been obtained.
- (c) If an approval expires, renewed approval shall be issued provided revised Construction Documents meeting all current regulations, codes and standards are submitted and reviewed.
- (d) Any changes made during construction shall require the approval of the Division to assure that licensing requirements are maintained.
- (e) Completed construction or remodeling shall conform to the minimum standards established in Rules .0301 - .0311 of this Section including the operation of all building systems and must be approved in writing by the Division prior to licensure or occupancy. Within 90 days following licensure, the Owner or Licensee shall submit documentation to the Division that "as built" drawings have been received from the builder.
- (f) The applicant or his designated agent shall notify the Division when actual construction or remodeling starts and at points when construction is 50 percent, 75 percent and 90 percent complete and upon final completion.

Authority G.S. 131D-2; 143B-165; S.L. 2002-0160; 2003-0284.

10A NCAC 13F.0305 PHYSICAL ENVIRONMENT

The home shall provide living arrangements to meet the individual needs of the residents, the live-in staff and other live-in persons.

- (1) The requirements for each living room and recreational area are:
 - (a) Each living room and recreational area shall be located off a lobby or corridor. At least 50 percent of required living and recreational areas shall be enclosed with walls and doors;
 - (b) In buildings with a licensed capacity of 15 or less, there shall be a minimum area of 250 square feet;
 - (c) In buildings with a licensed capacity of 16 or more, there shall be a minimum of 16 square feet per resident; and
 - (d) Each living room and recreational area shall have windows.
- (2) The requirements for the dining room are:
 - (a) The dining room shall be located off a lobby or corridor and enclosed with walls and doors;

- (b) In buildings with a licensed capacity of 15 or less, there shall be a minimum of 200 square feet;
 - (c) In building with a licensed capacity of 16 or more, there shall be a minimum of 14 square feet per resident; and
 - (d) The dining room shall have windows.
- (3) The requirements for the bedroom are:
- (a) The number of resident beds set up shall not exceed the licensed capacity of the facility;
 - (b) There shall be bedrooms sufficient in number and size to meet the individual needs according to age and sex of the residents, any live-in staff and other persons living in the home. Residents shall not share bedrooms with staff or other live-in non-residents;
 - (c) Only rooms authorized as bedrooms shall be used for residents' bedrooms;
 - (d) Bedrooms shall be located on an outside wall and off a corridor. A room where access is through a bathroom, kitchen, or another bedroom shall not be approved for a resident's bedroom;
 - (e) There shall be a minimum area of 100 square feet excluding vestibule, closet or wardrobe space, in rooms occupied by one person and a minimum area of 80 square feet per bed, excluding vestibule, closet or wardrobe space, in rooms occupied by two people;
 - (f) The total number of residents assigned to a bedroom shall not exceed the number authorized for that particular bedroom;
 - (g) A bedroom may not be occupied by more than two residents; (h) Resident bedrooms shall be designed to accommodate all required furnishings;
 - (i) Each resident bedroom shall be ventilated with one or more windows which are maintained operable and well lighted. The window area shall be equivalent to at least eight percent of the floor space and be provided with insect screens. The window opening may be restricted to a six inch opening to inhibit resident elopement or suicide. The windows shall be low enough to see outdoors from the bed and chair, with a maximum 36 inch sill height; and
 - (j) Bedroom closets or wardrobes shall be large enough to provide each resident with a minimum of 48 cubic

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- feet of clothing storage space (approximately two feet deep by three feet wide by eight feet high of which at least one-half shall be for hanging clothes with an adjustable height hanging bar.
- (4) The requirements for bathrooms and toilet rooms are:
- (a) Minimum bathroom and toilet facilities shall include a toilet and a hand lavatory for each 5 residents and a tub or shower for each 10 residents or portion thereof;
 - (b) Entrance to the bathroom shall not be through a kitchen, another person's bedroom, or another bathroom;
 - (c) Toilets and baths for staff and visitors shall be in accordance with the North Carolina State Building Code, Plumbing Code;
 - (d) Bathrooms and toilets accessible to the physically handicapped shall be provided as required by Volume I-C, North Carolina State Building Code, Accessibility Code;
 - (e) The bathrooms and toilet rooms shall be designed to provide privacy. Bathrooms and toilet rooms with two or more water closets (commodes) shall have privacy partitions or curtains for each water closet. Each tub or shower shall have privacy partitions or curtains;
 - (f) Hand grips shall be installed at all commodes, tubs and showers used by or accessible to residents;
 - (g) Each home shall have at least one bathroom opening off the corridor with: a door three feet minimum width, a three feet by three feet roll-in shower designed to allow the staff to assist a resident in taking a shower without the staff getting wet, a bathtub accessible on at least two sides, a lavatory and a toilet. If the tub and shower are in separate rooms, each room shall have a lavatory and a toilet. ;
 - (h) Bathrooms and toilet rooms shall be located as conveniently as possible to the residents' bedrooms;
 - (i) Resident toilet rooms and bathrooms shall not be utilized for storage or purposes other than those indicated in Item (4) of this Rule;
 - (j) Toilets and baths shall be well lighted and mechanically ventilated at two cubic feet per minute. The mechanical ventilation requirement does not apply to facilities licensed before April 1, 1984, with natural ventilation;
- (k) Nonskid surfacing or strips shall be installed in showers and bath areas; and
- (l) The floors of the bathrooms and toilet rooms shall have, water-resistant covering.
- (5) The requirements for storage rooms and closets are:
- (a) General Storage for the Home. A minimum area of five square feet (40 cubic feet) per licensed capacity shall be provided. This storage space shall be either in the facility or within 500 feet of the facility on the same site;
 - (b) Linen Storage. Storage areas shall be adequate in size and number for separate storage of clean linens and separate storage of soiled linens. Access to soiled linen storage shall be from a corridor or laundry room;
 - (c) Food Storage. Space shall be provided for dry, refrigerated and frozen food items to comply with sanitation regulations;
 - (d) Housekeeping storage requirements are:
 - (i) A housekeeping closet, with mop sink or mop floor receptor, shall be provided at the rate of one per 60 residents or portion thereof; and
 - (ii) There shall be separate locked areas for storing cleaning agents, bleaches, pesticides, and other substances which may be hazardous if ingested, inhaled or handled. Cleaning supplies shall be supervised while in use;
 - (e) Handwashing facilities with wrist type lever handles shall be provided immediately adjacent to the drug storage area;
 - (f) Storage for Resident's Articles. Some means for residents to lock personal articles within the home shall be provided; and
 - (g) Staff Facilities. Some means for staff to lock personal articles within the home shall be provided.
- (6) The requirements for corridors are:
- (a) Doors to spaces other than small reach-in closets shall not swing into the corridor;
 - (b) Handrails shall be provided on both sides of corridors at 36 inches above

- the floor and be capable of supporting a 250 pound concentrated load;
- (c) Corridors shall be lighted sufficiently with night lights providing 1 foot-candle power at the floor; and
 - (d) Corridors shall be free of all equipment and other obstructions.
- (7) The requirements for outside entrances and exits are:
- (a) Service entrances shall not be through resident use areas;
 - (b) All steps, porches, stoops and ramps shall be provided with handrails and guardrails;
 - (c) All exit door locks shall be easily operable, by a single hand motion, from the inside at all times without keys; and
 - (d) In homes with at least one resident who is determined by a physician or is otherwise known to be disoriented or a wanderer, each exit door accessible by residents shall be equipped with a sounding device that is activated when the door is opened. The sound shall be of sufficient volume that it can be heard by staff. If a central system of remote sounding devices is provided, the control panel for the system shall be located in the office of the administrator or in a secured location approved by the Division.
- (8) The requirements for floors are:
- (a) All floors shall be of smooth, non-skid material and so constructed as to be easily cleanable;
 - (b) Scatter or throw rugs shall not be used; and
 - (c) All floors shall be kept in good repair.
- (9) Soil Utility Room. A separate room shall be provided and equipped for the cleaning and sanitizing of bed pans and shall have handwashing facilities.
- (10) Office. There shall be an area within the home large enough to accommodate normal administrative functions.
- (11) The requirements for laundry facilities are:
- (a) Laundry facilities shall be large enough to accommodate washers, dryers, and ironing equipment or work tables;
 - (b) These facilities shall be located where soiled linens will not be carried through the kitchen, dining, clean linen storage, living rooms or recreational areas; and
 - (c) A minimum of one residential type washer and dryer each shall be provided in a separate room which is accessible by staff, residents and family, even if all laundry services are contracted.
- (12) The requirements for outside premises are:
- (a) The outside grounds shall be maintained in a clean and safe condition;
 - (b) If the home has a fence around the premises, the fence shall not prevent residents from exiting or entering freely or be hazardous; and
 - (c) Outdoor walkways and drives shall be illuminated by no less than five foot-candles of light at ground level.
- (13) Alternate methods, procedures, design criteria and functional variations from the physical environment requirements, because of extraordinary circumstances, new programs or unusual conditions, may be approved by the Division when the facility can effectively demonstrate to the Division's satisfaction that the intent of the physical environment requirements are met and the variation does not reduce the safety or operational effectiveness of the facility.

Authority G.S. 131D-2; 131D-4.5; 143B-153; S.L. 1999-0334; 2002-0160; 2003-0284.

**10A NCAC 13F .0306
HOUSEKEEPING AND FURNISHINGS**

- (a) Facilities shall:
- (1) have walls, ceilings, and floors or floor coverings kept clean and in good repair;
 - (2) have no chronic unpleasant odors;
 - (3) have furniture clean and in good repair;
 - (4) have an approved sanitation classification at all times in facilities with 12 beds or less and sanitation scores of 85 or above at all times in facilities with 13 beds or more;
 - (5) be maintained in an uncluttered, clean and orderly manner, free of all obstructions and hazards;
 - (6) have an adequate supply of bath soap, clean towels, washcloths, sheets, pillow cases, blankets, and additional coverings on hand at all times;
 - (7) make available the following items as needed through any means other than charge to the personal funds of recipients of State-County Special Assistance:
 - (A) protective sheets and clean, absorbent, soft and smooth pads;
 - (B) bedpans, urinals, hot water bottles, and ice caps; and
 - (C) bedside commodes, walkers, and wheelchairs;
 - (8) have television and radio, each in good working order;
 - (9) have curtains, draperies or blinds, where appropriate;

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- (10) have recreational equipment, supplies for games, books, magazines and a current newspaper available for residents; and
 - (11) have an easily readable clock in an area commonly used by residents.
- (b) Residents will be allowed to bring their own furniture and personal belongings if permitted by the home.
- (c) Each bedroom shall have the following furnishings in good repair and clean for each resident:
- (1) A bed equipped with box springs and mattress or solid link springs and no-sag innerspring or foam mattress. Hospital bed appropriately equipped shall be arranged for as needed. A water bed is allowed if requested by a resident and permitted by the home. Each bed is to have the following:
 - (A) at least one pillow with clean pillow case;
 - (B) clean top and bottom sheets on the bed, with bed changed as often as necessary but at least once a week; and
 - (C) clean bedspread and other clean coverings as needed;
 - (2) a bedside type table;
 - (3) chest of drawers or bureau when not provided as built-ins, or a double chest of drawers or double dresser for two residents;
 - (4) a wall or dresser mirror that can be used by each resident;
 - (5) a minimum of one comfortable chair (rocker or straight, arm or without arms, as preferred by resident), high enough from floor for easy rising;
 - (6) additional chairs available, as needed, for use by visitors;
 - (7) individual clean towel, wash cloth and towel bar in the bedroom or an adjoining bathroom; and
 - (8) a light overhead of bed with a switch within reach of person lying on bed; or a lamp. The light shall provide a minimum of 30 foot-candle power of illumination for reading.
- (d) The living room shall have f functional living room furnishings for the comfort of aged and disabled persons, with coverings that are easily cleanable.
- (e) The dining room shall have the following furnishings:
- (1) small tables serving from two to eight persons and chairs to seat all residents eating in the dining room; tables and chairs equal to the resident capacity of the home shall be on the premises; and
 - (2) chairs that are sturdy, non-folding, without rollers and designed to minimize tilting.
- (f) This Rule shall apply to new and existing facilities.

Authority G.S. 131D-2; 143B-153; S.L. 2002-0160; 2003-0284.

10A NCAC 13F.0307 FIRE ALARM SYSTEM

- (a) The fire alarm system shall be able to transmit an automatic signal to the local fire department where possible.
- (b) Any other applicable fire safety requirements required by city ordinances or county building inspectors shall be provided.
- (c) In a facility licensed before April 1, 1984 and constructed prior to January 1, 1975, the building, in addition to meeting the requirements of the North Carolina State Building Code in effect at the time the building was constructed, shall be provided with the following:
 - (1) A fire alarm system with pull stations near each exit and sounding devices which are audible throughout the building must be provided;
 - (2) Products of combustion (smoke) U/L listed detectors in all corridors. The detectors shall be no more than 60 feet from each other and no more than 30 feet from any end wall;
 - (3) Heat detectors or products of combustion detectors in all storage rooms, kitchens, living rooms, dining rooms and laundries;
 - (4) All detection systems interconnected with the fire alarm system; and
 - (5) Emergency power for the fire alarm system, heat detection system, and products of combustion detection shall be automatic start generator or trickle charge battery system capable of operating the fire alarm systems for 24 hours and be able to sound the alarm for five minutes at the end of that time. Emergency egress lights and exit signs shall be powered from an automatic start generator or a U/L approved trickle charge battery system capable of operation for 1-1/2 hours when normal power fails.
- (d) When any facility not equipped with a complete automatic fire extinguishment system replaces the fire alarm system, each bedroom shall be provided with smoke detectors. Other building spaces shall be provided with such fire detection devices as required by the North Carolina State Building Code and requirements of this Subchapter.

Authority G.S. 131D-2; 143B-153; S.L. 2002-0160; 2003-0284.

10A NCAC 13F.0309 PLAN FOR EVACUATION

- (a) A written fire evacuation plan (including a diagrammed drawing) which has the written approval of the local Code Enforcement Official shall be prepared in large print and posted in a central location on each floor. The plan shall be reviewed with each resident on admission and must be a part of the orientation for all new staff.
- (b) There shall be at least 12 rehearsals of the fire plan each year (quarterly on each shift) in accordance with the requirement of the local Fire Prevention Code Enforcement Official.
- (c) Records of rehearsals shall be maintained and copies furnished to the county department of social services annually. The records shall include the date and time of the rehearsals, the shift, staff members present, and a short description of what the rehearsal involved.

(d) A written disaster plan, which has the written approval of or has been documented as received by the local emergency management agency and the local agency designated to coordinate special needs sheltering during disasters, shall be prepared and updated at least annually and shall be maintained in the facility.

(e) A facility that elects to be designated as a special care shelter during an impending disaster or emergency event shall follow the guidelines established by the State of North Carolina Disaster Plan 2001. The facility shall contact the Division of Facility Services to determine which licensure rules may be waived according to G.S. 131D-7 to allow for emergency care shelter placements prior to sheltering during the emergency event.

(f) This Rule shall apply to new and existing facilities.

Authority G.S. 131D-2; 143B-153; S.L. 2002-0160; 2003-0284.

10A NCAC 13F.0310 ELECTRICAL OUTLETS

All electrical outlets in wet locations at sinks, bathrooms and outside of building shall have ground fault interrupters.

Authority G.S. 131D-2; 143B-153; S.L. 2002-0160; 2003-0284.

10A NCAC 13F.0311 OTHER REQUIREMENTS

(a) The building and all fire safety, electrical, mechanical, and plumbing equipment shall be maintained in a safe and operating condition.

(b) There shall be an approved heating system sufficient to maintain 75 degrees F (24 degrees C) under winter design conditions. In addition, the following shall apply to heaters and cooking appliances.

- (1) Built-in electric heaters, if used, shall be installed or protected so as to avoid burn hazards to residents and room furnishings.
- (2) Unvented fuel burning room heaters and portable electric heaters are prohibited.
- (3) Fireplaces, fireplace inserts and wood stoves shall be designed or installed so as to avoid a burn hazard to residents. Fireplace inserts and wood stoves shall be U.L. listed.

Ovens, ranges and cook tops located in resident activity or recreational areas shall not be used except under facility staff supervision. The degree of staff supervision shall be based on the facilities assessment of the capabilities of each resident. The operation of the equipment shall have a locking feature provided, that shall be controlled by staff.

- (4) Ovens, ranges and cook tops located in resident rooms shall have a locking feature provided, controlled by staff, to limit the use of the equipment by residents who have been assessed by the facility to be incapable of operating the equipment in a safe manner.

(c) Air conditioning or at least one fan per resident bedroom and living and dining areas shall be provided when the temperature in the main center corridor exceeds 80 degrees F (26.7 degrees C).

(d) The hot water system shall be of such size to provide an adequate supply of hot water to the kitchen, bathrooms, laundry, housekeeping closets and soil utility room. The hot water temperature at all fixtures used by residents shall be maintained at a minimum of 100 degrees F (38 degrees C) and shall not exceed 116 degrees F (46.7 degrees C).

(e) All multi-story facilities shall be equipped with elevators.

(f) In addition to the required emergency lighting, minimum lighting shall be as follows:

- (1) 30 foot-candle power for reading;
- (2) 10 foot-candle power for general lighting; and
- (3) 1 foot-candle power at the floor for corridors at night.

(g) The spaces listed in this Paragraph shall be provided with exhaust ventilation at the rate of two cubic feet per minute per square foot. This requirement does not apply to facilities licensed before April 1, 1984, with adequate natural ventilation in these specified spaces:

- (1) soiled linen storage;
- (2) soil utility room;
- (3) bathrooms and toilet rooms;
- (4) housekeeping closets; and
- (5) laundry area.

(h) In facilities licensed for 7-12 residents, an electrically operated call system shall be provided connecting each resident bedroom to the live-in staff bedroom. The resident call system activator shall be such that they can be activated with a single action and remain on until deactivated by staff at the point of origin. The call system activator shall be within reach of the resident lying on the bed.

(i) In newly licensed facilities without live-in staff, an electrically operated call system shall be provided connecting each resident bedroom and bathroom to a staff station. The resident call system activator shall be such that they can be activated with a single action and remain on until deactivated by staff at the point of origin. The call system activator shall be within reach of the resident lying on the bed.

(j) Except where otherwise specified, existing facilities housing persons unable to evacuate without staff assistance must provide those residents with handbells or other signaling devices.

Authority G.S. 131D-2; 143B-153; S.L. 1999-0334; 2002-0160; 2003-0284.

10A NCAC 13F .0312 BUILDING CODE AND SANITATION REQUIREMENTS

Authority G.S. 131D-2; 143B-153; S.L. 2002-0160; 2003-0284.

SECTION .0400 - STAFF QUALIFICATIONS

10A NCAC 13F .0403 QUALIFICATIONS OF MEDICATION STAFF

(a) Staff who administer medications, hereafter referred to as medication aides, and staff who directly supervise the administration of medications shall have documentation of successfully completing the clinical skills validation portion of the competency evaluation according to Paragraphs (d) and (e) of Rule 10A NCAC 13F .0503 prior to the administration or supervision of the administration of medications. Persons authorized by state occupational licensure laws to administer medications are exempt from this requirement.

(b) Medication aides and their direct supervisors, except persons authorized by state occupational licensure laws to administer medications, shall successfully pass the written examination within 90 days after successful completion of the clinical skills validation portion of a competency evaluation according to Rule .0503 of this Section. . (c) Medication aides and staff who directly supervise the administration of medications, except persons authorized by state occupational licensure laws to administer medications, shall complete six hours of continuing education annually related to medication administration.

Authority G.S. 131D-2; 131D-4.5; 143B-165; S.L. 1999-0334; 2002-0160; 2003-0284.

10A NCAC 13F .0404 QUALIFICATIONS OF ACTIVITY DIRECTOR

There shall be a designated activity director who meets the following qualifications.

- (1) The activity director (employed on or after August 1, 1991) shall meet a minimum educational requirement by being at least a high school graduate or certified under the GED Program or by passing an alternative examination established by the Department of Health & Human Services;
- (2) The activity director hired on or after the effective date of this Rule shall have completed or complete, within nine months of employment or assignment to this position, an activity course for assisted living activity directors offered by community colleges or a comparable activity course as determined by the Department based on instructional hours and content. A person with a degree in recreational administration or a related field meets this requirement as does a person who completed the activity coordinator course of 48 hours or more through a community college before the effective date of this Rule.

Authority G.S. 131D-2; 143B-153; 143B-165; S.L. 2002-0160; 2003-0284.

SECTION .0700 - ADMISSION AND DISCHARGE

10A NCAC 13F .0704 RESIDENT CONTRACT, INFORMATION ON HOME AND RESIDENT REGISTER

(a) The administrator or administrator-in-charge shall furnish and review with the resident or responsible person essential information on the home upon admission and when changes are made to that information. A statement indicating that this information has been received upon admission or amendment as required by this Rule shall be signed and dated by each person to whom it is given and retained in the resident's record in the home. The information shall include at least the following:

- (1) the resident contract to which the following applies:
 - (A) the contract shall specify rates for resident services and accommodations, including the cost

of different levels of service, if applicable, and any other charges or fees;

- (B) the contract shall disclose any health needs or conditions that the facility has determined it cannot meet pursuant to G.S. 131D-2(a)(a1)(4);
- (C) the contract shall be signed and dated by the administrator or administrator-in-charge and the resident or responsible person, a copy given to the resident or responsible person and a copy kept in the resident's record;
- (D) the resident or responsible person shall be notified as much in advance as possible, but not less than 30 days for rate changes initiated by the facility, of any changes in the contract and be provided an amended contract or an amendment to the contract for review and signature;
- (E) gratuities in addition to the established rates shall not be accepted; and
- (F) the maximum monthly adult care home rate that may be charged to Special Assistance recipients is established by the North Carolina Social Services Commission and the North Carolina General Assembly; Note: It is permissible by Special Assistance policy for facilities to accept payments for room and board from a third party, such as family member, charity or faith community, if the payment is made voluntarily to supplement the cost of room and board for the added benefit of a private room or a private or semi-private room in a special care unit;
- (2) a written copy of all house rules, including facility policies on smoking, alcohol consumption, visitation, refunds and the requirements for discharge of residents consistent with the rules of this Subchapter, and amendments disclosing any changes in the house rules; a copy of the Declaration of Residents' Rights as found in G.S. 131D-21;
- (3) a copy of the home's grievance procedures which shall indicate how the resident is to present complaints and make suggestions as to the home's policies and services on behalf of himself or others; and
- (4) a statement as to whether the home has signed Form DSS-1464, Statement of Assurance of Compliance with Title VI of the Civil Rights Act of 1964 for Other Agencies, Institutions, Organizations or Facilities, and which shall also indicate that, if the home does not choose to comply or is found to be in non-compliance,

the residents of the home would not be able to receive State-County Special Assistance for Adults and the home would not receive supportive services from the county department of social services.

(b) The administrator or administrator-in-charge and the resident or the resident's responsible person shall complete and sign the Resident Register within 72 hours of the resident's admission to the facility and revise the information on the form as needed. The Resident Register is available on the internet website, <http://facility-services.state.nc.us/gcpage.htm>, or at no charge from the Division of Facility Services, Adult Care Licensure Section, 2708 Mail Service Center, Raleigh, NC 27699-2708. The facility may use a resident information form other than the Resident Register as long as it contains at least the same information as the Resident Register.

Authority 131D-2; 143B-165; S.L. 2002-0160; 2003-0284.

SECTION .0900 - RESIDENT CARE AND SERVICES

10A NCAC 13F .0905 ACTIVITIES PROGRAM

(a) Each home shall develop a program of activities designed to promote the residents' active involvement with each other, their families, and the community.

(b) The program shall be designed to promote active involvement by all residents but is not to require any individual to participate in any activity against his will. If there is a question about a resident's ability to participate in an activity, the resident's physician shall be consulted to obtain a statement regarding the resident's capabilities.

(c) The activity director, as required in Rule .0404 of this Subchapter, is responsible for:

- (1) using information on the residents' interests and capabilities as documented upon admission and updated as needed to arrange for or provide planned individual and group activities for the residents, taking into account the varied interests, capabilities and possible cultural differences of the residents;
- (2) preparing a monthly calendar of planned group activities which is to be easily readable with large print, posted in a prominent location by the first day of each month, and updated when there are any changes;
- (3) involving community resources, such as recreational, volunteer, religious, aging and developmentally disabled-associated agencies, to enhance the activities available to residents;
- (4) evaluating and documenting the overall effectiveness of the activities program at least every six months with input from the residents to determine what have been the most valued activities and to elicit suggestions of ways to enhance the program;
- (5) encouraging residents to participate in activities; and
- (6) assuring there are adequate supplies, supervision and assistance to enable each resident to participate. Note: Aides and other

facility staff may be used to assist with activities.

(d) There shall be a minimum of 14 hours of a variety of planned group activities per week that include activities that promote socialization, physical interaction, group accomplishment, creative expression, increased knowledge and learning of new skills. Homes that care exclusively for residents with HIV disease are exempt from this requirement as long as the facility can demonstrate planning for each resident's involvement in a variety of activities. Note: Examples of group activities are group singing, dancing, games, exercise classes, seasonal parties discussion groups, drama, resident council meetings, book reviews, music appreciation, review of current events and spelling bees.

(e) Residents shall have the opportunity to participate in activities involving one to one interaction and activity by oneself that promote enjoyment, a sense of accomplishment, increased knowledge, learning of new skills, and creative expression. Note: Examples of these activities are crafts, painting, reading, creative writing, buddy walks, card playing, and nature walks.

(f) Each resident shall have the opportunity to participate in at least one outing every other month. Residents interested in being involved in the community more frequently shall be encouraged to do so.

(g) Each resident shall have the opportunity to participate in meaningful work-type and volunteer service activities in the home or in the community, but participation shall be on an entirely voluntary basis, never forced upon residents and not assigned in place of staff. Note: Examples of work-type and volunteer service activities range from bedmaking, personal ironing, and assisting another resident, to more structured activities such as general ironing, making or repairing toys for children, telephone reassurance, and gardening.

Authority G.S. 131D-2; 143B-153; 143B-165; S.L. 2002-0160; 2003-0284.

10A NCAC 13F .0907 RESPITE CARE

(a) For the purposes of this Subchapter, respite care is defined as supervision, personal care and services provided for persons admitted to an adult care home on a temporary basis for temporary caregiver relief, not to exceed 30 days.

(b) Respite care is not required as a condition of licensure. However, respite care is subject to the requirements of this Subchapter except for Rules .0702, .0704(b), .1201, .0801, and .0802.

(c) The number of respite care residents and adult care home residents shall not exceed the facility's licensed bed capacity.

(d) If the facility is staffing to census, the respite care residents shall be included in the daily census for determination of appropriate staffing levels according to the rules of this Subchapter.

(e) The respite care resident contract shall specify the rates for respite care services and accommodations, the date of admission to the facility and the proposed date of discharge from the facility. The contract shall be signed by the administrator or designee and the respite care resident or his responsible person and a copy given to the resident and responsible person.

(f) Upon admission of a respite care resident into the facility, the facility shall assure that the resident has a current FL-2 and

been tested for tuberculosis disease according to Rule .0703 of this Subchapter and that there are current physician orders for any medications, treatments and special diets for inclusion in the respite care resident's record. The facility shall assure that the respite care resident's physician or prescribing practitioner is contacted for verification of orders if the orders are not signed and dated within seven calendar days prior to admission to the facility as a respite care resident or for clarification of orders if orders are not clear or complete.

(g) The facility shall complete an assessment which allows for the development of a short-term care plan prior to or upon admission to the facility with input from the resident or responsible person. The assessment shall address respite resident needs, including identifying information, hearing, vision, cognitive ability, functional limitations, continence, special procedures and treatments as ordered by physician, skin conditions, behavior and mood, oral and nutritional status and medication regimen. The facility may use the Resident Register or an equivalent as the assessment instrument. The care plan shall be signed and dated by the facility's administrator or designated representative and the respite care resident or responsible person.

(h) The respite care resident's record shall include a copy of the signed respite care contract; the FL-2; the assessment and care plan; documentation of a tuberculosis test according to Paragraph (f) of this Rule; documentation of any contacts (office, home or telephone) with the resident's physician or other licensed health professionals from outside the facility; physician orders; medication administration records; a statement, signed and dated by the resident or responsible person, indicating that information on the home as required in Rule .0704(a) of this Subchapter has been received; a written description of any acute changes in the resident's condition or any incidents or accidents resulting in injury to the respite care resident, and any action taken by the facility in response to the changes, incidents or accidents; and how the responsible person or his designated representative can be contacted in case of an emergency.

(i) The respite care resident's responsible person or his designated representative shall be contacted and informed of the need to remove the resident from the facility if one or more of the following conditions exists:

- (1) the resident's condition is such that he is a danger to himself or poses a direct threat to the health of others as documented by a physician; or
- (2) the safety of individuals in the home is threatened by the behavior of the resident as documented by the facility.

Documentation of the emergency discharge shall be on file in the facility.

Authority G.S. 131D-2; 143B-165; S.L. 2000-50; 2002-0160; 2003-0284.

10A NCAC 13F .0909 RESIDENT RIGHTS

The facility shall assure that the rights of all residents guaranteed under G.S. 131D-21, Declaration of Residents' Rights, are maintained and exercised without hindrance.

Authority G.S. 131D-2; 143B-165; S.L. 2002-0160; 2003-0284.

SECTION .1200 - POLICIES, RECORDS AND REPORTS

10A NCAC 13F .1201 RESIDENT RECORDS

(a) The following shall be maintained on each resident in an orderly manner in the resident's record in the facility and made available for review by representatives of the monitoring and licensing agencies:

- (1) FL-2 or MR-2 forms and the patient transfer form or hospital discharge summary, when applicable;
- (2) Resident Register;
- (3) receipt for the following as required in Rule .0704 of this Subchapter:
 - (A) contract for services, accommodations and rates;
 - (B) house rules as specified in Rule .0704(a)(2) of this Subchapter;
 - (C) Declaration of Residents' Rights (G.S. 131D-21);
 - (D) the home's grievance procedures; and
 - (E) civil rights statement;
- (4) resident assessment and care plan;
- (5) contacts with the resident's physician, physician service or other licensed health professional as required in Rule .0902 of this Subchapter;
- (6) orders or written treatments or procedures from a physician or other licensed health professional and their implementation;
- (7) documentation of immunizations against influenza virus and pneumococcal disease according to G.S. 131D-9 or the reason the resident did not receive the immunizations based on this law; and
- (8) the Adult Care Home Notice of Discharge and Adult Care Home Hearing Request Form if the resident is being or has been discharged.

Note: When a resident leaves the facility for a medical evaluation, records necessary for that medical evaluation such as Subparagraphs (1), (4), (5), (6) and (7) of this Rule may be sent with the resident.

(b) A resident financial record providing an accurate accounting of the receipt and disbursement of the resident's personal funds if handled by the facility according to Rule .1101 of this Subchapter shall be maintained on each resident in an orderly manner in the facility and made available for review by representatives of the monitoring and licensing agencies. When there is an approved cluster of licensed facilities, financial records may be kept in one location among the clustered facilities.

Authority G.S. 131D-2; 143B-153; 143B-165; S.L. 2002-0160; 2003-0284.

10A NCAC 13F .1210 RECORD OF STAFF QUALIFICATIONS

The facility shall maintain records of staff qualifications required by the rules in Section .0400 of this Subchapter in the facility. When there is an approved cluster of licensed facilities, these records may be kept in one location among the clustered facilities.

Authority G.S. 131D-2; 143B-165; S.L. 2002-0160; 2003-0284.

SUBCHAPTER 13G - LICENSING OF FAMILY CARE HOMES

SECTION .0200 – LICENSING

10A NCAC 13G .0202 THE LICENSE

- (a) Except as otherwise provided in Rule .0203 of this Subchapter, the Department shall issue an adult care home license to any person who submits an application on the forms provided by the Department with a non-refundable license fee as required by G.S. 131D-2(b)(1) and the Department determines that the applicant complies with the provisions of all applicable State adult care home licensure statutes and rules. All applications for a new license shall disclose the names of individuals who are co-owners, partners or shareholders holding an ownership or controlling interest of five percent or more of the applicant entity.
- (b) The license shall be conspicuously posted in a public place in the home.
- (c) The license shall be in effect for 12 months from the date of issuance unless revoked for cause, voluntarily or involuntarily terminated, or changed to provisional licensure status.
- (d) A provisional license may be issued in accordance with G.S. 131D-2(b).
- (e) When a provisional license is issued, the administrator shall post the provisional license and a copy of the notice from the Division of Facility Services identifying the reasons for it, in place of the full license.
- (f) The license is not transferable or assignable.
- (g) The license shall be terminated when the home is licensed to provide a higher level of care or a combination of a higher level of care and adult care home level of care.

Authority G.S. 131D-2; 131D-4.5; 143B-153; 143B-165; S.L. 1999-0113; 2002-0160; 2003-0284.

SECTION .0400 - STAFF QUALIFICATIONS

10A NCAC 13G .0403 QUALIFICATIONS OF MEDICATION STAFF

- (a) Staff who administer medications, hereafter referred to as medication aides, and staff who directly supervise the administration of medications shall have documentation of successfully completing the clinical skills validation portion of the competency evaluation according to Paragraphs (d) and (e) of Rule .0503 of this Section prior to the administration or supervision of the administration of medications. Persons authorized by state occupational licensure laws to administer medications are exempt from this requirement.
- (b) Medication aides and their direct supervisors, except persons authorized by state occupational licensure laws to administer medications, shall successfully pass the written examination within 90 days after successful completion of the clinical skills validation portion of a competency evaluation according to Rule .0503 of this Section. . (c) Medication aides and staff who directly supervise the administration of medications, except persons authorized by state occupational licensure laws to administer medications, shall complete six

hours of continuing education annually related to medication administration.

Authority G.S. 131D-2; 131D-4.5; 143B-165; S.L. 1999-0334; 2002-0160; 2003-0284.

10A NCAC 13G .0404 QUALIFICATIONS OF ACTIVITY DIRECTOR

There shall be a designated activity_director who meets the following qualifications.

- (1) The activity director (employed on or after August 1, 1991) shall meet a minimum educational requirement by being at least a high school graduate or certified under the GED Program or by passing an alternative examination established by the Department of Health & Human Services;
- (2) The activity director hired on or after the effective date of this Rule shall have completed or complete, within nine months of employment or assignment to this position, an activity course for assisted living activity directors offered by community colleges or a comparable activity course as determined by the Department based on instructional hours and content. A person with a degree in recreational administration or a related field meets this requirement as does a person who completed the activity coordinator course of 48 hours or more through a community college before the effective date of this Rule.

Authority G.S. 131D-2; 143B-153; 143B-165; S.L. 2002-0160; 2003-0284.

SECTION .0700 - ADMISSION AND DISCHARGE

10A NCAC 13G .0703 RESIDENT REGISTER

- (a) The administrator or supervisor-in-charge, and the resident or his responsible person shall complete and sign the Resident Register within 72 hours of the resident's admission to the home. The Resident Register is available on the internet website, <http://facility-services.state.nc.us/gcpage.htm>, or at no charge from the Division of Facility Services, Adult Care Licensure Section, 2708 Mail Service Center, Raleigh, NC 27699-2708. The facility may use a resident information form other than the Resident Register as long as it contains at least the same information as the Resident Register.
- (b) The administrator or supervisor-in-charge shall revise the completed Resident Register with the resident or his responsible person as needed.

Authority G.S. 131D-2; 143B-153; S.L. 2002-0160; 2003-0284.

10A NCAC 13G .0704 RESIDENT CONTRACT AND INFORMATION ON HOME

The administrator or supervisor-in-charge shall furnish and review with the resident or his responsible person essential information on the home upon admission and when changes are made to that information. A statement indicating that this information has been received upon admission or amendment as

required by this Rule is to be signed and dated by each person to whom it is given. This statement shall be retained in the resident's record in the home. The information shall at least include:

- (1) a copy of the home's resident contract specifying rates for resident services and accommodations, including the cost of different levels of service, if applicable, any other charges or fees, and any health needs or conditions the home has determined it cannot meet pursuant to G.S. 131D-2(a)(1)(4); in addition, the following applies:
 - (a) The contract shall be signed and dated by the administrator or supervisor-in-charge and the resident or his responsible person and a copy given to the resident or his responsible person;
 - (b) The resident or his responsible person shall be notified as much in advance as possible, but not less than 30 days for rate changes initiated by the home, of any rate changes or other changes in the contract affecting the resident services and accommodations and be provided an amended copy of the contract for review and signature;
 - (c) A copy of each signed contract shall be kept in the resident's record in the home;
 - (d) Gratuities in addition to the established rates shall not be accepted; and
 - (e) The maximum monthly rate that may be charged to Special Assistance recipients is established by the North Carolina Social Services Commission and the North Carolina General Assembly;
 Note: It is permissible by Special Assistance policy for facilities to accept payments for room and board from a third party, such as family member, charity or faith community, if the payment is made voluntarily to supplement the cost of room and board for the added benefit of a private room.
- (2) a written copy of any house rules, including the conditions for the discharge and transfer of residents, the refund policies, and the home's policies on smoking, alcohol consumption and visitation consistent with the rules in this Subchapter and amendments disclosing any changes in the house rules;
- (3) a copy of the Adult Care Home Residents' Bill of Rights as found in G.S. 131D-21;
- (4) a copy of the home's grievance procedures which shall indicate how the resident is to present complaints and make suggestions as to

- (5) the home's policies and services on behalf of self or others; and
 a statement as to whether the home has signed Form DSS-1464, Statement of Assurance of Compliance with Title VI of the Civil Rights Act of 1964 for Other Agencies, Institutions, Organizations or Facilities, and which shall also indicate that if the home does not choose to comply or is found to be in non-compliance the residents of the home would not be able to receive State-County Special Assistance for Adults and the home would not receive supportive services from the county department of social services.

Authority G.S. 131D-2; 143B-153; S.L. 2002-0160; 2003-0284.

SECTION .0900 - RESIDENT CARE AND SERVICES

10A NCAC 13G .0905 ACTIVITIES PROGRAM

- (a) Each home shall develop a program of activities designed to promote the residents' active involvement with each other, their families, and the community.
- (b) The program shall be designed to promote active involvement by all residents but is not to require any individual to participate in any activity against his will. If there is a question about a resident's ability to participate in an activity, the resident's physician shall be consulted to obtain a statement regarding the resident's capabilities.
- (c) The activity director, as required in Rule .0404 of this Subchapter, is responsible for:
 - (1) using information on the residents' interests and capabilities as documented upon admission and updated as needed to arrange for or provide planned individual and group activities for the residents, taking into account the varied interests, capabilities and possible cultural differences of the residents;
 - (2) preparing a monthly calendar of planned group activities which is to be easily readable with large print, posted in a prominent location by the first day of each month, and updated when there are any changes;
 - (3) involving community resources, such as recreational, volunteer, religious, aging and developmentally disabled-associated agencies, to enhance the activities available to residents;
 - (4) evaluating and documenting the overall effectiveness of the activities program at least every six months with input from the residents to determine what have been the most valued activities and to elicit suggestions of ways to enhance the program;
 - (5) encouraging residents to participate in activities; and
 - (6) assuring there are adequate supplies, supervision and assistance to enable each resident to participate. Note: Aides and other facility staff may be used to assist with activities.

(d) There shall be a minimum of 14 hours of a variety of planned group activities per week that include activities that promote socialization, physical interaction, group accomplishment, creative expression, increased knowledge and learning of new skills. Homes that care exclusively for residents with HIV disease are exempt from this requirement as long as the facility can demonstrate planning for each resident's involvement in a variety of activities. Note: Examples of group activities are group singing, dancing, games, exercise classes, seasonal parties discussion groups, drama, resident council meetings, book reviews, music appreciation, review of current events and spelling bees.

(e) Residents shall have the opportunity to participate in activities involving one to one interaction and activity by oneself that promote enjoyment, a sense of accomplishment, increased knowledge, learning of new skills, and creative expression. Note: Examples of these activities are crafts, painting, reading, creative writing, buddy walks, card playing, and nature walks.

(f) Each resident shall have the opportunity to participate in at least one outing every other month. Residents interested in being involved in the community more frequently shall be encouraged to do so.

(g) Each resident shall have the opportunity to participate in meaningful work-type and volunteer service activities in the home or in the community, but participation shall be on an entirely voluntary basis, never forced upon residents and not assigned in place of staff. Note: Examples of work-type and volunteer services activities range from bedmaking, personal ironing, and assisting another resident, to more structured activities such as general ironing, making or repairing toys for children, telephone reassurance, and gardening.

Authority G.S. 131D-2; 143B-153; 143B-165; S.L. 2002-0160; 2003-0284.

10A NCAC 13G .0907 RESPITE CARE

(a) For the purposes of this Subchapter, respite care is defined as supervision, personal care and services provided for persons admitted to an adult care home on a temporary basis for temporary caregiver relief, not to exceed 30 days.

(b) Respite care is not required as a condition of licensure. However, respite care is subject to the requirements of this Subchapter except for Rules, .0703, .0705, .1201, .0801, and .0802. (c) The number of respite care residents and adult care home residents shall not exceed the facility's licensed bed capacity.

(d) The respite care resident contract shall specify the rates for respite care services and accommodations, the date of admission to the facility and the proposed date of discharge from the facility. The contract shall be signed by the administrator or designee and the respite care resident or his responsible person and a copy given to the resident and responsible person.

(e) Upon admission of a respite care resident into the facility, the facility shall assure that the resident has a current FL-2 and been tested for tuberculosis disease according to Rule .0702 of this Subchapter and that there are current physician orders for any medications, treatments and special diets for inclusion in the respite care resident's record. The facility shall assure that the respite care resident's physician or prescribing practitioner is contacted for verification of orders if the orders are not signed

and dated within seven calendar days prior to admission to the facility as a respite care resident or for clarification of orders if orders are not clear or complete. (f) The facility shall complete an assessment which allows for the development of a short-term care plan prior to or upon admission to the facility with input from the resident or responsible person. The assessment shall address respite resident needs, including identifying information, hearing, vision, cognitive ability, functional limitations, continence, special procedures and treatments as ordered by physician, skin conditions, behavior and mood, oral and nutritional status and medication regimen. The facility may use the Resident Register or an equivalent as the assessment instrument. The care plan shall be signed and dated by the facility's administrator or designated representative and the respite care resident or responsible person.

(g) The respite care resident's record shall include a copy of the signed respite care contract; the FL-2; the assessment and care plan; documentation of a tuberculosis test according to Paragraph (e) of this Rule; documentation of any contacts (office, home or telephone) with the resident's physician or other licensed health professionals from outside the facility; physician orders; medication administration records; a statement, signed and dated by the resident or responsible person, indicating that information on the home as required in Rule .0704 of this Subchapter has been received; a written description of any acute changes in the resident's condition or any incidents or accidents resulting in injury to the respite care resident, and any action taken by the facility in response to the changes, incidents or accidents; and how the responsible person or his designated representative can be contacted in case of an emergency.

(h) The respite care resident's responsible person or his designated representative shall be contacted and informed of the need to remove the resident from the facility if one or more of the following conditions exists:

- (1) the resident's condition is such that he is a danger to himself or poses a direct threat to the health of others as documented by a physician; or
- (2) the safety of individuals in the home is threatened by the behavior of the resident as documented by the facility.

Documentation of the emergency discharge shall be on file in the facility.

Authority G.S. 131D-2; 143B-165; S.L. 2000-50; 2002-0160; 2003-0284.

10A NCAC 13G .0909 RESIDENT RIGHTS

The facility shall assure that the rights of all residents guaranteed under G.S. 131D-21, Declaration of Residents' Rights, are maintained and exercised without hindrance.

Authority G.S. 131D-2; 143B-165; S.L. 2002-0160; 2003-0284.

SECTION .1200 - POLICIES, RECORDS AND REPORTS

10A NCAC 13G .1201 RESIDENT RECORDS

(a) The following shall be maintained on each resident in an orderly manner in the resident's record in the facility and made available for review by representatives of the monitoring and licensing agencies.

TEMPORARY RULES

- (1) FL-2 or MR-2 Forms and patient transfer form or hospital discharge summary, when applicable;
- (2) Resident Register;
- (3) receipt for the following as required in Rule .0704 of this Subchapter:
 - (A) contract for services, accommodations and rates;
 - (B) house rules as specified in Rule .0704(2) of this Subchapter;
 - (C) Declaration of Residents' Rights (G.S. 131D-21);
 - (D) home's grievance procedures; and
 - (E) civil rights statement;
- (4) resident assessment and care plan;
- (5) contacts with the resident's physician, physician service or other licensed health professional as required in Rule .0902 of this Subchapter;
- (6) orders or written treatments or procedures from a physician or other licensed health professional and their implementation;
- (7) documentation of immunizations against influenza virus and pneumococcal disease according to G.S. 131D-9 or the reason the resident did not receive the immunizations based on this law; and

- (8) the Adult Care Home Notice of Discharge and Adult Care Home Hearing Request Form if the resident is being or has been discharged.

Note: When a resident leaves the facility for a medical evaluation, records necessary for that medical evaluation such as Subparagraphs (1), (4), (5), (6) and (7) of this Rule may be sent with the resident.

(d) A resident financial record providing an accurate accounting of the receipt and disbursement of the resident's personal funds, if handled by the facility according to Rule .1103 of this Subchapter, shall be maintained on each resident in an orderly manner in the facility and be readily available for review by representatives of monitoring and licensing agencies. When there is an approved cluster of licensed facilities, financial records may be kept in one location among the clustered facilities.

Authority G.S. 131D-2; 143B-153; S.L. 2002-0160; 2003-0284.

10A NCAC 13G .1212 RECORD OF STAFF QUALIFICATIONS

The facility shall maintain records of staff qualifications required by the rules in Section .0400 of this Subchapter in the facility. When there is an approved cluster of licensed facilities, these records may be kept in one location among the clustered facilities.

Authority G.S. 131D-2; 143B-165; S.L. 2002-0160; 2003-0284.

Dedra Alston	DENR
Portia Rochelle	DHHS
Tom Miller	Attorney General's Office/NC Real Estate Comm.
Pamela Millward	NC Real Estate Commission
David McLeod	Dept of Agriculture

APPROVAL OF MINUTES

The meeting was called to order at 10:010 a.m. with Commissioner Funderburk presiding. Vice Chairman Funderburk asked for any discussion, comments, or corrections concerning the minutes of the January 15, 2004, meeting and the February 5, 2004 Temporary Rules meeting. The minutes were approved as written.

FOLLOW-UP MATTERS

Mr. Funderburk read portions of a letter from the Environmental Management Commission requesting that the Commission reconsider its action at the last meeting and take other action. There were no motions made by any Commissioners, therefore no action was taken.

8 NCAC 9 .0106; .0108; .0109: Board of Elections – The Commission approved the rewritten rules submitted by the agency contingent on a technical change being made. The RRC requested that the language “pursuant to law” be inserted in (f), line 26, after “a voter’s record.”

8 NCAC 10B .0103: Board of Elections – The Commission approved the rewritten rule submitted by the agency.

10 NCAC 21A .0201; .0602; .0603; .0606; .0607; .0608: DHHS/Division of Medical Assistance– The Commission approved the rewritten rules submitted by the agency.

10 NCAC 21B .0410: DHHS/Division of Medical Assistance – The Commission approved the rewritten rule submitted by the agency and determined that there was not a substantial change.

12 NCAC 9G .0405: Criminal Justice Education & Training Standards Commission – The Commission approved the rewritten rule submitted by the agency and determined that there was not a substantial change.

15A NCAC 18A .2508; .2529; .2543: Commission for Health Services – The Commission approved the rules submitted by the agency.

15A NCAC 18A .2511: Commission for Health Services – The Commission approved the rewritten rule submitted by the agency and determined there was not a substantial change.

LOG OF FILINGS

Vice Chairman Funderburk presided over the review of the log and all rules were approved unanimously with the following exceptions:

Commissioner Gray did not participate or vote on the Alarm Systems Licensing Board rules.

21 NCAC 29 .0602: Locksmith Licensing Board - The Commission objected to the rule due to ambiguity. It is not clear what is meant in (c)(5). The fact that somebody thought of something when the rule was adopted does not help an aggrieved person know what the answer is. In (c)(7), it is not clear what else constitutes “good cause”. G.S. 150B-4 requires the agency to make that decision in its rules.

21 NCAC 29 .0603: Locksmith Licensing Board - The Commission objected to the rule due to lack of necessity. This rule adds nothing to what is already in G.S. 150B-38 and is thus unnecessary.

21 NCAC 29 .0607: Locksmith Licensing Board - The Commission objected to the rule due to lack of necessity. This rule adds nothing to what is already in G.S. 150B-40 and is thus unnecessary.

21 NCAC 29 .0612: Locksmith Licensing Board - The Commission objected to the rule due to lack of necessity. This rule adds nothing to what is already in G.S. 150B-40(a) and is thus unnecessary.

21 NCAC 29 .0613: Locksmith Licensing Board – The Commission objected to the rule due to ambiguity. In (g), it is not clear how much time a party will have to respond to an objection to a subpoena, or conversely, what standards the Board will use in setting the time.

21 NCAC 46 .1505: Board of Pharmacy –The Commission objected to the rule based on ambiguity in violation of G.S. 150B-21.9(a)(2). It is unclear at the end of (c) whether there is any time limit for successfully completing the retake of the three examination sections, and if there is what that time limit is. Initially in (c), lines 31 – 32, the rule specifies that a candidate “who fails to pass all three examinations in the two calendar year period” (starting with the passage of the first examination) must then “retake and pass all three examinations.” Presumably the board would probably require a time limit on the retakes, as it does on the original attempts. However, the rule does not specify, and thus is unclear, whether there is any new time limit on successfully passing the retake of all three examinations. If there is a time limit, it is not set out.

21 NCAC 46 .1604: Board of Pharmacy – The Commission objected to the rule based on ambiguity. In (b) it is unclear what constitutes a permit being “involved” in a “pending disciplinary proceeding.” G.S. 90-85.38(b) specifies that a pharmacy’s permit may be subject to disciplinary sanctions “for the same conduct as stated in subsection (a).” That conduct would be various violations of the pharmacy law or rules by a “licensee.” (The most common licensee would be a pharmacist.) That seems to imply the possibility that

every time a licensee is involved in a disciplinary action over 90-85.38(a)(1) – (9), that it leaves open the possibility that the permit holder may then be subject to disciplinary action. It is unclear whether this possibility would be considered “involved in a pending disciplinary proceeding” subject to the prohibition on transfer of a permit in (b) of this rule.

21 NCAC 46 .1804: Board of Pharmacy – The Commission objected to the rule based on ambiguity. It is unclear whether the requirements in both paragraphs (a) and (c) are identical concerning filling prescription orders for “devices.” They appear to be quite similar with much the same substantive provisions. It is difficult to distinguish between the two. If they are not identical requirements, then which paragraph and requirements must be complied with in filling prescription device orders is unclear. Both paragraphs (a) and (c) refer to promoting “the safe and secure distribution of ... devices” (lines 5 and 15 – 16) and filling of prescriptions. However only (c) specifically refers to filling “prescription orders for devices....” If, in reality, the requirements, although worded somewhat differently, are ultimately the same, then either the redundancies should be removed or the rule rewritten to make clear that the requirements are all the same. If the requirements are substantively different, then the differences need to be written more clearly to focus the practitioner’s and the enforcer’s attention on the differences.

21 NCAC 46 .1806: Board of Pharmacy – The Commission objected to the rule based on ambiguity. In (f), page 2 lines 16 and 17, it is unclear what constitutes “reasonably satisfied” as well as “a viable physician-patient relationship.” Each of these is a separate standard that a licensee must determine. The licensee must determine whether the relationship exists and that this determination (existence or non-existence of the relationship) must be “reasonably satisfied” to the licensee. There are no standards for either of these and the terms are not self-evident or clearly understood.

21 NCAC 46 .2502: Board of Pharmacy – The Commission objected to the rule based on failure to comply with the Administrative Procedure Act in violation of G.S. 150B-21.9(a)(4). In paragraph (p), page 3, language was added to the rule after the original notice of text and after the public hearing, that the “system of accountability” required under the rule would have to be a system “identifying each pharmacist and technician.” This appears to be a substantial change, as set out in G.S. 150B-21.2(g)(1) and (3), that was not subsequently published. It does this in one of two ways. It either “affects the interests of persons who, based on either the notice of rule-making proceedings or the proposed text of the rule ... could not reasonably have determined that the rule would affect their interests. More strongly, it “produces an effect that could not reasonably have been expected based on the proposed text of the rule.” Failing to publish this substantial change is a violation of the APA and a basis for objection.

21 NCAC 46 .2504: Board of Pharmacy – The Commission objected to the rule based on lack of statutory authority in violation of G.S. 150B-21.9(a)(1). There is no authority cited to require “registrants under G.S. 90-85.21,” i.e., pharmacies, to comply with the patient counseling aspects of this rule that are applicable to pharmacists. This requirement is found at least in (a), lines 8 and 9; (b), line 29; (d), page 2 line 34; and (e)(1), page 3 line 11. There is also no authority to impose any requirements on any entity they may lawfully regulate “that are more restrictive than federal statutes or regulations governing the delivery of prescription medications by mail or common carrier” as set out in G.S. 90-85.21A(e). At least ten letters requesting Legislative review were received by the Rules Review Commission prior to the meeting.

21 NCAC 46 .2508: Board of Pharmacy – This rule was sent to the Office of State Budget and Management to determine if the rule has a substantial economic impact and a fiscal note is required. Also, at least ten letters requesting Legislative review were received by the Rules Review Commission prior to the meeting.

21 NCAC 46 .2510: Board of Pharmacy – The Commission objected to the rule based on ambiguity and lack of necessity in violation of G.S. 150B-21.9(a)(2) and (3). It is unclear what “unique projects” this rule is aimed at, what projects are now covered by the rules that this rule would be aimed at and intended to allow, and what the standards for the approval of those unique projects would be. To the extent that the “unique” projects this rule is intended to cover do not currently or actually fall within the Board’s rulemaking authority, it is not clear whether the Board intends to attempt to pull such projects within its rulemaking purview. To the extent that the “unique” projects are not otherwise subject to rulemaking, then this rule is unnecessary.

21 NCAC 46 .2605: Board of Pharmacy – The Commission objected to the rule based on lack of statutory authority. There is no authority cited for the provision in (b) setting specific job or occupational licensing qualifications for a “person in charge” of a place other than a pharmacy where devices are dispensed or medical equipment is delivered. The Pharmacy Board, in effect, has established a new occupational license, administered by the Pharmacy Board, for a “person in charge” of a device dispensary or medical equipment delivery place that is not also a pharmacy and managed by a pharmacist manager. There is no authority cited to establish this position, establish the qualifications for that position, or require a license or permit to fill that position. This goes beyond merely registering as the one who acts as the registration or permit holder for such a place. It also goes beyond complying with any requirements that the Board may legitimately establish for operating such a place and dispensing the equipment or devices.

Commissioner Bell did not participate or vote on the Real Estate Commission rules.

21 NCAC 61 .0205: Respiratory Care Board – The Commission objected to the rule due to ambiguity. Paragraph (a) of this Rule requires an applicant to provide a criminal history record check made from information the applicant can access from national files. It is not clear exactly what the applicant is to provide.

21 NCAC 61 .0301: Respiratory Care Board – The Commission objected to the rule due to lack of statutory authority and ambiguity. In (a), it is not clear when a term of licensure will be different from the normal one year because of what is on the face of the license nor how that term is determined. This amounts to a modification provision without specific guidelines prohibited by G.S. 150B-19(6).

21 NCAC 61 .0309: Respiratory Care Board – The Commission objected to the rule due to lack of statutory authority and ambiguity. There does not appear to be any statutory requirement that a licensee maintain certification in Basic Life Support, only that an applicant has completed the requirements at the time of licensure. There is therefore no authority to penalize someone who does not as (a)(3) of this Rules does. In (c)(8), it is not clear what would constitute “unprofessional conduct”. In (d)(3), it is not clear what constitutes an “improper” commission or bonus. In (d)(4), it is not clear what would constitute “undue influence.”

RULES REVIEW COMMISSION

21 NCAC 61 .0401: Respiratory Care Board – The Commission objected to the rule due to lack of statutory authority and ambiguity. In (c), it is not clear who is on the list of providers or what the standards are for being listed. In (h), it is not clear what standards the Board will use in granting requests for extensions of continuing education requirements. This amounts to a waiver without the specific guidelines required by G.S. 150B-19(6). It is also not clear what would be an “extenuating circumstance.”

LOG OF FILINGS TEMPORARY RULES

Vice Chairman Funderburk presided over the review of the log of temporary rules.

10A NCAC 13F .0509; .1211; .1501: Medical Care Commission – The Commission declined to approve the rules. The Commission found that S.L. 2002-160 Section 6(c) which is the basis for adopting rules as temporary rules requires the agency to publish the proposed temporary rules in the NC Register. There has been no documentation submitted that the agency has done so.

10A NCAC 13G .0509; .1211; .1301: Medical Care Commission – The Commission declined to approve the rules. The Commission found that S.L. 2002-160 Section 6(c) which is the basis for adopting rules as temporary rules requires the agency to publish the proposed temporary rules in the NC Register. There has been no documentation submitted that the agency has done so.

15A NCAC 3S .0103: Marine Fisheries Commission – This rule was withdrawn by the agency.

COMMISSION PROCEDURES AND OTHER BUSINESS

Mr. DeLuca informed the Commission that the Pharmacy Board had filed a Motion to Amend the Judgment. They have also requested a hearing on this motion the week of April 5, before Judge Hill.

The meeting adjourned at 11:38 a.m.

The next meeting of the Commission is Thursday, March 18, 2004 at 10:00 a.m.

Respectfully submitted,
Lisa Johnson

Commission Review/Administrative Rules

Log of Filings (Log #207)

January 21, 2004 through February 20, 2004

MEDICAL CARE COMMISSION/NC CHILD CARE COMMISSION

Definitions	10A NCAC 09 .0102	Amend
Activities for Children Under Two Years of Age	10A NCAC 09 .0511	Amend
Safe Sleep Policy	10A NCAC 09 .0606	Amend
Special Training Requirements	10A NCAC 09 .0705	Amend
In-Service Training Requirements	10A NCAC 09 .0707	Amend
Other Staffing Requirements	10A NCAC 09 .0714	Amend
Administering Medication	10A NCAC 09 .0803	Amend
Health and Training Requirements for Family Child	10A NCAC 09 .1705	Amend
Requirements for Daily Operations	10A NCAC 09 .1718	Amend
Safety Medication and Sanitation Requirements	10A NCAC 09 .1720	Amend
Safe Sleep Policy	10A NCAC 09 .1724	Amend

MEDICAL CARE COMMISSION/COMMISSION FOR HEALTH SERVICES

Reportable Diseases and Conditions	10A NCAC 41A .0101	Amend
Laboratory Testing	10A NCAC 41A .0209	Amend
Handling and Transportation of Bodies	10A NCAC 41A .0212	Amend

DENR/ENVIRONMENTAL MANAGEMENT COMMISSION

Control of Ethylene Oxide Emissions	15A NCAC 02D .0538	Amend
Municipal Waste Combustors	15A NCAC 02D .1205	Amend
Purpose	15A NCAC 02D .2201	Adopt
Definitions	15A NCAC 02D .2202	Adopt
Public Notice	15A NCAC 02D .2203	Adopt
Final Action on Consent Orders	15A NCAC 02D .2204	Adopt
Notification of Right to Contest Special Orders	15A NCAC 02D .2205	Adopt
Notification in Areas Without Zoning	15A NCAC 02Q .0113	Adopt
Definitions	15A NCAC 02Q .0202	Adopt
Permit and Application Fees	15A NCAC 02Q .0203	Amend
Applications	15A NCAC 02Q .0304	Amend

Application Submittal Content	15A NCAC 02Q .0305	Amend
Application Submittal Content	15A NCAC 02Q .0505	Amend
Application	15A NCAC 02Q .0507	Amend
DENR/COASTAL RESOURCES COMMISSION		
Development Initiated Prior to Effective Date	15A NCAC 07H .0104	Amend
AECS within Ocean Hazard Areas	15A NCAC 07H .0304	Amend
DEPARTMENT OF STATE TREASURER		
Scope	20 NCAC 02O .0101	Adopt
Short Term Disability	20 NCAC 02O .0102	Adopt
Long Term Disability	20 NCAC 02O .0103	Adopt
LICENSING BOARD FOR GENERAL CONTRACTORS		
Classification	21 NCAC 12 .0202	Amend
Public Building Projects	21 NCAC 12 .0210	Adopt
Review Workshop Change	21 NCAC 12 .0409	Repeal
STATE BOARD OF COSMETIC ART EXAMINERS		
Definitions	21 NCAC 14A .0101	Amend
Postage and Handling	21 NCAC 14B .0603	Amend
Prohibited Practices	21 NCAC 14H .0121	Amend
Training Requirement	21 NCAC 14H .0122	Amend
Equipment in Advanced Department	21 NCAC 14J .0206	Amend
Approval of Credit for Cosmetology Instruction	21 NCAC 14J .0501	Amend
Revocation of Licenses and Other Disciplinary	21 NCAC 14P .0108	Amend
Operations of Schools of Cosmetic Art	21 NCAC 14P .0113	Amend
Continuing Education	21 NCAC 14Q .0101	Repeal
Attendance Verification	21 NCAC 14Q .0102	Repeal
Certificating Agent	21 NCAC 14Q .0103	Repeal
Program Sites	21 NCAC 14Q .0104	Repeal
General Program Format Time Frame Space	21 NCAC 14Q .0105	Repeal
Instructors and Monitors of Continuing Education	21 NCAC 14Q .0106	Repeal
Postage Handling Fee	21 NCAC 14Q .0107	Repeal
Proof of Attendance	21 NCAC 14Q .0108	Repeal
Board to Observe Program	21 NCAC 14Q .0109	Repeal
Violations	21 NCAC 14Q .0110	Repeal
Continuing Education Requirements	21 NCAC 14R .0101	Adopt
Application Criteria and Continuing Education	21 NCAC 14R .0102	Adopt
Criteria for Continuing Education	21 NCAC 14R .0103	Adopt
License Renewal Procedures	21 NCAC 14R .0104	Adopt
BOARD OF DIETETICS NUTRITION		
Code of Ethics for Professional Practice	21 NCAC 17 .0114	Amend
MEDICAL BOARD		
Continuing Medical Education	21 NCAC 32S .0106	Repeal
STATE BOARD OF OPTICIANS		
Fees	21 NCAC 40 .0108	Adopt
OFFICE OF ADMINISTRATIVE HEARINGS		
Scope	26 NCAC 02C .0101	Amend
Definitions	26 NCAC 02C .0102	Amend
Original and Duplicate Copy	26 NCAC 02C .0103	Amend
Return Copy	26 NCAC 02C .0104	Amend
Electronic Version	26 NCAC 02C .0105	Amend
Refusal of Publication	26 NCAC 02C .0106	Amend
General Format Instructions	26 NCAC 02C .0108	Amend
Authorization for Signature	26 NCAC 02C .0113	Adopt
Agency Final Copy	26 NCAC 02C .0114	Adopt
Notification of Consultation	26 NCAC 02C .0115	Adopt
Rule Subdivision	26 NCAC 02C .0206	Amend
Listing within Rules	26 NCAC 02C .0207	Amend
Notice of Permanent Rule Making Proceedings	26 NCAC 02C .0304	Repeal
Publication of Rule Making Agenda	26 NCAC 02C .0305	Repeal
Publication of Permanent Rule	26 NCAC 02C .0402	Amend
Submission for Permanent Rule Form	26 NCAC 02C .0403	Amend
Scope	26 NCAC 02C .0501	Amend

RULES REVIEW COMMISSION

Publication for a Temporary Rule	26 NCAC 02C .0502	Amend
Temporary Rulemaking Finds of Need	26 NCAC 02C .0503	Amend
Appearance Agency	26 NCAC 02C .0504	Repeal
Scope	26 NCAC 02C .0601	Adopt
Publication of an Emergency Rule	26 NCAC 02C .0602	Adopt
Emergency Rule Findings of Need Form	26 NCAC 02C .0603	Adopt
Appearance by Agency	26 NCAC 02C .0604	Adopt
Scope	26 NCAC 02C .0701	Adopt
Publication of a Rule on the OAH Website	26 NCAC 02C .0702	Adopt
Publication Form	26 NCAC 02C .0703	Adopt
General	26 NCAC 03 .0101	Amend

**AGENDA
RULES REVIEW COMMISSION**

March 18, 2004

- I. Call to Order and Opening Remarks
- II. Review of minutes of last meeting
- III. Follow Up Matters:
 - A. Locksmith Licensing Board – 21 NCAC 29 .0602; .0603; .0607; .0612; .0613 (Bryan)
 - B. Pharmacy Board – 21 NCAC 46 .1505; .1604; .1804; .1806; .2502; .2504; .2510; .2605 (DeLuca)
 - C. Respiratory Care Board – 21 NCAC 61 .0205; .0301; .0309; .0401 (Bryan)
 - D. Medical Care Commission – Temporary Rules 10A NCAC 13F .0509; .1211; .1501;
10A NCAC 13G .0509; .1211; .1301 (Bryan)
 - E. Examiners for Speech and Language Pathologists & Audiologists – 21 NCAC 64 .0212; .0213 (DeLuca)
- IV. Review of Rules (Log Report #207)
- V. Commission Business
- VI. Next meeting: April 15, 2004

CONTESTED CASE DECISIONS

Jonathan Mims v. Sheriffs' Education & Training Standards. Comm.	02 DOJ 1263	Gray	06/03/03	18:03 NCR	229
Joshua Steven McCraw v Sheriffs' Educ. & Trng. Stds. Comm.	02 DOJ 1696	Conner	12/02/03		
Joshua Phillip Grant v Sheriffs' Education & Training Standards Comm.	02 DOJ 1787	Wade	10/27/03		
Laura Dawn Watts v. Sheriffs' Education & Training Standards Comm.	02 DOJ 1926	Lassiter	05/22/03		
Allen Wilson York v. Sheriffs' Education & Training Standards Comm.	02 DOJ 2042	Elkins	05/16/03		
Derek A Cousin v Criminal Justice Educ & Trng Stds. Comm.	03 DOJ 0250	Gray	11/13/03		
Fred Hines, Jr v. Criminal Justice Educ. & Trng. Stds. Comm.	03 DOJ 0428	Conner	07/29/03		
Alexander Draft: Registered Agent/Owner of A.D. Police Svcs., Inc. v. DOJ, Company Police Program	03 DOJ 0484	Mann	10/17/03		
Harvey Levale Cook v. Criminal Justice Educ & Trng Stds. Comm.	03 DOJ 0515	Lassiter	07/09/03		
Cynthia Darlene Harris v. Criminal Justice Educ. & Trng. Stds. Comm.	03 DOJ 0516	Lassiter	06/06/03		
Mary Katherine McVey v. Criminal Justice Educ. & Trng. Stds. Comm.	03 DOJ 0517	Wade	08/11/03		
Kenneth Earl Brantley v Sheriffs' Educ & Trng Stds. Comm	03 DOJ 0604	Gray	11/14/03		
Brian Carroll Hatley v Sheriffs' Education & Trng. Stds. Comm.	03 DOJ 0649	Mann	10/02/03		
William Kelly Moore v Criminal Justice Educ & Trng Stds. Comm	03 DOJ 1068	Morrison	11/12/03		
Michael Ray Walker v. Criminal Justice Educ. & Trng. Stds. Comm.	03 DOJ 1138	Lassiter	09/23/03		
Loy S. Lentz Jr v. Sheriffs' Educ. & Trng. Stds. Comm.	03 DOJ 1229	Gray	10/02/03		
William Todd Streeter v. Sheriffs' Educ. & Trng Stds. Comm.	03 DOJ 1243	Chess	12/08/03		
Dawn Wilkins Gilmore v. Sheriffs' Educ. & Trng. Stds. Comm	03 DOJ 1244	Morrison	12/17/03		
Robert Lee Way v. Sheriffs' Educ. & Trng Stds. Comm.	03 DOJ 1263	Chess	12/08/03		
Charles D Metters, Jr. v. Criminal Justice Educ. & Trng. Stds. Comm.	03 DOJ 1471	Chess	12/09/03		
Garry Lamount Lavender v. Criminal Justice Educ. & Trng. Stds. Comm.	03 DOJ 1642	Chess	01/13/04		
Damon Cunningham v. Dept of Justice, Company Police Program	03 DOJ 2112	Lassiter	01/23/04		

DEPARTMENT OF TRANSPORTATION

Chris Azar v. Department of Transportation	03 DOT 1345	Morrison	09/08/03		
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DEPARTMENT OF STATE TREASURER

Shirlyn D. Brickhouse v. Dept. of St. Treasurer, Ret. Sys. Div.	02 DST 2315	Chess	06/03/03		
J W Walton v DST, Retirement Systems Division	03 DST 0933	Gray	01/30/04	18:17 NCR	1578

DEPARTMENT OF PUBLIC INSTRUCTION

Robert Andrew Bartlett Sr. v. Dept. of Public Instruction	00 EDC 1306	Gray	08/04/03		
Mary Margaret Davis v Dept of Public Instruction	02 EDC 0155	Gray	12/19/03		
Charles Wordsworth v. State Board of Education	02 EDC 0572	Lassiter	10/17/03		
Charles Eugene Smith v. Department of Public Instruction	02 EDC 1082	Mann	05/26/03		

ENVIRONMENT AND NATURAL RESOURCES

C B Roberson, Inc & Southside Oil Co, Inc v Env Mgmt Commission	95 EHR 0274 ¹²	Gray	02/04/04		
C B Roberson, Inc & Southside Oil Co, Inc v Env Mgmt Commission	95 EHR 0275 ¹²	Gray	02/04/04		
C B Roberson, Inc & Southside Oil Co, Inc v Env Mgmt Commission	95 EHR 0276 ¹²	Gray	02/04/04		
C B Roberson, Inc & Southside Oil Co, Inc v Env Mgmt Commission	95 EHR 0277 ¹²	Gray	02/04/04		
C B Roberson, Inc & Southside Oil Co, Inc v Env Mgmt Commission	95 EHR 0278 ¹²	Gray	02/04/04		
Larry E. Sadler v. DENR	00 EHR 1322	Gray	07/02/03		
Lester Hill v. Person Co. Health Dept., DENR	00 EHR 1392	Gray	05/29/03		
John Burr v. Health Department, Mecklenburg County	01 EHR 1204	Gray	05/28/03		
Richard S Pacula v. CAMA-Coastal Area Mgmt. Assoc.	01 EHR 2269 ¹	Chess	05/14/03		
Rosa & Eddie Brame v. DENR	02 EHR 0319	Wade	06/27/03		
Trafalgar Properties LLC v. County of Durham	03 EHR 0630	Wade	07/18/03		
Gerald Max Toney and Lynn N. Toney v. DENR (McDowell Co.)	02 EHR 0887	Mann	05/28/03		
Forest Sound Homeowners Assoc, James P Hynes, Pres. V. DENR, Div. of Coastal Management	02 EHR 1078	Wade	06/09/03		
Richard S Pacula v. CAMA-Coastal Area Mgmt. Assoc.	02 EHR 1119 ¹	Chess	05/14/03		
Raphael J Scharf & wife Guylene Scharf v. DENR	02 EHR 1155	Gray	11/24/03		
Former Center Mart, Joe Fred Ledbetter v. DENR, Div. of Waste Mgmt.	02 EHR 1302	Conner	05/29/03		
Raleigh-Durham Airport Authority v DENR, Div. of Water Quality	02 EHR 1648	Gray	12/19/03		
Lee Roy Smyre v. DENR, Div. of Water Quality	02 EHR 1509	Wade	09/05/03		
Murphy's All Land Dev Inc d/b/a Emerald Cove Town homes at Wells Lake v. DENR	02 EHR 1735	Conner	07/22/03		
Glenn Sasser v. DENR, Division of Coastal Management	02 EHR 1794	Morrison	08/28/03	18:07 NCR	485
Michael E Hendrix v. Caldwell Co. Dept of Environmental Health	03 EHR 0006	Gray	07/02/03		
Lawndale Service Ctr, Inc. C Valley v. DENR	03 EHR 0016	Lassiter	06/05/03		
Daniel W Bulla III v. Env. Health Section Stokes Co Health Dept.	03 EHR 0156	Conner	09/11/03		
Nash-Rocky Mt Schools, Mark Strickland v DENR, Div of Wtr Quality	03 EHR 0242	Lassiter	10/30/03		
Nash-Rocky Mt Schools, Mark Strickland v DENR, Div of Wtr Quality	03 EHR 0242 ⁶	Lassiter	10/30/03		
Nash-Rocky Mt Schools, Mark Strickland v DENR, Div of Wtr Quality	03 EHR 0254 ⁶	Lassiter	10/30/03		
Alliance for Legal Action, Inc, Piedmont Quality of Life Coalition (an uninc assoc) Alberta Anderson, Cameron Anderson, Jean Black Richard Black, Walter S Druce, Ron Goga, Gil Happel, Carol Hoppe, Michael Hoppe, Patricia Nussbaum, Christine Peeler, Laura Pollak, Randall Schultz, Roch Smith Jr, Vassilia Smith v. Water Quality Comm, Env Mgmt Comm and Piedmont Triad Airport Authority	03 EHR 0345	Gray	01/08/04		
Robert Calvin Wyatt Jr, Calvin Wyatt v. DENR	03 EHR 0535	Wade	07/31/03		
Charles Wakild & Susan Wakild v DENR, Div. of Coastal Mgmt & Rick Gray	03 EHR 0663	Morrison	12/09/03		
Pacemaker Leasing Co v. DENR	03 EHR 0711	Conner	09/10/03		
Curtis Carney v. Pitt Co Health Dept., Env. Health Div.	03 EHR 0766	Conner	07/25/03		
J B Hooper v DENR	03 EHR 0876	Lassiter	10/22/03		
W E Ormond v DENR, Div of Waste Management	03 EHR 0883	Gray	01/21/04		
Danny L Ottaway v. DENR, Div. of Air Quality	03 EHR 0948	Gray	08/15/03		
Robert L Shepard v. Alamance Co. Health Board	03 EHR 0949	Gray	07/30/03		
Lorraine E. Caracci v. Nash Co. Health Dept. Env. Health	03 EHR 0986	Gray	11/26/03		
Megan Powell v. DENR	03 EHR 1071	Lassiter	08/18/03		

CONTESTED CASE DECISIONS

Redditt Alexander, Ida L Alexander v. Co. of Durham, Eng. Dept.	03 EHR 1074	Morrison	07/31/03		
Robert A Valois v. Coastal Resources Commission	03 EHR 1125	Elkins	11/18/03		
St. Paul's Lutheran Church v. DENR	03 EHR 1151	Morrison	10/01/03		
Quible & Assoc PC; Joseph S Lassiter agent for Wilma M Midgett v. DENR, Div of Coastal Management	03 EHR 1193	Elkins	11/06/03		
Connell E Purvis v DENR, Div of Marine Fisheries	03 EHR 1228	Elkins	11/06/03		
Jerry B Lytton v. Mecklenburg County Health Department	03 EHR 1850	Morrison	12/29/03		
In the Matter of Willie Sloan v DENR	03 EHR 1927	Elkins	02/13/04		
<u>HEARING AID DEALERS & FITTERS BOARD</u>					
Robert H Knox v. State Hearing Aid Dealers & Fitters Board	03 HAF 1785	Morrison	12/30/03		
<u>HUMAN RELATIONS FAIR HOUSING</u>					
Sara E. Parker v. Human Relations Fair Housing	02 HRC 0621	Gray	05/16/03		
Legislative Testor & Afflant: Charliciar Pratt & Family v Durham Co Clerk of Court & Records Division of NC	03 HRC 1886	Lassiter	02/13/04		
<u>TEACHERS' & STATE EMPLOYEES COMP. MAJOR MED PLAN</u>					
Alma Louise Triplett v. Teachers' & St Emp Comp Maj Med Plan	02 INS 0268	Gray	07/15/03	18:04 NCR	338
Shawna J Talley v. Teachers' & St. Emp. Comp. Maj. Med. Plan	02 INS 1257	Conner	08/06/03	18:05 NCR	405
Bertha Reeves by her husband Laconya Reeves v. Teachers' & St. Emp. Comp Maj. Med. Plan	02 INS 1285	Chess	08/26/03		
Carol W Walker v. Teachers' & State Emp. Comp Major Medical Plan	02 INS 1306	Conner	12/19/03	18:15 NCR	1356
Larry Pendry on behalf of Charles Elledge v Teachers' & St. Emp. Comp. Major Medical Plan	03 INS 0280	Chess	09/11/03		
JEL Company, Leonard Jackson v. DOI & Diane G Miller, Asst Atty.	03 INS 0811	Mann	08/28/03		
Lula F Bowman, Laura A Bowman v. Teachers' & St. Emp. Comp. Maj. Med. Plan	03 INS 0975	Wade	10/22/03		
Barbara Jean Gribble v Teachers' & St Emp. Comp Major Medical Plan	03 INS 1130	Mann	12/31/03		
David C Karasow v St. of NC Teachers' & St Emp Comp Maj. Med Plan	03 INS 1227	Chess	11/20/03		
Cathy Penney v Teachers' & State Emp Comp Major Medical Plan	03 INS 1459	Gray	12/04/03		
Heather A Smith v. Teachers & St Emp Comp Major Medical Plan	03 INS 1558	Morrison	12/12/03		
<u>OFFICE OF STATE PERSONNEL</u>					
Alvin Earl Williams v Dir of Cumberland Co Dept of Social Services	00 OSP 1490	Chess	11/05/03		
Dorris D Wright v. Cabarrus Co. Dept. of Social Services	00 OSP 1506	Gray	04/22/03		
Robert Banks Hinceman v. DHHS/Broughton Hospital	01 OSP 0827	Elkins	05/01/03	18:01 NCR	45
Robin Ritzheimer Austin v. Jim Jones, Hlth Dir, Judie DeMuth, Admn Asst & the County of Stanly	01 OSP 0888 ⁴	Lassiter	09/08/03		
Edward Allen Hughes, Jr v. Department of Correction	01 OSP 1011	Gray	08/01/03		
Wanda Gore v. Department of Correction	01 OSP 1286	Gray	05/16/03		
James F Pridgen Jr v. A&T State University	01 OSP 2182	Gray	08/08/03		
Alan Foster v. Comm of Ag Meg Scott Phipps & DOA	02 OSP 0173	Lewis	09/26/03		
Jerry Thomas Ferrell v. Department of Correction	02 OSP 0375	Conner	09/15/03		
Angie Richardson v Department of Correction	02 OSP 0867 ⁹	Wade	11/14/03		
Carolyn Davis v. Durham MH/DD/SA Area Authority d/b/a The Durham Ctr	02 OSP 1001	Lassiter	08/06/03	18:05 NCR	410
Carolyn Davis v. Durham MH/DD/SA Area Authority d/b/a The Durham Ctr	02 OSP 1001	Lassiter	08/06/03	18:07 NCR	494
Terence G Westry v A&T State University	02 OSP 1019	Conner	06/30/03		
Angie Richardson v Department of Correction	02 OSP 1027 ⁹	Wade	11/14/03		
Robert L. Swinney v. Department of Transportation	02 OSP 1109	Gray	05/07/03		
Robin Ritzheimer Austin v. Jim Jones Hlth Dir Stanly County	02 OSP 1166 ⁴	Lassiter	09/08/03		
Cynthia Michelle Guess-Godwin v. Winston Salem State Univ	02 OSP 1255	Gray	09/04/03		
James Thomas Kinlaw v. ESC of NC	02 OSP 1343	Wade	10/23/03		
Norman Burton v. Chatham County	02 OSP 1483 ²	Gray	05/12/03		
Jonah Uduagbomen v. Department of Transportation	02 OSP 1597	Gray	06/19/03		
Charles M Alexander v. ESC of NC	02 OSP 1613	Chess	07/01/03		
Gregory M Lewis v. DMV, Enforcement Section	02 OSP 1624 ³	Gray	07/23/03		
Norman Burton v. Chatham County	02 OSP 1625 ²	Gray	05/12/03		
Edward K Royal v. Dept. of Crime Control & Public Safety, Div. of State Highway Patrol	02 OSP 1631	Lassiter	06/25/03		
Leonard Williams v Durham Co DSS, Children's Services	02 OSP 1681	Elkins	01/28/04		
Gregory M Lewis v. DMV, Enforcement Section	02 OSP 1695 ³	Gray	07/23/03		
Patricia A Mabry v. Department of Corrections	02 OSP 1774	Chess	06/27/03		
Chester Michael Martin v. Cumberland Co. Dept. of Social Services	02 OSP 1797	Conner	05/09/03		
Linda H Boyle v. Wayne Co. Mental Health Area Board	02 OSP 1951	Wade	08/13/03		
Patricia Doggett v. Trend Mental Health	02 OSP 2128	Conner	07/08/03		
Sharon F Greene v. Weldon Freeman, Crime Control & Public Safety	02 OSP 2144	Chess	08/29/03		
C.W. McAdams v. Division of Motor Vehicles	02 OSP 2265	Conner	11/14/03		
Michael J Stolarik Sr v. Piedmont Behavioral Health Care	02 OSP 2293	Chess	12/22/03		
William Michael McDuffie v. Wake Co Juvenile Detention Center	03 OSP 0013	Wade	08/11/03		
Steven Wayne McCartney v. Lumberton Correctional Institution	03 OSP 0026	Conner	05/29/03		
Eric M Petree v. Department of Corrections	03 OSP 0116	Lassiter	06/24/03		
Monica Lynn Johnson v. NC School of the Arts	03 OSP 0180	Conner	07/29/03		
Jeffrey W Byrd v. Fayetteville State University	03 OSP 0204	Chess	06/04/03		
Tamara V McNeill v DPI	03 OSP 0212	Conner	10/29/03		
Elmer Jack Smith v Employment Security Commission of NC	03 OSP 0295	Elkins	01/29/04		
Tina Marie Walker v. Buncombe Co Dept of Social Services	03 OSP 0429	Chess	08/18/03		
Lisa C Banks v. Craven Co Child Support Enforcement Office	03 OSP 0268	Conner	07/31/03		
Beverly M Jennings v. Juv Justice, Swananoa Valley Youth Dev Center	03 OSP 0408	Chess	08/11/03		
Maranda Sharpe v. Department of Transportation	03 OSP 0412	Chess	06/03/03		
James E. Sharpe v Department of Transportation, Div. 14 (Graham Co.)	03 OSP 0413	Chess	06/03/03		
Larry S Height v. NC Utilities Commission	03 OSP 0507	Conner	07/17/03		

CONTESTED CASE DECISIONS

Gary Melvin Moore v. Western Piedmont Community College	03 OSP 0548	Wade	07/29/03
Joan Milligan, Patricia Flanigan, Pauletta Highsmith, Edna Cummings v. Fayetteville State University	03 OSP 0562	Conner	06/06/03
Ty Atkinson v M S C Center	03 OSP 0577	Conner	10/28/03
Lisa D Barrett v. East Carolina University	03 OSP 0597	Mann	08/05/03
Stanley L Ingram & Clifford Wayne Brown v. Dept of Correction	03 OSP 0599 ⁸	Chess	10/20/03
Wrenete Oladoye v Whitaker School	03 OSP 0620	Conner	08/15/03
Stanley L Ingram & Clifford Wayne Brown v. Dept of Correction	03 OSP 0629 ⁸	Chess	10/20/03
Melinda O Wiggins v. Moore Co Health Department	03 OSP 0632	Morrison	09/17/03
William Harold Maready Jr v. DOC, Pasquotank Correctional Inst.	03 OSP 0644	Conner	08/01/03
Henry Earl Stewart v Department of Transportation	03 OSP 0645	Lassiter	08/26/03
Derwin D Johnson v. Department of Correction	03 OSP 0660	Lassiter	06/24/03
Wanda Steward-Medley v. Department of Corrections, Div. of Prisons	03 OSP 0656	Conner	06/20/03
Sharon D Barnes v Satana Deberry, DHHS	03 OSP 0669	Gray	01/16/04
Priscilla Sledge v. Department of Correction	03 OSP 0675	Conner	08/13/03
Jerry B Davis v. Dorothea Dix Hospital/DHHS	03 OSP 0678	Gray	07/14/03
Leslie AllenWhittington v. Swannanoa Youth Dev. Center	03 OSP 0696	Lassiter	09/24/03
Cathy S Carson v. NC School for the Deaf	03 OSP 0715	Wade	07/22/03
Edwin E Kirton III v. DOC, Warren Correctional	03 OSP 0769 ¹¹	Conner	12/22/03
Edwin E Kirton III v. DOC, Warren Correctional	03 OSP 0770 ¹¹	Conner	12/22/03
Edwin E Kirton III v. DOC, Warren Correctional	03 OSP 0771 ¹¹	Conner	12/22/03
David L McMurray Jr. v. Highway Patrol	03 OSP 0801	Lassiter	06/19/03
Harold Lorenzo Person v. E. Reg. Off. DOC, Div. of Prisons	03 OSP 0805	Conner	08/21/03
LaWanda J Abegunrin v. Franklin Correctional Center	03 OSP 0825	Gray	06/18/03
Joseph Nichols v UNC at Chapel Hill	03 OSP 0857	Gray	12/04/03
Lazona Gale Spears v. Employment Security Commission	03 OSP 0859	Lassiter	06/26/03
Martin Hernandez v. Dobbs Youth Dev Ctr, DOJJ&DP	03 OSP 0862 ⁵	Morrison	09/29/03
Gail Hernandez v. Dobbs Youth Dev Ctr, DOJJ&DP	03 OSP 0863 ⁵	Morrison	09/29/03
Wanda Steward-Medley v Dept of Corrections, Div of Prisons	03 OSP 0873	Morrison	08/12/03
Michael L Hillis v DHHS/Office of the Controller	03 OSP 0874 ⁷	Lassiter	11/10/03
Jeffrey J Medley v. Department of Correction	03 OSP 0879	Gray	06/30/03
Everette C Body v Department of Correction	03 OSP 0885	Conner	11/12/03
Comatha B Johnson v. DHHS, Cherry Hospital	03 OSP 0942	Chess	08/19/03
Dawn H Nelson v Department of Correction	03 OSP 0980	Chess	02/11/04
Ayesha Neal-Harry v Department of Correction	03 OSP 0974	Gray	01/20/04
Edith C Fisher v. Cabarrus Health Alliance	03 OSP 1010	Conner	12/22/03
Monica Dockery v. DOC, Div. of Prisons	03 OSP 1016	Mann	07/18/03
Walter D Giese v. George O'Daniel Onslow Co Health Dept.	03 OSP 1017	Morrison	09/08/03
Theresa R Rogers v. Off of the Secretary of State of NC	03 OSP 1044	Morrison	09/25/03
David Upchurch v. DOC	03 OSP 1076	Connor	09/23/03
Roberta Lane v DOC	03 OSP 1077	Conner	10/29/03
Mable Lynn Kelly v. SEAA	03 OSP 1129	Chess	10/20/03
Leon C Rogers v. John Umstead Hospital	03 OSP 1152	Morrison	09/11/03
Mable Lynn Kelly v SEAA	03 OSP 1184	Chess	10/20/03
Marcella Thorne v Department of Correction	03 OSP 1225	Elkins	11/14/03
Sharon D Wallace v. Department of Corrections	03 OSP 1231	Wade	09/17/03
Michael L Hillis v DHHS/ENCSD	03 OSP 1239 ⁷	Lassiter	11/10/03
Michael L Hillis v DHHS/Eastern NC School for the Deaf	03 OSP 1240 ⁷	Lassiter	11/10/03
Michael L Hillis v DHHS/Eastern NC School for the Deaf	03 OSP 1241 ⁷	Lassiter	11/10/03
Luvae J Wall v. DHHS, Payroll Office	03 OSP 1259	Morrison	12/02/03
Russell M Haas v Edgecombe Co Health Department	03 OSP 1261	Elkins	11/06/03
Sergeant Tracy Millington v. Department of Correction	03 OSP 1262	Conner	10/21/03
David Dotson v. NC State University Zoology Department	03 OSP 1317	Wade	10/27/03
Walter Eugene Agers v. Winston-Salem State University	03 OSP 1321	Lassiter	09/24/03
Dennis D Foster v. Durham Co Sheriff's Department	03 OSP 1353	Morrison	09/12/03
Victor Marc Sain v. Catawba Valley Community College	03 OSP 1380	Conner	11/19/03
Kimberly Ann Summers v. Bobby White Co Mgr, Caldwell	03 OSP 1393	Conner	11/04/03
Willie Allen v Swannanoa Youth Dev Ctr (DJJDP)	03 OSP 1412	Conner	01/05/04
Gloria Bennett v Dept of Correction DART Cherry Program	03 OSP 1428	Morrison	12/04/03
Richard Todd McLean v. John Umstead Hospital	03 OSP 1448	Wade	11/26/03
Charles G Horne Jr v. DOC	03 OSP 1479	Lassiter	10/28/03
Charles G Horne Jr v. DOC	03 OSP 1480	Lassiter	10/29/03
Patricia Ann Palmer v NC State University	03 OSP 1481	Wade	02/11/04
Yolanda Lopez v DOC Harnett Correctional Inst	03 OSP 1501	Elkins	12/22/03
Mable Lynn Kelly v State Educ. Assistance Authority	03 OSP 1502	Chess	12/03/03
Manuel C Fleming v Department of Revenue	03 OSP 1576	Morrison	11/12/03
Jesse C Whitaker v. Facilities Mgmt Operations of NCSU	03 OSP 1645	Lassiter	11/26/03
Peter A Fillare v. NCSU Dining	03 OSP 1646	Lassiter	12/02/03
A Louise Nilsen Mankes v. Dr. Gatewood, UNC Gen Admin Dept NCSEAA	03 OSP 1660	Lassiter	12/16/03
A Louise Nilsen Mankes v. Mr. Anthony Bordeaux, UNC Gen Admin Dept NCSEAA	03 OSP 1661	Lassiter	12161/03
John N Leak v Dept. of Public Instruction	03 OSP 1711	Lassiter	12/31/03
Hamid Mozafaripour v Nursing Dept at Dorothea Dix Hospital	03 OSP 1745	Lassiter	02/10/04
Carolyn A Little v Eastern Area Treatment Program	03 OSP 1810	Lassiter	01/12/04
Terry T Pigford v Eastern Area Treatment Program	03 OSP 1811	Lassiter	01/12/04
Sandra J Dills v Smokey Mtn Healthcare Assoc	03 OSP 1962	Chess	01/12/04
William Russell Robinson v School of Science & Math et. Al.	03 OSP 1977	Lassiter	02/16/04
Patricia Stoddard v Elizabeth City State University	03 OSP 2228	Lassiter	02/18/04
Deborah Ann Bozsan v Henderson Co Board of Public Education	03 OSP 2303	Wade	02/11/04
Christopher Paul Davis v DHHS and Caswell Center	03 OSP 2275	Conner	01/14/03

CONTESTED CASE DECISIONS

UNIVERSITY OF NORTH CAROLINA HOSPITALS

Donald R. Smith v. UNC Hospitals	02 UNC 1361	Conner	06/05/03
Martin B Strickland v. UNC Hospitals, Patient Accounts Services	02 UNC 1620	Wade	08/29/03
Mary Dieudone Frantz v. UNC Hospitals	03 UNC 0409	Mann	08/07/03
Susan Kay Fryar v. UNC Hospitals	03 UNC 0410	Mann	08/07/03
Kendall Adams v. UNC Hospitals	03 UNC 0536	Gray	08/11/03
Janice Block v. UNC Hospitals	03 UNC 0720	Gray	09/04/03
Alfred Tilden Ward, Jr. v. UNC Hospitals & UNC Physicians & Assoc.	03 UNC 0723	Gray	06/23/03
Ieshia Marlina Baskett v. UNC Hospitals, Patient Account Services	03 UNC 0894	Gray	09/04/03
Michael Gray Simmons v. UNC Hospitals	03 UNC 0977	Wade	11/25/03
Keith Bagby Sr & Patricia Bagby v UNC Hospitals	03 UNC 1011	Elkins	11/07/03
D. Parker Lynch v. UNC Hospitals	03 UNC 1124	Wade	11/19/03
Steven R. Wilkerson v. UNC Hospitals	03 UNC 1177	Chess	09/18/03
Yvonne Schreiner v. UNC Hospitals	03 UNC 1512	Morrison	10/31/03

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