

NORTH CAROLINA

IN THIS ISSUE

REGISTER



**Volume 20, Issue 12
Pages 981 - 1013**

December 15, 2005

This issue contains documents officially filed through November 22, 2005.

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North Carolina Register is published semi-monthly for \$195 per year by the Office of Administrative Hearings, 424 North Blount Street, Raleigh, NC 27601. *North Carolina Register* (ISSN 15200604) to mail at Periodicals Rates is paid at Raleigh, NC. POSTMASTER: Send Address changes to the *North Carolina Register*, 6714 Mail Service Center, Raleigh, NC 27699-6714.

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	
11	INSURANCE	16 Dental Examiners	
12	JUSTICE	17 Dietetics/Nutrition	
13	LABOR	18 Electrical Contractors	
14A	CRIME CONTROL & PUBLIC SAFETY	19 Electrolysis	
15A	ENVIRONMENT & NATURAL RESOURCES	20 Foresters	
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		53 Professional Counselors	
		54 Psychology	
		56 Professional Engineers & Land Surveyors	
		57 Real Estate Appraisal	
		58 Real Estate Commission	
		60 Refrigeration Examiners	
		61 Respiratory Care	
		62 Sanitarian Examiners	
		63 Social Work Certification	
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		65 Therapeutic Recreation Certification	
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		68 Substance Abuse Professionals	
		69 Soil Scientists	

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 2006 – December 2006

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
20:13	01/03/06	12/08/05	01/18/06	03/06/06	03/20/06	05/01/06	05/09/06	09/30/06
20:14	01/17/06	12/21/05	02/01/06	03/20/06	04/20/06	06/01/06	01/07	10/14/06
20:15	02/01/06	01/10/06	02/16/06	04/03/06	04/20/06	06/01/06	01/07	10/29/06
20:16	02/15/06	01/25/06	03/02/06	04/17/06	04/20/06	06/01/06	01/07	11/12/06
20:17	03/01/06	02/08/06	03/16/06	05/01/06	05/22/06	07/01/06	01/07	11/26/06
20:18	03/15/06	02/22/06	03/30/06	05/15/06	05/22/06	07/01/06	01/07	12/10/06
20:19	04/03/06	03/13/06	04/18/06	06/02/06	06/20/06	08/01/06	01/07	12/29/06
20:20	04/17/06	03/24/06	05/02/06	06/16/06	06/20/06	08/01/06	01/07	01/12/07
20:21	05/01/06	04/07/06	05/16/06	06/30/06	07/20/06	09/01/06	01/07	01/26/07
20:22	05/15/06	04/24/06	05/30/06	07/14/06	07/20/06	09/01/06	01/07	02/09/07
20:23	06/01/06	05/10/06	06/16/06	07/31/06	08/21/06	10/01/06	01/07	02/26/07
20:24	06/15/06	05/24/06	06/30/06	08/14/06	08/21/06	10/01/06	01/07	03/12/07
21:01	07/03/06	06/12/06	07/18/06	09/01/06	09/20/06	11/01/06	01/07	03/30/07
21:02	07/17/06	06/23/06	08/01/06	09/15/06	09/20/06	11/01/06	01/07	04/13/07
21:03	08/01/06	07/11/06	08/16/06	10/02/06	10/20/06	12/01/06	01/07	04/28/07
21:04	08/15/06	07/25/06	08/30/06	10/16/06	10/20/06	12/01/06	01/07	05/12/07
21:05	09/01/06	08/11/06	09/16/06	10/31/06	11/20/06	01/01/07	01/07	05/29/07
21:06	09/15/06	08/24/06	09/30/06	11/14/06	11/20/06	01/01/07	01/07	06/12/07
21:07	10/02/06	09/11/06	10/17/06	12/01/06	12/20/06	02/01/07	05/08	06/29/07
21:08	10/16/06	09/25/06	10/31/06	12/15/06	12/20/06	02/01/07	05/08	07/13/07
21:09	11/01/06	10/11/06	11/16/06	01/01/07	01/22/07	03/01/07	05/08	07/29/07
21:10	11/15/06	10/24/06	11/30/06	01/15/07	01/22/07	03/01/07	05/08	08/12/07
21:11	12/01/06	11/07/06	12/16/06	01/30/07	02/20/07	04/01/07	05/08	08/28/07
21:12	12/15/06	11/22/06	12/30/06	02/13/07	02/20/07	04/01/07	05/08	09/11/07

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.

Note from the Codifier: 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.

North Carolina Department of Labor
Division of Occupational Safety and Health
1101 Mail Service Center
Raleigh, NC 27699-1101

(919) 807-2875

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 November 14, 2005, 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:

- American Petroleum Institute Standard No. 12A, Specification for Oil Storage Tanks Riveted Shells. (70 FR 53925, September 13, 2005)
- American National Standard Institute Standard Specifications for Drinking Fountains. (70 FR 53925, September 13, 2005)
- American National Standard Safety Specifications for power Lawnmowers. (70 FR 53925, September 13, 2005)
- American Welding Society's Recommended Safe Practices for Gas-Shielded Arc Welding. (70 FR 53925, September 13, 2005)
- American National Standard D8.1-1967 for Railroad Highway Grade Crossing Protection. (70 FR 53925, September 13, 2005)

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
1101 Mail Service Center
Raleigh, North Carolina 27699-1101

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

A. John Hoomani, General Counsel
North Carolina Department of Labor
Legal Affairs Division
1101 Mail Service Center
Raleigh, NC 27699-1101

U.S. Department of Justice

Civil Rights Division

JDR:JBG:MFE:par
DJ 166-012-3
2004-0295
2004-0592

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

March 18, 2004

Robert V. Shaver, Jr., Esq.
County Attorney
P.O. Box 98
Yanceyville, NC 27379

Dear Mr. Shaver:

This refers to the polling place changes for Caswell 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 submissions on January 23 and February 11, 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. In addition, as authorized by Section 5, we reserve the right to reexamine these submissions if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. 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:JR:NT:jdh
DJ 166-012-3
2002-0717
2002-0718

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

June 22, 2004

Robert V. Shaver, Jr., Esq.
County Attorney
P.O. Box 98
Yanceyville, NC 27379

Dear Mr. Shaver:

This refers to the 2001 redistricting plans for the board of commissioners and board of education in Caswell 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 submissions on April 23, 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 the 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

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 Medical Care Commission intends to amend the rule cited as 10A NCAC 13D .2104.

Proposed Effective Date: August 1, 2006

Public Hearing:

Date: February 9, 2006

Time: 10:00 a.m.

Location: Room 142, Council Building, Dorothea Dix Campus

Reason for Proposed Action: *The NC Medical Care Commission is proposing to amend 10A NCAC 13D .2104, Requirements for Licensure Renewal or Changes. This subchapter pertains to the Licensing of Nursing Homes.*

The proposed amendment of rule 10A NCAC 13D .2104 seeks to allow facilities that have a combination of nursing home beds and adult care home beds, the option to designate which set of governing rules the facility will comply with for the upcoming calendar year when renewing their annual license. The facility can choose to be governed by nursing home licensure rules, adult care home licensure rules, or a combination of nursing home and adult care home licensure rules.

If no designation is made, the adult care home beds in the combination facility shall comply with adult care home rules in accordance with G.S. 131E-104(b).

Procedure by which a person can object to the agency on a proposed rule: *An individual may object to the agency on the proposed rule by submitting written comments on the proposed rule. They may also object by attending the public hearing and personally voice their objections during that time.*

Comments may be submitted to: *Nadine Pfeiffer, DFS, 2711 MSC, Raleigh, NC 27699-2711, phone (919)733-7461, fax (919)733-8274, email Nadine.Pfeiffer@ncmail.net.*

Comment period ends: February 13, 2006

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. 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 day following the day the

Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

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

CHAPTER 13 – NC MEDICAL CARE COMMISSION

SUBCHAPTER 13D – RULES FOR THE LICENSING OF NURSING HOMES

SECTION .2100 - LICENSURE

10A NCAC 13D .2104 REQUIREMENTS FOR LICENSURE RENEWAL OR CHANGES

(a) The Department shall renew the facility's license at the end of each calendar year, if the following occur:

- (1) The licensee maintains and submits to the Department, at least 30 days prior to the licensure expiration date, statistical data for the State's medical facilities plan and review for certificate of need determination. The Department shall provide forms annually to the facility for this purpose.
- (2) The facility is in conformance with G.S. 131E-102(c).
- (3) In accordance with G.S. 131E-104(b), the adult care home beds in the combination facility shall comply with adult care home rules unless the facility specifies on the annual license renewal application with which rules it plans to comply for the upcoming calendar year. The rule selection shall be effective for the duration of the renewed licensed year. The facility shall choose one of the following:
 - (A) nursing home licensure rules under this Subchapter;
 - (B) adult care home licensure rules under 10A NCAC 13F; or
 - (C) a combination of nursing home and adult care home licensure rules. The facility shall identify in writing the specific rule governing compliance with the adult care home rules and shall identify in writing the specific requirements governing compliance with the nursing home rules.

(b) The Licensure and Certification Section of the Division of Facility Services shall be notified in writing and changes made in the licensure application at least 30 days prior to the occurrence of the following:

- (1) a change in the name or names under which the facility is presented to the public;
- (2) a change in the legal identity (licensee) which has ownership responsibility and liability (such information shall be submitted by the proposed new owner);
- (3) a change in the licensed bed capacity; or
- (4) a change in the location of the facility.

The Department shall issue a new license following notification and verification of data submitted.

(c) The facility shall notify the Licensure and Certification Section of the Division of Facility Services within one working day following the occurrence of:

- (1) change in administration;
- (2) change in the director of nursing;
- (3) change in facility mailing address or telephone number;
- (4) changes in magnitude or scope of services; or
- (5) emergencies or situations requiring relocation of patients to a temporary location away from the facility.

Authority G.S. 131E-104.

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 10A NCAC 41A .0205.

Proposed Effective Date: April 1, 2006

Public Hearing:

Date: January 19, 2006

Time: 1:00 p.m.

Location: Cardinal Room, 5605 Six Forks Road, Raleigh, NC

Reason for Proposed Action: To ensure that the rule reflects current national standards of practice for the control of tuberculosis. Specifically, requirements for therapy are clarified, references are updated, and criteria for the determination and management of infectious tuberculosis cases are clarified.

Procedure by which a person can object to the agency on a proposed rule: Objections may be submitted in writing to Chris G. Hoke, JD, the Rule-Making Coordinator, during the public comment period. Additionally, objections may be made verbally and/or in writing at the public hearing for this rule.

Comments may be submitted to: Chris G. Hoke, JD, 1915 Mail Service Center, Raleigh, NC 27699-1915, phone (919)715-4168, email chris.hoke@ncmail.net.

Comment period ends: February 13, 2006

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. 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 day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact:

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

CHAPTER 41 – HEALTH: EPIDEMIOLOGY

SUBCHAPTER 41A – COMMUNICABLE DISEASE CONTROL

SECTION .0200 - CONTROL MEASURES FOR COMMUNICABLE DISEASES

10A NCAC 41A .0205 CONTROL MEASURES – TUBERCULOSIS

(a) The local health director shall promptly investigate all cases of tuberculosis disease and their contacts in accordance with the provisions of the Control of Communicable Diseases Manual. ~~Control of Communicable Diseases Manual~~ which is hereby incorporated by reference including subsequent amendments and editions. Copies of this publication may be purchased from the American Public Health Association, Publication Sales Department, Post Office Box 753, ~~Waldora, Waldorf~~, MD 20604 for a cost of twenty-two dollars (\$22.00) each plus five dollars (\$5.00) shipping and handling. A copy is available for inspection in the Division of Public Health, 1915 Mail Service Center, Raleigh, North Carolina 27699-1915.

(b) The following persons shall be skin tested for tuberculosis and given appropriate clinical, microbiologic and x-ray examination in accordance with the "Diagnostic Standards and Classification of Tuberculosis," Tuberculosis in Adults and Children, published by the American Thoracic Society. The recommendations contained in this reference shall be the required control measures for evaluation, testing, and diagnosis for tuberculosis patients, contacts and suspects, except as otherwise provided in this Rule and are incorporated by reference including subsequent amendments and editions:

- (1) Household and other ~~else~~ high priority contacts of active cases of pulmonary and laryngeal tuberculosis. For purposes of this Rule, a ~~else~~ high priority contact is ~~a person who shared the same indoor room air as the case for more than one hour.~~ defined in

accordance with CDC guidelines which are incorporated reference in Rule .0201 of this Section. If the contact's initial skin test is negative (0-4mm), and the case is confirmed by culture, a repeat skin test shall be performed three months after the exposure has ended;

- (2) Persons reasonably suspected of having tuberculosis disease;
- (3) Inmates in the custody of, and staff with direct inmate contact in, the Department of Corrections upon incarceration or employment, and annually thereafter;
- (4) Patients and staff in long term care facilities upon admission or employment. The two-step skin test method shall be used if the individual has not had a documented tuberculin skin test within the preceding 12 months;
- (5) Staff in adult day care centers providing care for persons with HIV infection or AIDS upon employment. The two-step skin test method shall be used if the individual has not had a documented tuberculin skin test within the preceding 12 months; and
- (6) Persons with HIV infection or AIDS.

A copy of "Diagnostic Standards and Classification of Tuberculosis" Tuberculosis in Adults and Children" is available by contacting the Division of Public Health, 1915 Mail Service Center, Raleigh, North Carolina ~~27699-1915~~, 27699-1915 or by accessing the CDC website at http://www.cdc.gov/nchstp/tb/pubs/mmwrhtml/Maj_guide/cdc_at_guidelines.htm.

(c) Treatment and follow-up for tuberculosis infection or disease shall be in accordance with "Treatment of Tuberculosis and Tuberculosis Infection in Adults and Children," Tuberculosis," published by the American Thoracic Society. The recommendations contained in this reference shall be the required control measures for testing, treatment, and follow-up for tuberculosis patients, contacts and suspects, except as otherwise provided in this Rule and are incorporated by reference including subsequent amendments and editions. Copies of this publication are available by contacting the Division of Public Health, 1915 Mail Service Center, Raleigh, North Carolina ~~27699-1915~~ 27699-1915 or by accessing the CDC website at http://www.cdc.gov/nchstp/tb/pubs/mmwrhtml/Maj_guide/cdc_at_guidelines.htm.

(d) The attending physician or designee shall instruct all patients treated for tuberculosis regarding the potential side effects of the ~~medications prescribed and~~ prescribed medications, including instructions to promptly notify the physician or designee if side effects occur.

(e) Persons with active tuberculosis disease shall complete a standard multi drug regimen ~~from "Treatment of Tuberculosis and Tuberculosis Infections in Adults and Children."~~ unless otherwise approved by the State TB Medical Director or designee. All persons with suspected or confirmed TB disease shall be managed using Directly Observed Therapy (DOT) which is the actual observation of medical ingestion by a health care worker (HCW).

(f) Persons with suspected or known active pulmonary or laryngeal tuberculosis who have sputum smears positive for acid fast bacilli are considered infectious and shall be managed using airborne precautions, including respiratory isolation, or quarantined isolation in their home, with no new persons ~~exposed, if:~~ exposed.

- (1) ~~They have sputum smears which are positive for acid fast bacilli; and~~
- (2) ~~They have not received tuberculosis drug therapy or have just started therapy; and~~
- (3) ~~They have no evidence of clinical response or have poor clinical response to therapy.~~

(g) Persons with suspected or known active pulmonary or laryngeal tuberculosis are considered noninfectious and use of airborne precautions, including respiratory isolation, or quarantine isolation in their home may be discontinued when:

- (1) They have three consecutive ~~daily~~ collected at least eight hours apart sputum smears collected at least eight hours apart which are negative; ~~or and~~
- (2) They have been compliant on tuberculosis medications to which the organism is judged to be ~~suseptible,~~ susceptible and there is evidence of clinical improvement on ~~the~~ therapy, and the environment to which they are being released is such that transmission of tuberculosis organisms is unlikely. therapy.

Authority G.S. 130A-135; 130A-144.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Health Services intends to adopt the rules cited as 10A NCAC 41F .0101-.0103.

Proposed Effective Date: July 1, 2006

Public Hearing:

Date: November 19, 2006

Time: 1:00 p.m.

Location: Cardinal Room, 5605 Six Forks Road, Raleigh, NC

Reason for Proposed Action: *Pesticides have been found to be harmful to public health. This rule change is necessary in order to establish acute pesticide-related illness and injury as a reportable condition so that systematic monitoring of pesticide illness (surveillance) can be performed. This data will be useful in trying to prevent future exposure to workers and the general public.*

Procedure by which a person can object to the agency on a proposed rule: *All interested parties may submit comments to Chris Hoke, Division of Public Health, 1915 Mail Service Center, Raleigh, NC 27699-1915. All comments should be submitted within 60 days after publication of text in the NC Register.*

Comments may be submitted to: *Chris G. Hoke, JD, 1931 MSC, Raleigh, NC 27699-1931, email chris.hoke@ncmail.net, phone (919)707-5006, fax (919)870-4829.*

Comment period ends: February 13, 2006

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. 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 day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

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

CHAPTER 41 – HEALTH: EPIDEMIOLOGY

SUBCHAPTER 41F – CHEMICAL-RELATED ILLNESS OR INJURY SURVEILLANCE

SECTION .0100 – REPORTING OF CHEMICAL-RELATED ILLNESS OR INJURY

10A NCAC 41F .0101 GENERAL DEFINITIONS

(a) In order to identify, prevent and control health hazards pursuant to G.S. 130A-5(2), the rules of this Subchapter establish standards for reporting chemical-related illnesses or injuries that are named in this Subchapter and are hereby considered harmful to the public's health.

(b) The following definitions apply throughout this Section:

- (1) "Acute pesticide-related illness or injury" means any confirmed or suspected case of systemic, ophthalmologic or dermatologic illness or injury resulting from inhalation, ingestion, dermal exposure or ocular contact with a pesticide.
(2) "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. Pesticides include but are not limited to insecticides, fungicides, herbicides, defoliants, desiccants, plant growth regulators, nematocides, and rodenticides.

Authority G.S. 130A-5(2).

10A NCAC 41F .0102 REPORTING OF CHEMICAL-RELATED ILLNESS OR INJURY

The following named chemical-related illnesses or injuries are considered harmful to the public's health and are hereby made reportable within the time period specified after the illness or injury is diagnosed:

- (1) Acute pesticide-related illness or injury – 48 hours
(2) Acute pesticide-related illness or injury resulting in death - immediately

Authority G.S. 130A-5(2).

10A NCAC 41F .0103 METHOD OF REPORTING

(a) A report of a chemical-related illness or injury shall be submitted to the Occupational and Environmental Epidemiology Branch on a form provided by or approved by the Branch. The form shall include the following information:

- (1) The name, address, telephone number, date of birth, social security number, race, ethnicity, gender, and occupation of the affected person;
(2) The physical location of the affected person at the time of exposure to the chemical, if known (Be as specific as possible and include address and telephone number);
(3) The name of the chemical, if known; and
(4) The name, address, and telephone number of the physician or medical facility.

(b) To minimize cost and to avoid duplicate reporting, the physician is not required to report a case of a chemical-related illness or injury to the Occupational and Environmental Epidemiology Branch if the physician has already reported that case to the state poison control center.

(c) Reporting forms are available at the Occupational and Environmental Epidemiology Branch, Division of Public Health, 1912 Mail Service Center, Raleigh, NC 27699-1912.

Authority G.S. 130A-5(2).

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Health and Human Services, Division of Medical Assistance intends to amend the rule cited as 10A NCAC 220 .0409.

Proposed Effective Date: April 1, 2006

Public Hearing:

Date: Tuesday, January 10, 2006

Time: 9:30 a.m.

Location: Kirby Building, Room 132, 1985 Umstead Drive, Raleigh, NC 27603

Reason for Proposed Action: According to federal regulations, therapeutic leave is not a Medicaid entitlement under adult care home personal care services. Therefore the NCAC is being amended to eliminate that category of service, bringing the Code in line with the Medicaid State Plan and the mandate of the Centers for Medicare and Medicaid Services (CMS).

Procedure by which a person can object to the agency on a proposed rule: *Should you desire to object to a proposed rule(s) please respond to DMA with the objection, reasons for the objection, and the clearly identified portion of the rule to which the objection pertains. This must be submitted in writing to Kris M. Horton, Administrative Officer II, Director's Office, Division of Medical Assistance, 2501 Mail Service Center, Raleigh, NC 27699-2501, or fax (919)733-6608.*

Comments may be submitted to: *Kris M. Horton, 2501 Mail Service Center, Raleigh, NC 27699-2501, fax (919)733-6608.*

Comment period ends: *February 13, 2006*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. 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 day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact: A copy of the fiscal note can be obtained from the agency.

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

CHAPTER 22 – MEDICAL ASSISTANCE ELIGIBILITY

SUBCHAPTER 220 - MEDICAL ASSISTANCE PROVIDED

SECTION .0400 – LIMITATION OF AMOUNT, DURATION, AND SCOPE OF ASSISTANCE

10A NCAC 220 .0409 THERAPEUTIC LEAVE

- (a) Each Medicaid eligible patient occupying a skilled nursing (SNF) or intermediate care (ICF or ICF-MR) bed shall be entitled to take therapeutic leave in accordance with G.S. 108-A-62.
- (b) The taking of such leave must be for therapeutic purposes only, and must be ordered by the patient's attending physician. The necessity for such leave shall be documented in the patient's plan of care and therapeutic justification for each instance of such leave entered into the patient's medical record.
- (c) Facilities must reserve a therapeutically absent patient's bed for him and are prohibited from deriving any Medicaid revenue for that patient other than the reimbursement for that bed during the period of absence. Facilities shall be reimbursed at their full current Medicaid bed rate for a bed reserved due to therapeutic

- leave. Facilities shall not be reimbursed for therapeutic leave days taken which exceed the legal limit.
- (d) The therapeutic justification for such absence shall be subject to review by the state or its agent during scheduled on-site medical reviews.
- (e) A patient's 12-month entitlement period shall begin on January 1 and continue through December 31 of a calendar year. Unused therapeutic leave days shall not be carried over from one calendar year to another.
- (f) Facilities must keep a cumulative record of therapeutic leave days taken by each patient for reference and audit purposes. In addition, patients on therapeutic leave must be noted as such on the facility's midnight census. Facilities shall bill Medicaid for approved therapeutic leave days as regular residence days.
- (g) The official record of therapeutic leave days taken for each patient shall be maintained by the state or its agent.
- (h) Entitlement to therapeutic leave is not applicable in cases when the therapeutic leave is for the purpose of receiving either inpatient or nursing services provided either elsewhere or at a different level of care in the facility of current residence when such services are or will be paid for by Medicaid.
- (i) Transportation from a facility to the site of therapeutic leave is not considered to be an emergency; therefore, ambulance service for this purpose shall not be reimbursed by Medicaid.
- (j) Effective July 1, 2005 entitlement to Therapeutic Leave is not applicable in the case of Medicaid Adult Care Home Personal Care Services (ACH-PCS).

Authority G.S. 108A-25(b); 108A-62; Chapter 1014, Section 120, Session Laws, 2nd Session 1986.

TITLE 11 – DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Home Inspector Licensure Board/NC Department of Insurance intends to amend the rule cited as 11 NCAC 08 .1202.

Proposed Effective Date: *April 1, 2006*

Public Hearing:

Date: *January 20, 2006*

Time: *9:00 a.m.*

Location: *322 Chapanoke Road, Raleigh, NC 27603*

Reason for Proposed Action: *Define time frame for filing complaints*

Procedure by which a person can object to the agency on a proposed rule: *The Home Inspector Licensure Board/NC Department of Insurance will accept written objections to this rule until the expiration of the comment period on February 13, 2006.*

Comments may be submitted to: *Ellen K. Sprenkel, 1201 Mail Service Center, Raleigh, NC 27699-1201, phone (919)733-4529, fax (919) 733-6495, email esprenke@ncdoi.net.*

Comment period ends: *February 13, 2006*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. 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 day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

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

**CHAPTER 8 - ENGINEERING AND BUILDING CODES
DIVISION**

**SECTION .1200 - N.C. HOME INSPECTOR
DISCIPLINARY ACTIONS**

11 NCAC 08 .1202 COMPLAINTS

- (a) Anyone who believes that a licensee is or has been engaged in any conduct set out in G.S. 143-151.56(a) may file a written complaint against that licensee. The Board may, upon its own motion, initiate an investigation of a licensee. The Board shall not consider complaints that are received by the Board more than three years from the dates of the inspection.
- (b) An information memo containing instructions for filing the complaint shall be mailed to anyone requesting complaint information from the Board.
- (c) The complaint shall specifically identify the licensee and describe the conduct complained about.
- (d) Supporting information shall be included to justify the complaint. Supporting information shall refer to specific violations of the Board's rules or of the General Statutes. If the complaint involves items included in the Standards of Practice that the licensee did not observe, a list of those items must be submitted with the complaint. This information may be provided by the complainant, an architect, professional engineer, licensed contractor, another licensed home inspector, or other person with knowledge of the Standards of Practice. A copy of the contract agreement, the inspection report, and any reports made by other consultants shall be included with the complaint.
- (e) The complaint shall be in writing, signed by the complainant, and dated. The complaint shall include the complainant's mailing address and a daytime phone number at which the complainant may be reached. The street address of the structure must be included.
- (f) The Board shall not consider services that are under the jurisdiction of other regulatory agencies or licensing boards, such as, termite inspections, appraisals, services rendered by licensed architects, engineers, or general contractors, unless the persons rendering those services claim to be home inspectors.

(g) The Board has no jurisdiction over persons who make specialized inspections as part of their repair or maintenance businesses, such as, roofing repair contractors, chimney sweeps, duct cleaning, and interior environment specialists.

Authority G.S. 143-151.49; 150B-38(h).

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Alarm Systems Licensing Board intends to amend the rule cited as 12 NCAC 11 .0201.

Proposed Effective Date: April 1, 2006

Public Hearing:

Date: January 2, 2006

Time: 2:00 p.m.

Location: ASLB Conference Room, 1631 Midtown Place, Suite #104, Raleigh, NC 27609

Reason for Proposed Action: *The Board has determined that it benefits the public health, safety, and welfare for all licensing applicants to appear either before the Board or before a Board representative prior to receiving a license. The purpose of the meeting is to inform the applicant of the requirements that are set forth in the statute and the rules. The applicant shall be required to sign a statement acknowledging that the review has occurred and that the applicant understands the requirements.*

Procedure by which a person can object to the agency on a proposed rule: *Written comments may be submitted to Director Wayne Woodard, 1631 Midtown Place, Suite 104, Raleigh, NC 27609 prior to the expiration of the public comment period.*

Comments may be submitted to: *W. Wayne Woodard, 1631 Midtown Place, Suite 104, Raleigh, NC 27609*

Comment period ends: *February 13, 2006*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. 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 day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

- State
- Local
- Substantive (≥\$3,000,000)

None

CHAPTER 11 - NORTH CAROLINA ALARM SYSTEMS LICENSING BOARD

SECTION .0200 - PROVISIONS FOR LICENSEES

12 NCAC 11 .0201 APPLICATION FOR LICENSE

(a) Each applicant for a license shall complete an application form provided by the Board. This form and one additional copy shall be submitted to the administrator and shall be accompanied by:

- (1) one set of classifiable fingerprints on an applicant card provided by the Board;
(2) two recent head and shoulders color photographs of the applicant of acceptable quality for identification one inch by one inch in size;
(3) statements of the results of a local criminal history records search by the city-county identification bureau or clerk of superior court in each county where the applicant has resided within the immediately preceding 48 months; and
(4) the applicant's application fee.

(b) Each applicant must provide evidence of high school graduation either by diploma, G.E.D. certificate, or other acceptable proof.

(c) Each applicant for a license shall meet personally with either a Board investigator, the Screening Committee, the Director, or a Board representative designated by the Director prior to being issued a license. The applicant shall discuss the provisions of G.S. 74D and the administrative rules during the personal meeting. The applicant shall sign a Board approved form indicating that they have reviewed the information with the Board's representative and that they have an understanding of G.S. 74D and the administrative rules.

(d) Each applicant for a branch office license shall complete an application form provided by the Board. This form and one additional copy shall be submitted to the administrator and shall be accompanied by the branch office application fee.

Authority G.S. 74D-2; 74D-3; 74D-5; 74D-7.

TITLE 15A - DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Water Treatment Facility Operators Certification Board intends to amend the rules cited as 15A NCAC 18D .0105, .0201-.0202, .0301, .0309, .0701 and repeal the rules cited as 15A NCAC 18D .0302, .0405.

Proposed Effective Date: April 1, 2006

Public Hearing:

Date: January 12, 2006

Time: 10:00 a.m.

Location: Parker-Lincoln Building, Room 1H120, 2728 Capital Blvd., Raleigh, NC

Reason for Proposed Action: To update rule for water treatment facility operators based on changes in technology and responsibilities.

Procedure by which a person can object to the agency on a proposed rule: A person can object to the agency on a proposed rule by writing, e-mailing, or calling: Lencie Bailey, NCWTFWO Certification Board, 1635 MSC, Raleigh, NC 27699-1635, email lencie.bailey@ncmail.net, phone (919)715-9571.

Comments may be submitted to: Lencie Bailey, 1635 MSC, Raleigh, NC 27699-1635, Phone (919)715-9571, fax (919)715-2726, email lencie.bailey@ncmail.net.

Comment period ends: February 13, 2006

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. 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 day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact: A copy of the fiscal note can be obtained from the agency.

- State
Local - 15A NCAC 18D .0202
Substantive (>=\$3,000,000)
None - 15A NCAC 18D .0105, .0201, .0301, .0309, .0701, .0302, .0405

CHAPTER 18 - ENVIRONMENTAL HEALTH

SUBCHAPTER 18D - WATER TREATMENT FACILITY OPERATORS

SECTION .0100 - GENERAL POLICIES

15A NCAC 18D .0105 DEFINITIONS

The following definitions shall apply throughout this Subchapter:

- (1) "Acceptable Experience"
(a) For surface grades means at least 50% of the duties shall consist of active on-site performance of operational duties, including on-site water facility laboratory duties, at a surface water treatment facility. This

experience shall be based on the use of mathematics, equipment, materials, maintenance, installation and repair techniques, cross-connection-control and other skills necessary for maintaining and operating a surface water treatment facility. The remaining duties shall be in related fields such as wastewater facility operation, water/wastewater laboratory, water pumping stations, water system design and engineering, wells, distribution systems, or cross-connection-control. The experience of Division of Environmental Health, Public Water Supply Section personnel shall be acceptable if at least 50% of their job duties include inspection or on-site technical assistance of public water systems.

- (b) For well grades means at least 50% of the duties shall consist of active on-site performance of operational duties for public water systems with chemical treatment having one or more wells. This experience shall be based on the use of mathematics, equipment, materials, maintenance, installation and repair techniques, cross-connection-control and other skills necessary for maintaining and operating a treated well water system. The remaining duties shall be in related fields such as wastewater facility operation, water/wastewater laboratory, water pumping stations, water system design and engineering, surface facilities, distribution systems, or cross-connection-control. The experience of Division of Environmental Health, Public Water Supply Section personnel shall be acceptable if at least 50% of their job duties include inspection or on-site technical assistance of public water systems.
- (c) For distribution grades means at least 50% of the duties shall consist of active on-site performance of operational duties for distribution systems within public water systems. This experience shall be based on the use of mathematics, equipment, materials, maintenance, installation and repair techniques, cross-connection-control and other skills necessary for maintaining and operating a water distribution system. The remaining duties shall be in related fields such as wastewater

facility operation, water/wastewater laboratory, water pumping stations, water system design and engineering, surface facilities, wells, or cross-connection-control. The experience of Division of Environmental Health, Public Water Supply Section personnel shall be acceptable if at least 50% of their job duties include inspection or on-site technical assistance of public water systems.

- (d) For cross-connection-control grade means ~~at least 50%~~ of the duties shall consist of on-site performance of cross-connection-control duties for a public water system. This experience shall be based on the use of mathematics, equipment, materials, maintenance, installation and repair techniques, back flow prevention and other skills necessary for maintaining and operating a cross-connection-control program for a public water system. The remaining duties shall be in related fields such as wastewater facility operation, water/wastewater laboratory, water pumping stations, water system design and engineering, surface facilities, or wells. The experience of Division of Environmental Health, Public Water Supply Section personnel shall be acceptable if at least 50% of their job duties include inspection or on-site technical assistance of public water systems.
- (2) "Certified Operator" means any holder of a certificate issued by the Board in accordance with the provisions of G.S. 90A-20 to -29.
- (3) "College Graduate" means a graduate of a regionally accredited four-year institution awarding degrees on the bachelor level.
- (4) "Licensee" means any person who holds a current certificate issued by the water treatment facility operators board of certification.
- (5) "Owner" shall mean person, political subdivision, firm, corporation, association, partnership or non-profit corporation formed to operate a public water supply facility.
- (6) "Political Subdivision" means any city, town, county, sanitary district, or other governmental agency or privately owned public water supply operating a water treatment facility.
- (7) "Secretary" shall mean the Secretary of the Department of Environment and Natural Resources.
- (8) "Service Connection" means a water tap made to provide a water connection to the water distribution system.

- (9) "Fire Protection System" means dry or wet sprinkler systems or fire hydrant connection to the water distribution system.

Authority G.S. 90A-21(c).

**SECTION .0200 – QUALIFICATION OF APPLICANTS
AND CLASSIFICATION OF FACILITIES**

15A NCAC 18D .0201 GRADES OF CERTIFICATION

(a) Applicants for the various grades of certification shall be at least 18 years old and meet the following educational and experience requirements:

- (1) GRADE A-SURFACE shall have one year acceptable experience at a surface water facility while holding a Grade B-Surface certificate and have satisfactorily completed an A-Surface school conducted by the Board.
- (2) GRADE B-SURFACE shall:
 - ~~(a)~~(A) Be a college graduate with a bachelor's degree in the physical or natural sciences or be a graduate of a two year technical program with a diploma in water and wastewater technology, have six months of acceptable experience at a surface water facility and have satisfactorily completed an B-Surface school conducted by the Board, or
 - ~~(b)~~(B) Have one year of acceptable experience at a surface water facility while holding a Grade C-Surface certificate and have satisfactorily completed a B-Surface school conducted by the Board.
- (3) GRADE C-SURFACE shall:
 - ~~(a)~~(A) Be a college graduate with a bachelor's degree in the physical or natural sciences or be a graduate of a two year technical program with a diploma in water and wastewater technology, have six months of acceptable experience at a surface water facility and have satisfactorily completed an C-Surface school conducted by the Board, or
 - ~~(b)~~(B) Be a high school graduate or equivalent, have six months acceptable experience at a surface water facility and have satisfactorily completed a C-Surface school conducted by the Board.
- (4) GRADE A-WELL shall have one year of acceptable experience at a well water facility while holding a Grade B-Well certificate and have satisfactorily completed an A-Well school conducted by the Board.
- (5) GRADE B-WELL shall:
 - ~~(a)~~(A) Be a college graduate with a bachelor's degree in the physical or

natural sciences or be a graduate of a two year technical program with a diploma in water and wastewater technology, have six months of acceptable experience at a well water facility and have satisfactorily completed an B-Well school conducted by the Board, or

~~(a)~~(B) Have one year of acceptable experience at a well water facility while holding a Grade C-Well certificate and have satisfactorily completed a B-Well school conducted by the Board.

(6) GRADE C-WELL shall:

~~(a)~~(A) Be a college graduate with a bachelor's degree in the physical or natural sciences or be a graduate of a two year technical program with a diploma in water and wastewater technology, have three months of acceptable experience at a well water facility and have satisfactorily completed an C-Well school conducted by the Board, or

~~(b)~~(B) Be a high school graduate or equivalent, have six months of acceptable experience at a well water facility, and have satisfactorily completed a C-Well school conducted by the Board, or

~~(c)~~(C) Hold a Grade A-Surface certification and have satisfactorily completed a C-Well school conducted by the Board.

(7) GRADE D-WELL shall be a high school graduate or equivalent, have three months of acceptable experience at a well water facility, and have satisfactorily completed a C-Well or D-Well school conducted by the Board.

(8) GRADE A-DISTRIBUTION shall have one year of acceptable experience at Class B or higher distribution system while holding a Grade B-Distribution certificate and have satisfactorily completed an A-Distribution school conducted by the Board.

(9) GRADE B-DISTRIBUTION shall:

~~(a)~~(A) Be a college graduate with a bachelor's degree in the physical or natural sciences or be a graduate of a two year technical program with a diploma in water and wastewater technology, have six months of acceptable experience at a Class B or higher distribution system and have satisfactorily completed an B-Distribution school conducted by the Board and shall hold a certificate of completion of trench shoring training conducted by the Board; or

- (10) ~~(b)~~(B) Have one year of acceptable experience at a Class C or higher distribution system while holding a Grade C-Distribution certificate and have satisfactorily completed a B-Distribution school conducted by the Board.
- (10) GRADE C-DISTRIBUTION shall hold a certificate of completion of trench shoring training conducted by the Board and shall:
 - ~~(a)~~(A) Be a college graduate with a bachelor's degree in the physical or natural sciences, or be a graduate of a two year technical program with a diploma in water and wastewater technology, have three months of acceptable experience at a Class C or higher distribution system and have satisfactorily completed an C-Distribution school conducted by the Board, or
 - ~~(b)~~(B) Be a high school graduate or equivalent, have six months of acceptable experience at a Class D or higher distribution system and have satisfactorily completed a C-Distribution school conducted by the Board.
- (11) GRADE D-DISTRIBUTION shall be a high school graduate or equivalent, have three months of acceptable experience at a distribution system, and have satisfactorily completed a D-Distribution school conducted by the Board.
- (12) GRADE CROSS-CONNECTION-CONTROL shall:
 - ~~(a)~~(A) Be a college graduate with a bachelor's degree in the physical or natural sciences, or be a graduate of a two-year technical program with a degree in water and wastewater or civil engineering technology, and have satisfactorily completed a cross connection control school conducted by the Board, or
 - ~~(b)~~(B) Be a high school graduate or equivalent, have six months of acceptable experience at Class D - Distribution or higher system or have one year experience in the operations of cross connection control devices and have satisfactorily completed a cross connection control school conducted by the Board, or
 - ~~(c)~~(C) Be a plumbing contractor licensed by the State of North Carolina and have satisfactorily completed a cross connection control school conducted by the Board.

(b) Applications for certification of an operator certified in a state other than North Carolina shall be submitted on the Board's form. The application shall supply information which will assist the Board in determining whether or not the requirements under which the out-of-state certification was obtained are equal to those required by the rules of the Water Treatment Facility Operators Board of Certification.

Authority G.S. 90A-21(c); 90A-22; 90A-23; 90A-24.

15A NCAC 18D .0202 EXAMINATIONS

In addition to the educational and experience requirements in .0201 of this Section, the applicant must successfully pass an examination designed for the class of certification for which the applicant is applying. If an applicant fails an examination three times, the applicant shall retake the appropriate school designated in Rule .0201.

Authority G.S. 90A-21(c) 90A-23.

SECTION .0300 - APPLICATIONS AND FEES

15A NCAC 18D .0301 APPLICATION FOR EXAM

(a) All applicants for regular exams shall file an application on a form available from: Chairman, North Carolina Water Treatment Facility Operators Certification Board, 1635 Mail Service Center, Raleigh, North Carolina 27699-1635.

(b) Applications for certification must be submitted to the Board at least 30 days prior to the date of the examination.

(c) The applicant shall certify that the information given is correct to the best of his/her knowledge. In addition, the applicant's supervisor shall certify that he/she has reviewed the application and recommends that the applicant be considered for certification by the Board.

(d) Applicants shall take the examination at the place and date specified ~~on the application.~~ by the Board.

Authority G.S. 90A-21(c); 90A-24.

15A NCAC 18D .0302 APPLICATION FOR RECIPROCITY

~~All applicants for reciprocity shall file an application on a form available from: Chairman, North Carolina Water Treatment Facility Operators Certification Board, 1635 Mail Service Center, Raleigh, North Carolina 27699-1635.~~

Authority G.S. 90A-21(c); 90A-24.

15A NCAC 18D .0309 CERTIFICATION REINSTATEMENT

(a) An operator whose certification has expired may seek reinstatement within two years of expiration by paying any renewal fees in arrears, including late fees and either providing proof of continuing education for each calendar year as required in Rule .0308 of this Section, or passing another examination of that grade.

(b) Any person having a certification expired for more than two years or revoked shall apply to the Board for approval to be eligible for any further certification or reinstatement of certificate.

Authority G.S. 90A-25.1; 90A-26.

SECTION .0400 - ISSUANCE OF CERTIFICATE

15A NCAC 18D .0405 RECIPROCAL CERTIFICATES

Applications for certification of an operator certified in a state other than North Carolina shall be submitted on the Board's form. The application shall supply information which will assist the Board in determining whether or not the requirements under which the out of state certification was obtained are equal to those required by the rules of the Water Treatment Facility Operators Board of Certification.

Authority G.S. 90A-25.1; 90A-26.

SECTION .0700 - OPERATIONS AND MANAGEMENT

15A NCAC 18D .0701 OPERATOR IN RESPONSIBLE CHARGE

(a) The operator in responsible charge must possess a valid certificate issued by the Board equivalent to or exceeding the classification of the facility for which he or she is designated.

(b) The operator in responsible charge is actually in charge of the daily operation and maintenance of the facility and shall not reside more than within 50 miles of from the facility without written permission from the Board. The operator in responsible charge and shall be readily available for consultation on the premises of the facility in case of an emergency, malfunction or breakdown of equipment or other needs. The operator in responsible charge of a non community public water system shall not reside more than 50 miles from the facility without written permission from the Board. No person shall be in responsible charge of more than any one of the following without written permission from the Board:

- (1) One surface water treatment facility;
- (2) Five community public water systems with well water facilities;
- (3) 10 non-community public water systems with well water facilities;
- (4) One distribution system serving over 3,300 service connections;
- (5) Five distribution systems serving over 500 service connections and less than 3,300 service connections;
- (6) 10 total distribution systems; or
- (7) 10 total cross-connection control systems.

No person shall be in responsible charge of any combination of a surface water treatment facility, a community public water system with well water facilities, a non-community public water system with well water facilities, a distribution system, and a cross-connection control facility without written permission from the Board.

(c) When permission from the Board is required, the request shall include sufficient documentation to satisfy the Board that the facilities in question can be managed in compliance with the requirements of 15A NCAC 18C.

(d) The operator in responsible charge shall report with annual certification renewal the name(s) and public water system

identification number(s) for all systems for which the operator is the operator in responsible charge.

(e) If an operator in responsible charge takes responsibility for an additional system or relinquishes responsibility for any system, the operator shall notify the Board in writing within 30 days of this change.

(f) The operator in responsible charge shall establish standard operating procedures for each facility for which he/she is responsible. These procedures shall provide sufficient instruction to ensure that his/her decisions about water quality or quantity that affect public health are carried out properly. The procedures shall instruct persons lacking proper certification to refer all such decisions affecting public health to the certified operator on duty or to the operator in responsible charge.

Authority G.S. 90A-21(c); 90A-31.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Wildlife Resources Commission intends to amend the rules cited as 15A NCAC 10F .0336, .0355, .0359.

Proposed Effective Date: May 1, 2006

Public Hearing:

Date: January 30, 2006

Time: 10:00 a.m.

Location: Room 518, Wildlife Resources Commission Building at Centennial Campus, 1751 Varsity Drive, Raleigh, NC

Reason for Proposed Action: Add no wake zones to public waters in Cherokee, Northampton and Perquimans counties.

Procedure by which a person can object to the agency on a proposed rule: Any person who wishes to object to a proposed rule may do so by writing (or emailing) the person specified in connection with a given rule within the public comment period set up for this rule. For these rules, the contact person is Joan Troy.

Comments may be submitted to: Joan Troy, 1701 Mail Service Center, Raleigh, NC 27699-1701, email joan.troy@ncwildlife.org.

Comment period ends: February 14, 2006

Procedure for Subjecting a Proposed Rule to Legislative

Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. 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 day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions

concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

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

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

15A NCAC 10F .0336 NORTHAMPTON AND WARREN COUNTIES

(a) Regulated Area. This Rule applies only to that portion of Lake Gaston which lies within the boundaries of Northampton and Warren Counties.

(b) Speed Limit in Mooring Areas. No person shall operate a vessel at greater than no-wake speed while within a marked mooring area established with the approval of the Executive Director, or his representative, on the waters of Gaston Lake in Northampton and Warren Counties.

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

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

- (1) the North Point Cove Section B located on the north shore of Gaston Lake within Northampton County at the end of "Vincent Lane";
- (2) Big Stonehouse Creek at State Road 1357;
- (3) Songbird Creek at State Road 1360;
- (4) Six Pound Creek at State Road 1334;
- (5) Lizard Creek at ~~SR 1362~~, SR 1362; and
- (6) the cove at the northwest finger of Dogwood Branch.

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

(f) Placement and Maintenance of Markers. The Board of Commissioners of Northampton County and Warren County are designated as suitable agencies for placement and maintenance of the markers implementing this Rule, subject to the approval of the United States Coast Guard and United States Army Corps of Engineers. With regard to marking Gaston Lake, all of the supplementary standards listed in Rule .0301(g) of this Section shall apply.

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

15A NCAC 10F .0355 PERQUIMANS COUNTY

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

- (1) Perquimans River:
 - (A) The canals of Holiday Island;
 - (B) The area within 50 yards of the Hertford City Boat Ramp; and
 - (C) The area within 75 yards of the Perquimans River Bridge on U.S. 17 Business also known as the Hertford S-Shaped Bridge.
- (2) Yeopim River:
 - (A) The area within 75 yards of the Albemarle Plantation Marina Piers;
 - (B) The area of Beaver Cove as delineated by appropriate markers;
 - (C) The canal entrance between Navaho Trail and Cherokee Trail;
 - (D) The canal entrance between Cherokee Trail and Ashe Street;
 - (E) The boat ramp at Ashe and Pine Street;
 - (F) The canal entrance between Pine Street and Linden Street;
 - (G) The canal entrance and boat ramp between Willow Street and Evergreen Drive;
 - (H) The canal entrance between Sago Street and Alder Street; and
 - (I) The swimming area at the Snug Harbor Park and Beach.
- (3) Yeopim Creek
 - (A) The canal entrance between Mohave Trail and Iowa Trail; and
 - (B) The canal entrance between Iowa Trail and Shawnee Trail.
- (4) Little River: The entrance to the cove known as "Muddy Gut Creek," which extends from the waters known as "Deep Creek."

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

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

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

15A NCAC 10F .0359 CHEROKEE COUNTY

(a) Regulated Areas. This rule applies to the following sections of waters within 50 yards of the following boating facilities on Hiawassee Lake:

- (1) the waters within 50 yards of Hiawassee Hideaway Marina;
- (2) the waters within 50 yards of Shook's Boat Dock;
- (3) the waters within 50 yards of Bear Paw Marina;
- (4) the waters within 50 yards of TVA Boat Ramp at Micken's ~~Branch~~, Branch; and

- (5) the mouth of the inlet for Harbor Cove Marina.
- (b) Speed Limit. No person shall operate any vessel at greater than no-wake speed on the waters of the regulated areas as described in Paragraph (a) of this Rule.
- (c) Placement and Maintenance of Markers. The Cherokee County Board of Commissioners is designated a suitable agency for the placement and maintenance of markers implementing this Rule.

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

TITLE 21 – OCCUPATIONAL LICENSING BOARDS

CHAPTER 16 – BOARD OF DENTAL EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Dental Examiners intends to adopt the rules cited as 21 NCAC 16C .0401-.0406; amend the rules cited as 21 NCAC 16C .0101, .0202, .0301, .0303, 16M .0102; and repeal the rules cited as 21 NCAC 16C .0203, .0304-.0310.

Proposed Effective Date: April 1, 2006

Public Hearing:

Date: January 5, 2006

Time: 8:00 p.m.

Location: Board Office, 15100 Weston Parkway, Suite 101, Cary, NC 27513

Reason for Proposed Action: *To adopt and amend dental hygiene licensure and examination rules allowing the Board to administer its own dental hygiene licensure examination or to accept the results of other Board-approved regional or third-party clinical examinations. Subchapter 16C, Section .0100 will cover general provisions for licensure. Subchapter 16C, Section .0200 will cover qualifications for dental hygiene licensure. Subchapter 16C, Section .0300 will cover application for dental hygiene licensure and Subchapter 16C, Section .0400 will cover licensure by Board examination. Existing Section .0400 will be renumbered to Section .0500. 21 NCAC 16M .0102 is proposed for amendment to set out a fee for processing the dental hygiene application.*

Procedure by which a person can object to the agency on a proposed rule: *Persons may submit objections regarding the proposed rule changes to Bobby White, North Carolina State Board of Dental Examiners, 15100 Weston Parkway, Suite 101, Cary, NC 27513.*

Comments may be submitted to: *Bobby White, NC Board of Dental Examiners, 15100 Weston Parkway, Suite 101, Cary, NC 27513*

Comment period ends: February 13, 2006

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. 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 day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact:

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

SUBCHAPTER 16C - LICENSURE DENTAL HYGIENISTS

SECTION .0100 - GENERAL PROVISIONS

21 NCAC 16C .0101 LICENSURE

Before beginning the practice of dental hygiene in North Carolina, each applicant is required to procure from the Board a license to practice dental hygiene. In order to obtain such a license, each applicant is required to ~~appear before the Board and satisfactorily pass an examination.~~ pass Board approved written and clinical examinations before receiving a license.

Authority G.S. 90-223; 90-224.

SECTION .0200 - QUALIFICATIONS

21 NCAC 16C .0202 STUDENT MAY APPLY

Dental hygienist applications will be accepted from students currently enrolled in schools of dental hygiene who expect to graduate and successfully pass Board approved licensure examinations prior to ~~the examination.~~ receiving a license. Such applications will automatically be denied if the applicant should fail to complete the required course of study ~~satisfactorily.~~ or fail Board approved licensure examinations.

Authority G.S. 90-223; 90-224.

21 NCAC 16C .0203 TRANSCRIPTS REQUIRED

~~Applicants shall furnish a high school transcript or high school equivalency certificate or other verification of high school completion, and dental hygiene school or college transcripts. These transcripts are to accompany the application, or may be mailed to the Board's office from the record department of each school attended. Transcripts must be postmarked or delivered to the Board office by the application deadline date.~~

Authority G.S. 90-223; 90-224.

SECTION .0300 - APPLICATION

21 NCAC 16C .0301 APPLICATION FOR

LICENSURE

- (a) All applications are to be made on the forms furnished by the Board, and no application shall be deemed complete which does not set forth all the information required by the Board relative to the applicant. Any applicant who changes his address should immediately notify the Board office. Applicants are required to furnish transcripts of undergraduate college and dental college credits.
- (b) The application fee shall accompany the application. Such fee is nonrefundable.
- (c) Applicants who are licensed in other states shall furnish verification of licensure from the secretary of the board of each state in which they are licensed. A photograph, taken within six months prior to the date of the application, must be affixed to the application.
- (d) All applicants shall submit to the Board a signed release form, completed Fingerprint Record Card, and such other form(s) required to perform a criminal history check at the time of the application.
- (e) All applicants shall arrange for and ensure the submission to the Board office the examination scores as required by 16C .0303(a) of this Subchapter. All applicants shall arrange for and ensure the submission to the Board office the examination scores as required by 16C .0303(c), if applicable.

Authority G.S. 90-223; 90-224.

21 NCAC 16C .0303 BOARD APPROVED EXAMINATIONS

~~A fee of one hundred twenty five dollars (\$125.00) for each examination or re-examination must accompany the application. The fee is nonrefundable.~~

- (a) The Board, having reviewed and evaluated the written examination as administered by the Joint Commission on National Dental Examinations and having found the same to be a reliable, accurate and valid examination, has adopted as a part of its written examination the National Board Dental Hygiene Examination. Applicants for dental hygiene licensure must achieve a passing score on such examination. Each applicant will be responsible for furnishing to the Board the National Board score.
- (b) All applicants for dental hygiene licensure shall achieve passing scores on the Board's sterilization and jurisprudence examinations. Additional written examinations may be given to each candidate in such subject areas as the Board may designate.
- (c) In order to fulfill the clinical examination component for dental hygiene licensure, the Board shall accept passing scores from Board approved testing agencies which administer reliable, accurate and valid examinations and allow for Board representation and input in the examination development and administration. The clinical examination shall be substantially equivalent to the clinical licensure examination administered by the Board and include procedures performed on human subjects including probing, stain removal, supra and subgingival scaling, and soft tissue management. The Board shall accept scores upon such examinations for a period of five years following the date of such examinations. Each applicant will be responsible for furnishing to the Board the applicant's scores. The applicant shall comply with all requirements of such testing agency in

applying for and taking the examination, including paying all applicable fees as set by the testing agency.

Authority G.S. 90-224.

21 NCAC 16C .0304 OTHER REQUIREMENTS

- (a) ~~Applicants who are licensed in other states shall furnish verification of licensure from the appropriate regulatory agency of each state in which they are licensed, together with two letters of recommendation. A photograph, taken within six months prior to the date of application, must be affixed to the application. A second photograph, not over two inches in height, must be paper-clipped to the application, to be used as part of the identification badge.~~
- (b) ~~All applicants shall submit to the Board a signed release form, completed Fingerprint Record Card, and such other form(s) required to perform a criminal history check at the time of the application.~~

Authority G.S. 90-223; 90-224; 90-229.

21 NCAC 16C .0305 TIME FOR FILING

~~The completed application, fee, photographs, high school transcripts or high school equivalency certificate or other verification of high school completion, and dental hygiene school or college transcripts, must be postmarked or delivered to the Board's office at least 90 days prior to the date of the examination. Dental hygiene school transcripts for those still in dental hygiene school must be sent in before the examination date. All data received by the Board concerning the applicant shall become a part of the required application and shall be retained as part of the record.~~

Authority G.S. 90-223; 90-224.

21 NCAC 16C .0306 EXAMINATIONS

- (a) ~~The Board, having reviewed and evaluated the written examination as administered by the Joint Commission on National Dental Examinations and having found the same to be a reliable, accurate and valid examination, has adopted as a part of its written examination the National Board Dental Hygiene Examination. Applicants for dental hygiene licensure must achieve a passing score on such examination. Each applicant will be responsible for furnishing to the Board the National Board score.~~
- (b) ~~Additional written examinations may be given to each candidate in such subject areas as the Board may designate.~~
- (c) ~~Each candidate will be given a numbered badge. This badge will contain the candidate's photograph and will be presented to the candidate at the opening session. The number on the badge will be the only identification allowed on any paper or manuscript during the examination. This badge must be returned to the Board at the completion of the examination.~~
- (d) ~~The Board reserves the right to dismiss any candidate who may be detected using or attempting to use any unfair assistance. If such violation is discovered by the Board after a license has been issued to the violator, the license will be revoked.~~

Authority G.S. 90-222; 90-223; 90-224.

21 NCAC 16C .0307 CLINICAL EXAMINATION

The clinical examination may include:

- (1) performing a prophylaxis;
- (2) charting the mouth and pocket depth determination;
- (3) preventive care instruction to the patient;
- (4) the taking of a series of radiographs as specified by the Board.

Authority G.S. 90-223; 90-224.

21 NCAC 16C .0308 SUPPLIES

The candidate must furnish his own instruments and materials including handpieces. Additional instructions concerning supplies will be mailed to each candidate. A dental chair and unit will be provided.

Authority G.S. 90-223; 90-224.

21 NCAC 16C .0309 PATIENT

The candidate will be responsible for securing patients for clinical prophylaxis. The patient must have sufficient dental calculus to enable the Board to determine the sealing proficiency of the candidate. All patients must be approved by a member or members of the Board before prophylaxis is started.

Authority G.S. 90-223; 90-224.

21 NCAC 16C .0310 REEXAMINATION

- (a) A complete application except for school transcripts and National Board score, is required in case of reexamination.
- (b) Any applicant who has passed the written portion of the examination but has failed the clinical portion of the examination need not retake the written portion of the examination for a one year period upon reexamination.
- (c) Any applicant who has passed the clinical portion of the examination but has failed the written portion of the examination may retake the written portion of the examination two additional times during a one year period and need not retake the clinical portion of the examination. If the applicant does not pass the written portion of the examination upon the second reexamination, the applicant must retake both the written and clinical portions of the examination upon subsequent reexamination.

Authority G.S. 90-223; 90-224.

**SECTION .0400 – LICENSURE BY EXAMINATION
CONDUCTED BY THE BOARD**

**21 NCAC 16C .0401 APPLICATION FOR
EXAMINATION CONDUCTED BY THE BOARD**

- (a) All applications for licensure examination conducted by the Board are to be made on the forms furnished by the Board, and no application shall be deemed complete which does not set forth all the information required by the Board relative to the applicant. Any candidate who changes his address should immediately notify the Board office.
- (b) The fee for such examination or re-examination must accompany the application. Such fee is non-refundable.

(c) A photograph, taken with six months prior to the date of the application, must be affixed to the application. A second photograph, not over two inches in height, must be paper-clipped to the application to be used as part of the identification badge.

Authority G.S. 90-223; 90-224.1.

21 NCAC 16C .0402 TIME FOR FILING

The completed application, fee, photographs, and undergraduate college and dental hygiene school transcripts must be postmarked or delivered to the Board's office at least 90 days prior to the date of the examination conducted by the Board. Dental hygiene school transcripts for those still in dental hygiene school must be sent in upon graduation. All data received by the Board concerning the applicant shall be part of the application and shall be retained as part of the record.

Authority G.S. 90-223; 90-224.

**21 NCAC 16C .0403 EXAMINATION CONDUCTED
BY THE BOARD**

- (a) Written materials designating the subject areas to be covered and instructions will be made available to candidates prior to the date of the examination conducted by the Board.
- (b) Each candidate will be given a numbered badge. This badge will contain the candidate's photograph and will be presented to the candidate at the opening session. The number on the badge will be the only identification allowed on any paper or manuscript during this examination. The badge must be returned to the Board at the completion of the examination.
- (c) The Board reserves the right to dismiss any candidate who may be detected using or attempting to use any unfair assistance. If such violation is discovered by the Board after a license has been issued to the violator, the license will be revoked.

Authority G.S. 90-223; 90-224.

**21 NCAC 16C .0404 PATIENTS AND SUPPLIES FOR
BOARD CONDUCTED CLINICAL EXAMINATION**

- (a) Each candidate must furnish his own patients and instruments for the clinical examination conducted by the Board. Additional instructions concerning supplies will be mailed to each candidate.
- (b) Supplies necessary for all clinical work are to be provided by the candidate.

Authority G.S. 90-223; 90-224.

**21 NCAC 16C .0405 BOARD CONDUCTED
REEXAMINATION**

- (a) A complete application except for school transcripts and National Board score, is required in case of reexamination.
- (b) Any applicant who has passed the written portion of the examination but has failed the clinical portion of the examination conducted by the Board need not retake the written portion of the examination for a one year period upon reexamination.
- (c) Any applicant who has passed the clinical portion of the examination conducted by the Board but has failed the written portion of the examination may retake the written portion of the

examination two additional times during a one year period and need not retake the clinical portion of the examination. If the applicant does not pass the written portion of the examination upon the second reexamination, the applicant must retake both the written and clinical portions of the examination upon subsequent reexamination.

Authority G.S. 90-223; 90-224.

SUBCHAPTER 16M - FEES PAYABLE

SECTION .0100 – FEES PAYABLE

21 NCAC 16M .0102 DENTAL HYGIENISTS

(a) The following fees shall be payable to the Board:

- (1) Application for examination
conducted by the Board
\$ 170.00
- (2) Renewal of dental hygiene license
\$ 81.00

- (3) Reinstatement of license after retirement from practice in this State
\$ 60.00
- (4) Application for provisional licensure
\$ 60.00
- (5) Certificate to a resident dental hygienist desiring to change to another state or territory
\$ 25.00
- (6) Application for license by credentials
\$ 750.00
- (7) License application processing fee
\$ 75.00

(b) Each dental hygienist renewing a license to practice dental hygiene in North Carolina shall be assessed a fee of twenty-five dollars (\$25.00), in addition to the annual renewal fee, to be contributed to the operation of the North Carolina Caring Dental Professionals.

Authority G.S. 90-232; 150B-19(5).

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

TITLE 21 – OCCUPATIONAL LICENSING BOARDS

**CHAPTER 50 - BOARD OF EXAMINERS OF PLUMBING,
HEATING AND FIRE SPRINKLER CONTRACTORS**

Rule-making Agency: Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors

Rule Citation: 21 NCAC 50 .0301

Effective Date: December 5, 2005

Findings Reviewed and Approved by the Codifier: November 22, 2005

Reason for Action: The Board proposes to delay until July 1, 2006, (now December 31, 2005) the requirement that all holders of Limited Fire Sprinkler Inspection Technician license obtain NICET Level II Certification, so as to allow the Board to continue to renew such license. The reason for the proposed change is that 80% of the holders of Fire Sprinkler Inspection Technician license have been unable to obtain and pass the NICET Level II certification. Failure to allow renewal would eliminate 80% of the available technicians rendering the required annual inspection of all fire sprinkler systems under NFPA 25 a practical impossibility, resulting in serious and unforeseen danger to the public, particularly occupants of health care facilities, industrial plants, offices and university system buildings with fire sprinkler systems.

Under current rules, the licenses of nearly all fire sprinkler system inspector technicians will expire December 31, 2005, and not be renewable. Inasmuch as annual inspection of such systems is mandated by the State Fire Marshall, non-inspection will create a public health crisis. In order to prevent a gap in licensing, adoption of the rule effective December 1, 2005 is necessary so industry can process renewal applications in December 2005.

This risk was not foreseen because the Board reasonably relied upon industry representatives that NICET, the national examining body, could and would provide adequate numbers of examinations and reexaminations over the past two years to meet its need. NICET has unfortunately capped the number of seats and failed to provide adequate numbers of test days.

The Board intends to solve the problem through permanent rules allowing an alternate test, designed and administered directly by the Board in Spring 2006.

SECTION .0300 – EXAMINATIONS

**21 NCAC 50 .0301 QUALIFICATIONS
DETERMINED BY EXAMINATION**

(a) In order to determine the qualifications of an applicant, the Board shall provide an examination in writing or by computer in the following categories:

- Plumbing Contracting, Class I
- Plumbing Contracting, Class II
- Heating, Group No. 1 - Contracting, Class I
- Heating, Group No. 1 - Contracting, Class II
- Heating, Group No. 2 - Contracting, Class I
- Heating, Group No. 3 - Contracting, Class I
- Heating, Group No. 3 - Contracting, Class II
- Fuel Piping

(b) Each applicant shall be required to read, interpret and provide answers to both the business and the technical parts of the examinations required by G.S. 87-21(b).

(c) Applicants for licensure as a fire sprinkler contractor, unlimited classification, must submit evidence of current certification by the National Institute for Certification and Engineering Technology (NICET) for Fire Protection Engineering Technician, Level III, subfield of Automatic Sprinkler System Layout as the prerequisite for licensure. Current certification by NICET is in lieu of separate examination conducted by the Board.

(d) After July 1, 2004, applicants for initial licensure in the Limited Fire Sprinkler Inspection Technician classification must submit evidence of Level II Certification in "Inspection and Testing of Water-based Protection Systems" by NICET in lieu of examination. License without examination shall be issued beginning July 1, 2003, and ending July 1, 2004, to applicants who meet the experience requirement in Rule .0306. Where certification based on NICET Level II certification was not required at the time of initial licensure, such certification must be obtained by ~~December 31, 2005~~ July 1, 2006. After December 31, ~~2005~~ 2006 current NICET Level II certification is required as a condition of license renewal.

(e) After July 1, 2005, applicants for the Limited Fire Sprinkler Inspection Contractor classification must submit evidence of Level III certification in "Inspection and Testing of Water-based Fire Protection Systems" by NICET in lieu of examination. License without examination shall be issued based on applications filed between July 1, 2003, and July 1, 2005, to applicants who meet the experience requirement in Rule .0306. Persons who obtain license by NICET certification must maintain such certification thereafter as a condition of license renewal.

(f) Applicants for license in the Limited Fire Sprinkler Maintenance classification are qualified based on maintenance experience, education and job classification set forth in Rule. 0306.

History Note: Authority G.S. 87-18; 87-21(a); 87-21(b);
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. July 1, 1991; May 1, 1989; August 1, 1982;

EMERGENCY RULES

*Temporary Amendment Eff. September 15, 1997;
Amended Eff. March 1, 2005; January 1, 2004; July 1, 2003;
August 1, 2002; July 1, 1998;*

Emergency Amendment Eff. December 5, 2005.

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.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS

**CHAPTER 65 - THERAPEUTIC RECREATION
CERTIFICATION BOARD**

Rule-making Agency: Board of Recreational Therapy Licensure

Rule Citation: 21 NCAC 65 .0201-.0202, .0205, .0301-.0302, .0401, .0501, .0601, .0701, .0801, .0901, .1001

Effective Date: All rules are effective December 1, 2005 with the exception of .0501 effective December 6, 2005.

Date Approved by the Rules Review Commission: November 17, 2005

Reason for Action: In the 2005 Session, the General Assembly amended G.S. Chapter 90C, the Therapeutic Recreation Personnel Certification Act to be the North Carolina Recreational Therapy Licensure Act. This changed the law from a certification process to licensure.

SECTION .0200 – REQUIREMENTS FOR PRACTICE

21 NCAC 65 .0201 RECREATIONAL THERAPY STANDARDS OF PRACTICE

Licensed Recreational Therapists and Licensed Recreational Therapy Assistants, also known as therapeutic recreation specialists and therapeutic recreation assistants, shall practice recreational therapy in accordance with the most recent version of the American Therapeutic Recreation Association (ATRA) Standards for the Practice of Therapeutic Recreation and Self-Assessment Guide and criteria published by the American Therapeutic Recreation Association (ATRA) and any subsequent amendments or changes. A copy can be purchased from ATRA at: <http://www.atratr.org>.

History Note: Authority G.S. 90C-22(2)(3); Temporary Adoption Eff. December 1, 2005.

21 NCAC 65 .0202 RECREATIONAL THERAPY CODE OF ETHICS

Licensed Recreational Therapists and Licensed Recreational Therapy Assistants shall practice recreational therapy, also known as therapeutic recreation, in accordance with the most recent version of the professional Code of Ethics published by either the American Therapeutic Recreation Association (ATRA) or the National Therapeutic Recreation Society (NTRS) and any subsequent amendments or changes. A copy of American Therapeutic Recreation Association (ATRA) Code of Ethics which are hereby incorporated by reference including any subsequent amendments or changes can be obtained from

American Therapeutic Recreation Association (ATRA) at: <http://www.atra-tr.org> and National Therapeutic Recreation Society (NTRS) at <http://www.nrpa.org> at no charge.

History Note: Authority G.S. 90C-22(2)(g); Temporary Adoption Eff. December 1, 2005.

21 NCAC 65 .0205 SUPERVISION OF A LICENSED RECREATIONAL THERAPY ASSISTANT

A Licensed Recreational Therapy Assistant (LRTA) must perform duties and functions under the clinical supervision of the Licensed Recreational Therapist (LRT). Once a Licensed Recreational Therapist (LRT) determines the Licensed Recreational Therapy Assistant (LRTA) has demonstrated competence to provide specific interventions, documentation, and to make recommendations for program modification, A Licensed Recreational Therapy Assistant (LRTA) shall under the supervision of the Licensed Recreational Therapist (LRT) to provide recreational therapy services shall practice recreational therapy in accordance with the criteria for A Licensed Recreational Therapy Assistant (LRTA practice as defined in the most recent version of American Therapeutic Recreation Association (ATRA) Standards for the Practice, Self-Assessment Guide and structured outcomes criteria . Clinical supervision, as defined in the glossary of the American Therapeutic Recreation Association (ATRA) Standards of Practice, must be performed in accordance with a written agency policy that includes the following elements:

- (1) The Licensed Recreational Therapist shall:
 - (a) Determine the recreational therapy treatment plan and the elements of that plan appropriate for delegation to a licensed recreational therapy assistant (LRTA);
 - (b) Determine whether licensed recreational therapy assistants acting under his or her supervision possess the competence to perform the delegated duties;
 - (c) Delegate responsibilities to the licensed recreational therapy assistant (LRTA) that are consistent with assessed competencies and within the overall licensed recreational therapy assistant (LRTA) scope of practice as defined and described in the most recent version of the American Therapeutic Recreation Association (ATRA) Standards for the Practice of Therapeutic Recreation and Self-Assessment Guide;
 - (d) Review chart documentation, reexamine and reassess the patient or

- client and revise the recreational therapy treatment plan as warranted;
 - (e) Establish the recreational therapy discharge plan;
 - (f) Determine, and the policy shall describe, whether co-signature of chart documentation is necessary for safe and effective care and treatment;
 - (g) Be immediately available directly or by telecommunication to a Licensed Recreational Therapy Assistant (LRTA);
 - (h) Be limited to clinically supervising only the number of Licensed Recreational Therapy Assistants (LRTAs) as is appropriate for providing safe and effective patient or client intervention at all times.
- (2) A Licensed Recreational Therapy Assistant shall:
- (a) Assist in the practice of recreational therapy only to the extent allowed by the supervising Licensed Recreational Therapist (LRT);
 - (b) Assist in the assessment of patient or client needs to the extent defined by the most recent version of the American Therapeutic Recreation Association (ATRA) Standards for the Practice of Therapeutic Recreation and Self-Assessment Guide and described in written agency policy;
 - (c) Make modifications of the recreational therapy treatment programs that are consistent with the recreational therapy treatment plan and under the supervision of the Licensed Recreational Therapist (LRT);
 - (d) Engage in off-site patient or client related functions that are appropriate for the Licensed Recreational Therapy Assistant's (LRTA)'s qualifications and assessed competency in consideration of the functional status of the patient or client;
 - (e) Document care provided in accordance with written agency policy.
- (3) Prohibited practice:
- (a) A Licensed Recreational Therapy Assistant (LRTA) shall not engage in practices of a Licensed Recreational Therapist (LRT) as defined and described in the most recent version of the American Therapeutic Recreation Association (ATRA) Standards for the Practice of

Therapeutic Recreation and Self-Assessment Guide and any subsequent changes and amendments. A copy can be purchased from American Therapeutic Recreation Association (ATRA) at: <http://www.atra-tr.org>;

- (b) A Licensed Recreational Therapy Assistant (LRTA) shall not engage in acts beyond the scope of practice delegated by the supervising Licensed Recreational Therapist (LRT).

*History Note: Authority G.S. 90C-22(3);
Temporary Adoption Eff. December 1, 2005.*

SECTION .0300 - REQUIREMENTS FOR LICENSURE

21 NCAC 65 .0301 MINIMUM LEVEL OF EDUCATION AND COMPETENCY FOR LICENSED RECREATIONAL THERAPIST

(a) For the purposes of G.S. 90C-27(a) an academic major is defined as a baccalaureate degree or higher in therapeutic recreation or recreational therapy or recreation and leisure studies, or recreation, or health and physical education, or health and human performance with a specialization, also known as an option, emphasis or concentration, in therapeutic recreation or recreational therapy from an college or university accredited by one if the accreditation bodies recognized by the United States Department of Education. The academic major must be verified by an official transcript. An academic major is defined by the following components:

- (1) Coursework for a degree or specialization in therapeutic recreation or recreational therapy must reflect a minimum of three courses (nine semester hours) and as of July 1, 2006 four courses (12 semester hours) and as of July 1, 2010 five courses (15 semester hours) as established by this Rule in which the title, course description and course outline reflects therapeutic recreation or recreational therapy content according to the current National Council for Therapeutic Recreation Certification (NCTRC)© Job Analysis Study and any subsequent amendments and changes;
- (2) Supportive coursework must include three semester hours of anatomy and physiology, three semester hours of abnormal psychology, three semester hours of human growth and development across lifespan, and nine semester hours in the area of health and human services. Health and human services course work may include content in the areas of education, ethics, and other supportive coursework relative to the practice of recreational therapy;

(b) Field placement under the supervision of a North Carolina Licensed Recreational Therapist shall be a minimum of 480 hours. If the internship is done in a state other than North Carolina, supervision must be by a National Council for

Therapeutic Recreation Certification Council (NCTRC) "Certified Therapeutic Recreation Specialist" who by January 15, 2008 meets the current North Carolina Board of Recreational Therapy Licensure (NCBRTL) requirements for licensure or by a North Carolina Therapeutic Recreation Certification Board Therapeutic Recreation Specialist. The field placement must be meet the criteria set forth by the National Council for Therapeutic Recreation Standards.

(c) Passing score of National Council for Therapeutic Recreation Certification (NCTRC) Examination is required.

*History Note: Authority G.S. 90C-27(a);
Temporary Adoption Eff. December 1, 2005.*

21 NCAC 65 .0302 MINIMUM LEVEL OF EDUCATION AND COMPETENCY FOR LICENSED RECREATIONAL THERAPY ASSISTANTS

(a) For the purposes of G.S. 90C-27(b) and academic major is defined as an Associate of Applied Science Degree in therapeutic recreation or recreational therapy from a community college accredited by the Southern Association of Colleges and Schools.

(b) Coursework for an Associate degree must reflect a minimum of nine semester hours in therapeutic recreation or recreational therapy content courses is required as a academic major.

(c) Ten semester hours in therapeutic recreation or recreational therapy interventions and laboratory is required as a academic major.

(d) A minimum of 15 semester hours of supportive coursework including at least one course from three of the following areas: psychology, sociology, physical and biological science, human services and physical education courses is required as a academic major.

(e) A minimum 380 hour field placement experience in a clinical, residential, or community-based agency under the supervision of a Licensed Recreational Therapist or Licensed Recreational Therapy Assistant or if the internship is done in a state other than North Carolina, supervision by a National Council of Therapeutic Recreational Certification Council (NCTRC) "Certified Therapeutic Recreation Specialist" who by January 15, 2008 meets the current NCBRTL requirements for Licensure or by a North Carolina Therapeutic Recreation Certification Board. Therapeutic Recreation Specialist or Therapeutic Recreation Assistant is required as a academic major. The field placement must be a minimum of 38 hours per week or a maximum of 16 weeks with a minimum of 24 hours per week is required as a academic major.

*History Note: Authority G.S. 90C-27(b);
Temporary Adoption Eff. December 1, 2005.*

(c) The Board shall collect the following fees:

(1) Initial Application for Licensure Fee	
(A) Licensed Recreational Therapist	(\$100.00)
(B) Licensed Recreational Therapy Assistant	(\$50.00)
(2) Licensure renewal fees (due every two years)	
(A) Licensed Recreational Therapist	(\$50.00)
(B) Licensed Recreational Therapy Assistant	(\$25.00)
(3) Inactive status	(\$35.00)

SECTION .0400 – APPLICATION

21 NCAC 65 .0401 APPLICATION PROCEDURES FOR LICENSED RECREATIONAL THERAPIST AND LICENSED RECREATIONAL THERPY ASSISTANT

(a) An applicant for licensure may request, in writing or by website access, a current application package from the North Carolina Board of Recreational Therapy Licensure.

(b) All materials shall be postmarked by the 15th of each month application deadline.

(c) All items must be provided to constitute a full application package, including:

- (1) A current head and shoulders photograph of the applicant;
- (2) The initial application for licensure fee as stated in Rule .0501;
- (3) Official transcripts from each college or university attended;

(d) The Board shall review each application to determine an applicant's eligibility for licensure as Recreational Therapist or a Recreational Therapy Assistant. The Board shall notify an applicant in writing if an applicant is ineligible for licensure. The Board shall require such supplemental information to the application as it deems necessary to determine the facts governing qualifications and competency of an applicant. The procedure for gathering such information may include an interview of an applicant by the Board.

(e) The individual who is issued a license shall be issued a license number. Should that number be retired for any reason (such as death, failure to renew the license, or any other reason) that number shall not be re-issued.

(f) A licensure card and certificate bearing the current name of the licensee, licensee number and the expiration date shall be issued to each person having an active license.

(g) The Board shall mail any notices to a licensee at the address of the last known address.

(h) A license issued by the Board is the property of the Board and shall be surrendered by the licensee to the Board on demand.

*History Note: Authority G.S. 90C-27(a)(2), (b)(2);
Temporary Adoption Eff. December 1, 2005.*

SECTION .0500 – FEES

21 NCAC 65 .0501 LICENSURE FEES

(a) A cashier's check, certified check or an employer's check is acceptable for the initial application licensure fees.

(b) Fees shall be nonrefundable and payable to the North Carolina Board of Recreational Therapy Licensure. Personal checks shall be accepted for payment of renewal fee and record maintenance fee. The Processing fee for returned checks shall be the maximum allowed by law.

(4)	License revision or replacement	(\$10.00)
(5)	Record Maintenance fee (due non-renewal yr)	
(A)	Licensed Recreational Therapist	(\$50.00)
(B)	Licensed Recreational Therapy Assistant	(\$25.00)
(6)	Purchase of mailing labels to promote continuing education	(\$50.00)

*History Note: Authority G.S. 90C-28;
Temporary Adoption Eff. December 1, 2005.*

**SECTION .0600 - LICENSE RENEWAL
REQUIREMENTS**

**21 NCAC 65 .0601 PRACTICE AND CONTINUING
EDUCATION REQUIREMENTS FOR LICENSED
RECREATIONAL THERAPIST AND LICENSED
RECREATIONAL THERAPY ASSISTANT**

(a) Renewal notices shall be mailed to the licensee 60 days prior to the expiration date at the last known address.

(b) Each Licensee shall complete and submit a renewal application package. All materials shall be postmarked 30 days prior to expiration. The renewal application package shall be submitted to the Board and shall be accompanied by the proper fees.

(c) During the two-year licensing period, a recreational therapist or recreational therapy assistant who is licensed by the North Carolina Board of Recreational Therapy Licensure shall complete continuing education and continuing professional practice in recreational therapy or therapeutic recreation as outlined below. Candidates for license renewal must complete a minimum of 20 points of continuing education and 20 points of professional practice to renew their licenses.

- (1) Professional Practice - a minimum of 144 hours of professional practice (20 points) is required during the two year licensing period. The hours of professional practice may be accumulated through practice in the following professional roles: direct service provider, supervisor, administrator, educator, consultant, volunteer, or student.

- (2) Continuing Education: A licensee shall acquire credit through continuing education courses and experiences, academic courses; and professional publications and presentations:

- Editorials
- Articles on original research
- Professional newsletter article
- Editing a textbook
- Authoring a textbook chapter
- Journal article
- Journal reviews or book review
- Poster presentation
- Research abstract
- Textbook
- Unpublished masters or doctoral thesis
- Presentations at professional meetings (per 45 minutes)
- Agency Supervision of a field placement intern

One CEP (Continuing Education Point) = one contact hour
0.1 CEU (Continuing Education Unit) = one contact hour
10 CEPs = 10 contact hours = 1.0 CEU

- (A) Continuing education is accepted if provided by an organization that adheres to the National or International Council on Continuing Education Standards. The Board shall approve other providers of continuing education if the continuing education provided is substantially equivalent to the National or International Council on Continuing Education Standards. The Board is considered an approved provider of continuing education. The content of the continuing education experiences must be linked directly to the knowledge areas from the most recent National Job Analysis Study conducted by the National Council for Therapeutic Recreation Certification and any subsequent amendments or changes.

- (B) Academic Courses: Credit equivalents for completing academic coursework are: three semester hours = Five CEPs or .5 CEUs

- (C) Professional Publications and Presentations: No more than 10 CEPs in the area of professional publications and presentations shall be accepted for each renewal period according to the following point value:

- one CEP
- six CEPs
- one CEP
- three CEPs
- four CEPs
- four CEPs
- one CEP
- one CEP
- one CEP
- eight CEPs
- four CEPs
- two CEPs
- three CEPs

(D) Credit shall not be given for repeat or multiple presentations of same seminar or publications, in-service, conference, original papers or poster presentation over the 24 month period.

(E) Field placement supervisors shall be granted credit for supervision for no more than two field placement students during the renewal cycle.

(d) Unless the person has advised the Board that he or she does not intend to renew the license, then a renewal notification shall be sent to the person's last known employer by the Board staff.

(e) Each licensee must notify the Board within 30 days of a change of name, work or home address. The licensee requesting a name change shall provide to the Board a copy of a current government issued identification and a copy of a marriage certificate, marriage license, divorce decree or evidence of legal change of name.

History Note: Authority G.S. 90C-24; 90C-29; Temporary Adoption Eff. December 1, 2005.

SECTION .0700 - REINSTATEMENT

21 NCAC 65 .0701 REINSTATEMENT OF LAPSED LICENSE

(a) A recreational therapist or a recreational therapy assistant whose license has lapsed for more than two years and who desires reinstatement of that license shall:

- (1) Complete reinstatement licensure form provided by the Board;
- (2) Submit evidence of meeting requirements pursuant to Rules .0301 or Rule .0302 as applicable at the time of reinstatement;
- (3) Submit evidence of meeting continuing education requirements in accordance with Rule .0601;
- (4) Submit payment of renewal fees.

(b) The applicant shall be informed in writing of the Board's reinstatement decision.

History Note: Authority G.S. 90C-30; Temporary Adoption Eff. December 1, 2005.

SECTION .0800 - INACTIVE STATUS

21 NCAC 65 .0801 INACTIVE STATUS

(a) While on the inactive list an individual shall not practice recreational therapy in North Carolina.

(b) A Licensed Recreational Therapist or Licensed Recreational Therapy Assistant, who has been on the inactive status list for a period of one year or less, may convert to active status by:

- (1) Submission of a reinstatement application to the Board;
- (2) Completion of a minimum of 10 continuing education points, or the amount of points pro-rated to the amount of time inactive, as defined in Rule .0601 for license renewal for a

Licensed Recreational Therapist or Licensed Recreational Therapy Assistant and ;

(3) Payment of the current license renewal fee.

(c) A Licensed Recreational Therapist or Licensed Recreational Therapy Assistant who has been on the inactive list for a period greater than one year may convert to active status by:

- (1) Submission of a reinstatement application to the Board;
- (2) Completion of a minimum of 10 continuing education points per year of inactive status, or the amount of points pro-rated to the amount of time inactive, as defined in Rule .0601 for license renewal;
- (3) Payment of the current license renewal fee.
- (4) Successful completion of the appropriate examination of the National Council for Therapeutic Recreation Certification or the North Carolina Board Recreational Therapy Licensure, as applicable.

(d) Persons certified by the State of North Carolina as a Therapeutic Recreation Specialist or Therapeutic Recreation Assistant presently on the inactive status list when this rule takes effect shall be notified of the Rule change at their last known address by the Board staff.

History Note: Authority G.S. 90C-31; Temporary Adoption Eff. December 1, 2005.

SECTION .0900 - RECIPROCITY

21 NCAC 65 .0901 ENDORSEMENT

(a) The Board shall issue a North Carolina license to practice as a licensed recreational therapist to an applicant who is currently licensed as a recreational therapist by a state with requirements substantially equivalent which means successful passage of National Council for Therapeutic Recreation Certification (NCTRC) Examination.

(b) An applicant shall pay fee and complete application required for new applicant in accordance with Rule 21 NCAC 65 .0501 and 21 NCAC 65 .0401.

History Note: Authority G.S. 90C-33; Temporary Adoption Eff. December 1, 2005.

SECTION .1000 - REVOCATION, SUSPENSION OR DENIAL OF LICENSURE

21NCAC 65 .1001 COMPLAINTS AND INVESTIGATIONS

(a) A complaint regarding a violation of G.S. 90C or the rules in this Chapter shall be submitted in writing and shall document:

- (1) The name of the licensee or other person involved;
- (2) A description of the alleged behavior or incident; and
- (3) The name, mailing address and phone number of the person filing the complaint.

(b) The complaint shall be delivered to the Board administrative offices by mail, e-mail private carrier or in person.

(c) An incomplete complaint may be corrected and resubmitted.

(d) Action on a complaint consists of the following:

- (1) The Board shall receive and acknowledge complaints, open a file and initiate complaint tracking.
- (2) Complaints shall be screened to determine jurisdiction and the type of response appropriate for the complaint.
- (3) Investigation:
 - (A) If the facts do not indicate a G.S. 90C violation, and the complaint can be handled without an investigation, the Board shall request that the licensee cease conduct that could result in a violation.
 - (B) If the facts indicate a G.S. 90C violation, the Board shall commence an investigation. The Board may utilize additional personnel such as licensees, law enforcement officials, or other technical personnel that may be required in a particular case. If a Board member is utilized in the investigation, due process shall be observed by separating (1) investigation, (2) prosecution, and (3) hearings and final decision-making. No Board member shall participate in more than one of these three steps in the enforcement process.
 - (C) A report of each investigation shall be prepared for the Board's review.
- (4) Formal and Informal Hearings:
 - (A) The Board, after review of an investigative file, may schedule an informal meeting.
 - (B) If the matter cannot be resolved informally, then a formal hearing will be held.
 - (C) Members of the Board will not have communication with parties outside of the hearing about the case.
- (5) Final Orders: As soon as possible, but at least within 60 days, the Board shall issue its final decision in writing specifying the date on which it will take effect. The Board shall serve

one copy of the decision to each party to the hearing.

(e) Formal hearings shall be conducted in accordance with G.S. 150B-38 et seq.

(f) The following types of disciplinary sanctions regarding recreational therapists and recreational therapy assistants may, among others, be utilized by the Board:

- (1) Denial of Application: Refusal to license the applicant;
- (2) Letter of Reprimand: An expression of displeasure. The mildest form of administrative action;
- (3) Required remedial education;
- (4) Probation: A period of time where certain restrictions or conditions are imposed on a license. Continued licensure is subject to fulfillment of specified conditions;
- (5) Suspension of license: A condition of probation. Loss of license for a certain duration of time after which the individual may be required to reapply for licensure or remain on probation;
- (6) Refusal of License Renewal: A refusal to reinstate or renew a license;
- (7) Revocation of license: An involuntary termination of a license;
- (8) Injunction: A court action prohibiting or compelling conduct by a licensee.

(g) The Board may request information from professional associations, professional review organizations, hospitals, clinics or other institutions in which a licensee performs professional services, on possible chemical abuse, or incompetent or unethical behavior.

(h) The Board shall provide notice of sanction taken by it to other public entities as necessary to ensure that other state boards, enforcement authorities, and accrediting agencies receive the names of licensees disciplined.

(i) If determined by the court to be guilty of a class 1 misdemeanor, a fine, not to exceed five hundred dollars (\$500.00) may be imposed.

History Note: Authority G.S. 150B; 90C; 90C-24(8); 90C-32;

Temporary Adoption Eff. December 1, 2005.

CONTESTED CASE DECISIONS

This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 733-2698. Also, the Contested Case Decisions are available on the Internet at <http://www.ncoah.com/hearings>.

OFFICE OF ADMINISTRATIVE HEARINGS

*Chief Administrative Law Judge
JULIAN MANN, III*

*Senior Administrative Law Judge
FRED G. MORRISON JR.*

ADMINISTRATIVE LAW JUDGES

*Sammie Chess Jr.
Beecher R. Gray
Melissa Owens Lassiter*

*James L. Conner, II
Beryl E. Wade
A. B. Elkins II*

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
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Filippo Porco v. DHHS, Health Care Personnel Registry Investigations	04 DHR 1647	Elkins	09/29/05	
Dorothy S Coleman v DHHS	04 DHR 2247	Elkins	07/28/05	
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A list of Child Support Decisions may be obtained by accessing the OAH Website: www.ncoah.com/decisions.

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Steven William Neu v Sheriffs' Education & Training Standards Comm.	05 DOJ 1169	Lassiter	09/08/05
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Josephine Perdue v. WRC	05 WRC 1440	Gray	11/18/05
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