

NORTH CAROLINA

REGISTER



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IN THIS ISSUE

I. IN ADDITION

Voting Rights Letter 1624

II. PROPOSED RULES

Health and Human Services

Health Services, Commission for 1625 - 1626

Environment & Natural Resources

Wildlife Resources Commission 1626 - 1639

Occupational Licensing Boards

Cosmetic Arts Examiners 1639 - 1641

Licensed Professional Counselors, Board of 1641 - 1643

Personnel

State Personnel Commission 1643 - 1644

III. APPROVED RULES 1645 - 1685

Administration

Office of Historically Underutilized Business

State Employees Combined Campaign

Cultural Resources

USS North Carolina Battleship Commission

Environment and Natural Resources

Coastal Resources Commission

Environmental Management Commission

Health and Human Services

Child Care Commission

MH/DD/SAS

Insurance

Code Officials Qualifications Board

Justice

Alarm Systems Licensing Board

Occupational Licensing Boards

Appraisal Board

Dental Examiners, Board of

Nursing, Board of

Pharmacy, Board of

Podiatry Examiners, Board of

Real Estate Commission

Respiratory Care Board

Social Work

Revenue

Department

IV. RULES REVIEW COMMISSION..... 1686 - 1700

V. CONTESTED CASE DECISIONS

Index to ALJ Decisions..... 1701 - 1708

For the CUMULATIVE INDEX to the NC Register go to:

<http://reports.oah.state.nc.us/cumulativeIndex.pl>

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	
16	PUBLIC EDUCATION	21 Geologists	
17	REVENUE	22 Hearing Aid Dealers and Fitters	
18	SECRETARY OF STATE	25 Interpreter/Transliterator	
19A	TRANSPORTATION	26 Landscape Architects	
20	TREASURER	28 Landscape Contractors	
21*	OCCUPATIONAL LICENSING BOARDS	29 Locksmith Licensing	
22	ADMINISTRATIVE PROCEDURES (REPEALED)	30 Massage & Bodywork Therapy	
23	COMMUNITY COLLEGES	31 Marital and Family Therapy	
24*	INDEPENDENT AGENCIES	32 Medical Examiners	
25	STATE PERSONNEL	33 Midwifery Joint Committee	
26	ADMINISTRATIVE HEARINGS	34 Funeral Service	
27	NC STATE BAR	36 Nursing	
28	JUVENILE JUSTICE AND DELINQUENCY PREVENTION	37 Nursing Home Administrators	
		38 Occupational Therapists	
		40 Opticians	
		42 Optometry	
		44 Osteopathic Examination (Repealed)	
		45 Pastoral Counselors, Fee-Based Practicing	
		46 Pharmacy	
		48 Physical Therapy Examiners	
		50 Plumbing, Heating & Fire Sprinkler Contractors	
		52 Podiatry Examiners	
		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	
		64 Speech & Language Pathologists & Audiologists	
		65 Therapeutic Recreation Certification	
		66 Veterinary Medical	
		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.

U.S. Department of Justice

Civil Rights Division

JKT:JR:KL:maf
DJ 166-012-3
2005-4488
2006-0455

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

February 7, 2006

David A. Holec, Esq.
City Attorney
P.O. Box 7207
Greenville, North Carolina 27835-7207

Dear Mr. Holec:

This refers to eight annexations (Ordinance Nos. 05-118 through 05-121; 05-137, 05-138, 05-139 and 05-145 (2005)) and their designation to districts of the City of Greenville in Pitt 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 December 12, 2005, and January 27, 2006.

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. Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41 and 51.43).

Sincerely,

John Tanner
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

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

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Health Services intends to amend the rules cited as 10A NCAC 39A .0109; 45A .0403.

Fiscal Impact:

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

Proposed Effective Date: October 1, 2006

Public Hearing:

Date: May 2, 2006

Time: 2:00 p.m.

Location: Cardinal Room, 5605 Six Forks Rd., Raleigh, NC

CHAPTER 39 - ADULT HEALTH

SUBCHAPTER 39A - CHRONIC DISEASE

SECTION .0100 - MIGRANT HEALTH

Reason for Proposed Action:

10A NCAC 39A .0109 - The proposed change to this rule is to achieve mental health parity by eliminating the limit for mental health visits, which is currently two visits per year.

10A NCAC 45A .0403 - The proposed change to this rule will clarify the language regarding the co-payment so that it is clear about what the payment is for supplies and durable medical equipment.

10A NCAC 39A .0109 COVERED SERVICES

(a) The following services are covered by the Migrant Health Program when provided to eligible migrant farmworkers:

- (1) Ambulatory care services that are necessary and essential for immediate health needs in the form of:
 - (A) primary care services;
 - (B) hospital outpatient services;
 - (C) basic preventive, simple restorative, and simple surgical dental services that are specifically listed in a Dental Guide established by the North Carolina Farmworker Health Program based upon the following factors: the most urgent dental needs of migrant patients; the cost of effectiveness of the procedure; and the need to maximize the benefits to patients utilizing finite program dollars. A copy of the Dental Guide may be obtained free of charge by writing to the North Carolina Farmworker Health Program, Office of Research, Demonstrations, and Rural Health Development, 2009 Mail Service Center, Raleigh, NC 27699-2009;
 - (D) laboratory tests, diagnostic X-rays;
 - (E) drugs on a formulary established by the North Carolina Farmworker Health Program based upon the following factors: the medical needs of migrant patients, the cost effectiveness of the drugs, the availability of generic or other less

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. Additional objections may be made verbally and in writing at the public hearing for these rules.*

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: June 2, 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

costly alternatives, and the need to maximize the benefits to patients utilizing finite program dollars. A copy of this formulary may be obtained free of charge by writing to the NCFHP, Office of Research, Demonstrations, and Rural Health Development, 2009 Mail Service Center, Raleigh, North Carolina, 27699-2009;

- (F) ~~mental health services (limited to two visits per patient per FY); services;~~ and
- (G) medical supplies necessary for administering covered drugs.

(2) The following services must receive approval from the Program Director before being considered for reimbursement, and shall be reviewed on a case-by-case basis considering the extent to which the services are necessary and essential for the immediate health care needs of the patient, the total cost of the plan of treatment, and the probability of the patient completing the course of therapy:

- (A) home health services;
- (B) physical therapy and occupational therapy; and
- (C) rental or purchase of durable medical equipment.

(b) Services not covered by the Migrant Health Program include the following:

- (1) inpatient care, custodial care, hospice care;
- (2) any elective procedure;
- (3) routine physical exams, routine vision or hearing exams;
- (4) eyeglasses or hearing aids;
- (5) speech therapy;
- (6) chiropractic therapy;
- (7) emergency room services;
- (8) ground and air ambulance transportation; and
- (9) medical supplies (except those necessary for administering covered drugs).

Authority G.S. 130A-223.

CHAPTER 45 - GENERAL PROCEDURES FOR PUBLIC HEALTH PROGRAMS

SUBCHAPTER 45A - PAYMENT PROGRAMS

SECTION .0400 - GENERAL PROVISIONS

10A NCAC 45A .0403 REIMBURSEMENT FOR PROFESSIONAL, OUTPATIENT, OTHER SERVICES

(a) The Department shall reimburse providers of authorized outpatient services, professional services, and all other services not otherwise covered in the rules of this Section at the Medicaid

rate in effect at the time the claim is received by the Department, except in the Migrant Health Program.

(b) The Migrant Health Program shall reimburse providers of program covered outpatient, professional, and other services at the Medicaid rate in effect at the time the claim is received minus the allowable patient copayment to a maximum program payment of one hundred fifty dollars (\$150.00) per claim, per date of service. The allowable patient copayment is six dollars (\$6.00) for each prescribed drug and supply, six dollars (\$6.00) for all durable medical equipment, and five dollars (\$5.00) per claim, per date of service for all other services. The one hundred fifty dollar (\$150.00) limit shall not apply to ~~drugs~~ drugs, supplies, and durable medical equipment.

(c) In addition to the requirements of Paragraph (a) of this Rule, for professional and outpatient services under the Cancer Program, there shall be a per claim payment limit of one percent of the program's current annual budget.

Authority G.S. 130A-5(3); 130A-124; 130A-127; 130A-129; 130A-205; 130A-223.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Resources Commission intends to amend the rule cited as 15A NCAC 10A .1101.

Proposed Effective Date: August 1, 2006

Public Hearing:

Date: April 19, 2006

Time: 7:00 p.m.

Location: First Floor Auditorium, Wildlife Resources Commission Building on Centennial Campus, 1751 Varsity Drive, Raleigh, NC

Reason for Proposed Action: Add to the list of purposes for which a waiver may be issued

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 this rule, the contact person is David Cobb, Chief, Wildlife Management Division.

Comments may be submitted to: David Cobb, 1701 Mail Service Center, Raleigh, NC 27699-1701, phone (919) 707-0051, email David.Cobb@ncwildlife.org

Comment period ends: June 2, 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 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10A - WILDLIFE RESOURCES COMMISSION

SECTION .1100 - GENERAL

15A NCAC 10A .1101 WAIVER

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

- (1) The applicant has complied with the laws of North Carolina and with Rules promulgated by the Wildlife Resources Commission;
- (2) The Commission is able to safeguard the ~~interests of the wildlife resource~~ resources in North Carolina while granting the waiver; and
- (3) The applicant is able to meet the conditions of the waiver.

(b) The executive director or his designee shall waive the Rule banning intrastate transfer of ~~cervids, cervids and to~~ shall issue a transportation permit to an applicant for such a waiver provided that:

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

- (3) The executive director or his designee confirms receipt of the information requested in Subparagraphs (b)(2) of this Rule.

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

(c) The executive director or his designee shall waive the Rule banning importation of cervids and shall issue a transportation permit to an applicant for such a waiver provided that:

- (1) The executive director or his designee determines that the applicant is eligible for a waiver according to standards listed in Paragraph (a) of this Rule;
- (2) The herd of origin for all cervids to be imported has met the following conditions:

(A) The herd has been held in a facility that has been secured by a fence that has not been breached or jumped by a cervid for at least five years, and into which no cervid has been introduced for at least five years;

(B) All members of the herd that have died in the past five years have been tested for CWD; and all CWD test results have been negative; and

(C) Facility records demonstrating compliance with the aforementioned conditions have been submitted with the import application.

- (3) The eligible applicant shall first notify the Commission of the following:

(A) the tag number(s) or other identification assigned to the cervid;

(B) the facility of origination;

(C) the facility of destination;

(D) the date(s) upon which the transfer is to take place; and

(E) the means by which the cervid is to be transported; and

- (4) The executive director or his designee confirms receipt of the information requested in Subparagraph (c)(3) of this Rule.

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

- (1) The executive director or his designee confirms the applicant's eligibility for a waiver according to standards listed in Paragraph (a) of this Rule;
- (2) The eligible applicant shall first notify Commission of the following:
 - (A) the location of the facility for which expansion is desired;
 - (B) the number of cervids held at that facility;

- (C) the number of births or purchases of cervids expected within a year of the application; and
- (D) the proposed capacity for which expansion is desired; and
- (3) The executive director or his designee confirms receipt of the information requested in ~~Subparagraph (e)(2)~~ Paragraphs (c) and (d) of this Rule.

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

Notice is hereby given in accordance with G.S. 150B-21.2 that the Wildlife Resources Commission intends to amend the rule cited as 15A NCAC 10D .0103.

Proposed Effective Date: August 1, 2006

Public Hearing:

The portion of the proposed rule that addresses hunting on posted waterfowl impoundments, in Currituck, Pasquotank and Camden counties will be discussed:

Date: April 25, 2006

Time: 7:00 p.m.

Location: Camden County Courthouse, 117 North Highway, #343, Second Floor, Camden, NC

The portion of the proposed rule that addresses hunting on posted waterfowl impoundments on the Caswell Game Land will be discussed:

Date: April 20, 2006

Time: 7:00 p.m.

Location: Yanceyville Courthouse, 139 E. Church Street, Yanceyville, NC

The portion of the proposed rule that addresses the creation of Sandy Mush Game Land in Buncombe and Madison counties will be discussed:

Date: April 25, 2006

Time: 7:00 p.m.

Location: AB Technical College, Madison Campus, Room 115, 4646 U.S. Hwy 25/70, Marshall, NC

Reason for Proposed Action: Adjust management of public lands with respect to waterfowl impoundments in Camden, Pasquotank, Currituck and Caswell counties and the creation of a new game land in Buncombe and Madison counties. Bolded text represents text adopted by the North Carolina Wildlife Resources Commission on March 1, 2006 and currently pending review by the Rules Review Commission.

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 this rule, the contact person is David Cobb, Chief, Wildlife Management Division.

Comments may be submitted to: David Cobb, 1701 Mail Service Center, Raleigh, NC 27699-1701, phone (919) 707-0051, email David.Cobb@ncwildlife.org.

Comment period ends: June 2, 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 (\geq \$3,000,000)
- None

15A NCAC 10D .0103 HUNTING ON GAME LANDS

(a) Safety Requirements. No person while hunting on any designated game land shall be under the influence of alcohol or any narcotic drug, or fail to comply with restrictions enacted by the National Park Service regarding the use of the Blue Ridge Parkway where it adjoins game lands listed in this Rule.

(b) Traffic Requirements. No person shall park a vehicle on game lands in such a manner as to block traffic, gates or otherwise prevent vehicles from using any roadway.

(c) Tree Stands. It is unlawful to erect or to occupy, for the purpose of hunting, any tree stand or platform attached by nails, screws, bolts or wire to a tree on any game land designated herein. This prohibition shall not apply to lag-screw steps or portable stands that are removed after use with no metal left remaining in or attached to the tree.

(d) Time and Manner of Taking. Except where closed to hunting or limited to specific dates by this Chapter, hunting on game lands is permitted during the open season for the game or furbearing species being hunted. On managed waterfowl impoundments, hunters shall not enter the posted impoundment areas earlier than 4:00 a.m. on the permitted hunting dates, and hunting is prohibited after 1:00 p.m. on such hunting dates; decoys shall not be set out prior to 4:00 a.m. and must be removed by 3:00 p.m. each day. No person shall operate any vessel or vehicle powered by an internal combustion engine on a managed waterfowl impoundment. No person shall attempt to obscure the sex or age of any bird or animal taken by severing the head or any other part thereof, or possess any bird or animal which has been so mutilated. No person shall place, or cause to be placed on any game land, salt, grain, fruit, or other foods without prior written authorization of the commission or its

agent. A decision to grant or deny authorization shall be made based on the best management practices for the wildlife species in question. No person shall take or attempt to take any game birds or game animals attracted to such foods. No live wild animals or wild birds shall be removed from any game land.

(e) Definitions:

- (1) For purposes of this Section "Eastern" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(A); "Central" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(D); "Northwestern" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(B); "Western" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(C).
- (2) For purposes of this Section, "Dove Only Area" refers to a Game Land on which doves may be taken and dove hunting is limited to Mondays, Wednesdays, Saturdays and to Thanksgiving, Christmas and New Year's Days within the federally-announced season.
- (3) For purposes of this Section, "Three Days per Week Area" refers to a Game Land on which any game may be taken during the open seasons and hunting is limited to Mondays, Wednesdays, Saturdays and Thanksgiving, Christmas and New Year's Days. These "open days" also apply to either-sex hunting seasons listed under each game land. Raccoon and opossum hunting may continue until 7:00 a.m. on Tuesdays, until 7:00 a.m. on Thursdays, and until midnight on Saturdays.
- (4) For purposes of this Section, "Six Days per Week Area" refers to a Game Land on which any game may be taken during the open seasons, except that:
 - (A) Bears shall not be taken on lands designated and posted as bear sanctuaries;
 - (B) Wild boar shall not be taken with the use of dogs on such bear sanctuaries, and wild boar may be hunted only during the bow and arrow seasons, the muzzle-loading deer season and the regular gun season for deer on bear sanctuaries;
 - (C) On game lands open to deer hunting located in or west of the counties of Rockingham, Guilford, Randolph, Montgomery and Anson, the following rules apply to the use of dogs during the regular season for hunting deer with guns:
 - (i) Except for the counties of Cherokee, Clay, Graham,

Jackson, Macon, Madison, Polk, and Swain, game birds may be hunted with dogs.

- (ii) In the counties of Cherokee, Clay, Graham, Jackson, Macon, Madison, Polk, and Swain, small game in season may be hunted with dogs on all game lands except on bear sanctuaries.

- (iii) Additionally, raccoon and opossum may be hunted when in season on Uwharrie Game Lands;

- (D) On bear sanctuaries in and west of Madison, Buncombe, Henderson and Polk counties dogs shall not be trained or allowed to run unleashed between March 1 and the Monday on or nearest October 15.

(f) The listed seasons and restrictions apply in the following game lands:

- (1) Alcoa Game Land in Davidson, Davie, Montgomery, Rowan and Stanly counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season in that portion in Montgomery county and deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season in those portions in Davie, Davidson, Rowan and Stanly counties.
- (2) Alligator River Game Land in Tyrrell County
 - (A) Six Day per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days during the second week of the December Bear Season.
- (3) Angola Bay Game Land in Duplin and Pender counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (4) Bachelor Bay Game Land in Bertie and Washington counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the ~~first six open days and the last six~~ open days of the applicable Deer With Visible Antlers Season.
- (5) Bertie County Game Land in Bertie County

- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (6) Bladen Lakes State Forest Game Land in Bladen County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season. Deer of either sex may also be taken the Saturday preceding Eastern bow season with bow and arrow and the Friday preceding the Eastern muzzle-loading season with any legal weapon (with weapons exceptions described in this Paragraph) by participants in the Disabled Sportsman Program.
 - (C) Handguns shall not be carried and, except for muzzle-loaders, rifles larger than .22 caliber rimfire shall not be used or possessed.
 - (D) On the Singletary Lake Tract deer and bear may be taken only by still hunting.
 - (E) Wild turkey hunting on the Singletary Lake Tract is by permit only.
 - (F) Camping is restricted to September 1 – February 28 and April 7- May 14 in areas both designated and posted as camping areas.
- (7) Broad River Game Land in Cleveland County.
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer with Visible Antlers Season.
 - (C) Use of centerfire rifles is prohibited.
- (8) Brunswick County Game Land in Brunswick County: Permit Only Area
- (9) Buckhorn Game Land in Orange County: Permit Only Area, except during the bow and arrow season for deer, during which the area shall be open as a three-day-per-week area.
- (10) Buckridge Game Land in Tyrrell County.
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days of the second week of the December Bear Season.
- (11) Buffalo Cove Game Land in Caldwell and Wilkes Counties
 - (A) Six Days per Week Area
 - (B) The Deer With Visible Antlers season for deer consists of the open hunting days from the Monday before Thanksgiving through the third Saturday after Thanksgiving. Deer may be taken with bow and arrow on open days beginning the Monday on or nearest September 10 to the fourth Saturday thereafter, and Monday on or nearest October 15 to the Saturday before Thanksgiving and during the deer with visible antlers season. Deer may be taken with muzzle-loading firearms on open days beginning the Monday on or nearest October 8 through the following Saturday, and during the Deer With Visible Antlers season.
- (C) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (D) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- (12) Bullard and Branch Hunting Preserve Game Lands in Robeson County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the **first six open days and the** last six open days of the applicable Deer With Visible Antlers Season.
- (13) Butner - Falls of Neuse Game Land in Durham, Granville and Wake counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl shall be taken only on Tuesdays, Thursdays and Saturdays; Christmas and New Year's Days, and on the opening and closing days of the applicable waterfowl seasons. Waterfowl shall not be taken after 1:00 p.m. On the posted waterfowl impoundments a special permit is required for all waterfowl hunting after November 1.
 - (D) Horseback riding, including all equine species, is prohibited.
 - (E) Target shooting is prohibited
 - (F) Wild turkey hunting is by permit only, except on those areas posted as an Archery Zone.
 - (G) The use of dogs for hunting deer is prohibited on that portion west of NC 50 and south of Falls Lake.
- (14) Cape Fear Game Land in Pender County

- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Turkey Hunting is by permit only on that portion known as the Roan Island Tract.
- (15) Carteret County Game Land in Carteret County**
- (A) Six Days per Week Area**
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.**
- ~~(15)~~**(16) Caswell Game Land in Caswell County**
- (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. Deer of either sex may also be taken the Thursday and Friday preceding the Central muzzle-loading season by participants in the Disabled Sportsman Program.
 - (C) Horseback riding is allowed only during June, July, and August and on Sundays during the remainder of the year except during open turkey and deer seasons. Horseback riding is allowed only on roads opened to vehicular traffic. Participants must obtain a game lands license prior to engaging in such activity.
 - (D) Bearded or beardless turkeys may be taken from the Monday on or nearest to January 15 through the following Saturday by permit only.
 - (E) The area encompassed by the following roads is closed to all quail and woodcock hunting and all bird dog training: From Yanceyville south on NC 62 to the intersection of SR 1746, west on SR1746 to the intersection of SR 1156, south on SR 1156 to the intersection of SR 1783, east on SR 1783 to the intersection of NC 62, north on NC62 to the intersection of SR 1736, east on SR 1736 to the intersection of SR 1730, east on SR 1730 to NC 86, north on NC 86 to NC 62.
 - (F) On the posted waterfowl impoundment, waterfowl hunting is by permit only after November 1.**
- ~~(16)~~**(17) Caswell Farm Game Land in Lenoir County-Dove-Only Area**
- (A) Dove hunting is by permit only from opening day through either the first Saturday or Labor Day which ever comes last of the first segment of dove season.
- ~~(17)~~**(18) Catawba Game Land in Catawba County**
- (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
 - (C) Deer may be taken with bow and arrow only from the tract known as Molly's Backbone.
- ~~(18)~~**(19) Chatham Game Land in Chatham County**
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Wild turkey hunting is by permit only.
 - (D) Horseback riding, including all equine species, is allowed only during June, July, and August and on Sundays during the remainder of the year except during open turkey and deer seasons.
- ~~(19)~~**(20) Cherokee Game Land in Ashe County**
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- ~~(20)~~**(21) Chowan Game Land in Chowan County**
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the days of the applicable Deer With Visible Antlers Season.
- ~~(21)~~**(22) Chowan Swamp Game Land in Gates County**
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- ~~(22)~~**(23) Cold Mountain Game Land in Haywood County**
- (A) Six Days per Week Area
 - (B) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- ~~(23)~~**(24) Columbus County Game Land in Columbus County.**
- (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- ~~(24)~~**(25) Croatan Game Land in Carteret, Craven and Jones counties**
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six

- open days of the applicable Deer With Visible Antlers Season.
- (C) Waterfowl shall be taken only on the following days:
- (i) the opening and closing days of the applicable waterfowl seasons;
 - (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and
 - (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
- ~~(25)~~**(26)** Currituck Banks Game Land in Currituck County
- (A) Six Days per Week Area
 - (B) Permanent waterfowl blinds in Currituck Sound on these game lands shall be hunted by permit only after November 1.
 - (C) Licensed hunting guides may accompany the permitted individual or party provided the guides do not possess or use a firearm.
 - (D) The boundary of the Game Land shall extend 5 yards from the edge of the marsh or shoreline.
 - (E) Dogs shall be allowed only for waterfowl hunting by permitted waterfowl hunters on the day of their hunt.
 - (F) No screws, nails, or other objects penetrating the bark shall be used to attach a tree stand or blind to a tree.
 - (G) Deer of either sex may be taken all the days of the applicable deer with visible antlers season.**
- ~~(26)~~**(27)** Dare Game Land in Dare County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last day of the Deer With Visible Antlers Season.
 - (C) No hunting on posted parts of bombing range.
 - (D) The use and training of dogs is prohibited from March 1 through June 30.
- ~~(27)~~**(28)** Dupont State Forest Game Lands in Henderson and Transylvania counties
- (A) Hunting is by Permit only.
 - (B) The training and use of dogs for hunting except during scheduled small game permit hunts for squirrel, grouse, rabbit, or quail is prohibited.
 - (C) Participants of the Disabled Sportsman Program may also take deer of either sex with any legal weapon on the Saturday prior to the
- first segment of the Western bow and arrow season.
- ~~(28)~~**(29)** Elk Knob Game Land in Ashe and Watauga counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- ~~(29)~~**(30)** Goose Creek Game Land in Beaufort and Pamlico counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Except as provided in Part (D) of this Subparagraph, waterfowl in posted waterfowl impoundments shall be taken only on the following days:
 - (i) the opening and closing days of the applicable waterfowl seasons; and
 - (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and
 - (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
 - (D) After November 1, on the Pamlico Point, Campbell Creek, Hunting Creek and Spring Creek impoundments, a special permit is required for hunting on opening and closing days of the applicable waterfowl seasons, Saturdays of the applicable waterfowl seasons, and on Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days.
 - (E) Camping is restricted to September 1 – February 28 and April 7- May 14 in areas both designated and posted as camping areas.
- ~~(30)~~**(31)** Green River Game Land in Henderson, and Polk counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
 - (C) Horseback riding is prohibited except on designated trails May 16 through-August 31 and all horseback riding is prohibited from September 1 through May 15. This rule includes all equine species.
- ~~(31)~~**(32)** Green Swamp Game Land in Brunswick County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

~~(32)~~**(33)** Gull Rock Game Land in Hyde County

- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the ~~first six open days and the last six~~ open days of the applicable Deer With Visible Antlers Season.
- (C) Waterfowl on posted waterfowl impoundments shall be taken only on the following days:
 - (i) the opening and closing days of the applicable waterfowl seasons; and
 - (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and
 - (iii) Tuesdays and Saturdays of the applicable waterfowl season.
- (D) Camping is restricted to September 1 – February 28 and April 7- May 14 in areas both designated and posted as camping areas.
- (E) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days during the second week of the December Bear Season on the Long Shoal River Tract of Gull Rock Game Land.

~~(33)~~**(34)** Harris Game Land in Chatham, Harnett and Wake counties

- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Waterfowl shall be taken only on Tuesdays, Fridays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons.
- (D) The use or construction of permanent hunting blinds shall be prohibited.
- (E) Wild turkey hunting is by permit only.

~~(34)~~**(35)** Holly Shelter Game Land in Pender County

- (A) Three Days per Week Area.
- (B) Deer of either sex may be taken **the first six open days and** the last six open days of the applicable Deer With Visible Antlers Season. Deer of either sex may also be taken the Friday preceding the Eastern muzzle-loading season with any legal weapon and the Saturday preceding Eastern bow season with bow and arrow by participants in the Disabled Sportsman Program.

(C) Waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons regardless of the day of the week on which they occur, provided however, that waterfowl in posted waterfowl impoundments shall be taken only on the following days:

- (i) the opening and closing days of the applicable waterfowl seasons;
- (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and
- (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.

(D) Camping is restricted to September 1 – February 28 and April 7- May 14 in areas both designated and posted as camping areas.

~~(35)~~**(36)** Hyco Game land in Person County

- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.

(C) Bearded or beardless turkeys may be taken from the Monday on or nearest to January 15 through the following Saturday by permit only.

~~(36)~~**(37)** J. Morgan Futch Game Land in Tyrrell County, Permit Only Area.

~~(37)~~**(38)** Jordan Game Land in Chatham, Durham, Orange and Wake counties

- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.

(C) Waterfowl may be taken only on Mondays, Wednesdays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons.

(D) Horseback riding, including all equine species, is prohibited except on those areas posted as American Tobacco Trail and other areas specifically posted for equestrian use. Unless otherwise posted, horseback riding is permitted on posted portions of the American Tobacco Trail anytime the trail is open for use. On all other trails posted for equestrian use, horseback riding is allowed only during June, July and August, and on Sundays the remainder of the year

- except during open turkey and deer seasons.
- (E) Target shooting is prohibited.
- (F) Wild turkey hunting is by permit only, except on those areas posted as an Archery Zone.
- ~~(38)~~**(39)** Kerr Scott Game Land in Wilkes County
- (A) Six Days per Week Area
- (B) Use of centerfire rifles shall be prohibited.
- (C) Use of muzzleloaders, shotguns, or rifles for hunting deer during the applicable Deer With Visible Antlers Season shall be prohibited.
- (D) Tree stands shall not be left overnight and no screws, nails, or other objects penetrating the bark shall be used to attach a tree stand or blind to a tree.
- (E) Deer of either sex may be taken on all open days of the applicable deer with visible antlers season.
- ~~(39)~~**(40)** Lantern Acres Game Land in Tyrrell and Washington counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Wild turkey hunting is by permit only.
- ~~(40)~~**(41)** Lee Game Land in Lee County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- ~~(42)~~ **Light Ground Pocosin Game Land in Pamlico County**
- ~~(A)~~ **Six Days per Week Area**
- ~~(B)~~ **Deer of either sex may be taken all the open days of the applicable Deer with Visible Antlers Season.**
- ~~(41)~~**(43)** Linwood Game Land in Davidson County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken on all of the open days of the applicable Deer With Visible Antlers Season.
- ~~(42)~~**(44)** Mayo Game Land in Person County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Waterfowl shall be taken only on Tuesdays, Thursdays and Saturdays; Christmas and New Year's Days, and on the opening and closing days of the applicable waterfowl seasons.
- ~~(D)~~ **Bearded or beardless turkeys may be taken from the Monday on or**
- nearest to January 15 through the following Saturday by permit only.**
- ~~(45)~~ **Mitchell River Game Land in Surry County**
- ~~(A)~~ **Six Days per Week Area**
- ~~(B)~~ **Deer of either sex may be taken the last six days of the applicable Deer with**
- Visible Antlers Season.**
- ~~(C)~~ **Horseback riding, including all equine species, is prohibited except on**
- designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through**
- May 15.**
- ~~(43)~~**(46)** Nantahala Game Land in Cherokee, Clay, Graham, Jackson, Macon, Swain and Transylvania counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season in that portion located in Transylvania County.
- (C) Raccoon and opossum shall be hunted only from sunset Friday until sunrise on Saturday and from sunset until 12:00 midnight on Saturday on Fires Creek Bear Sanctuary in Clay County and in that part of Cherokee County north of US 64 and NC 294, east of Persimmon Creek and Hiwassee Lake, south of Hiwassee Lake and west of Nottely River; in the same part of Cherokee County dog training is prohibited from March 1 to the Monday on or nearest October 15.
- ~~(44)~~**(47)** Needmore Game Land in Macon and Swain counties.
- (A) Six Days per Week Area
- (B) Horseback riding shall be prohibited except on designated trails May 16 through August 31 and all horseback riding shall be prohibited from September 1 through May 15. This Rule includes all equine species.
- ~~(45)~~**(48)** Neuse River Game Land in Craven County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- ~~(46)~~**(49)** New Lake Game Land in Hyde ~~County~~ **and Tyrrell counties**
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the first six open days and the last six

- ~~open days~~ of the applicable Deer With Visible Antlers Season.
- (50) Nicholson Creek Game Land in Hoke County**
- (A) Three Days per Week Area**
- (B) Deer of either sex may be taken with bow and arrow on open hunting days from the Saturday on or nearest September 10 to the third Friday before Thanksgiving.**
- (C) Deer of either sex may be taken with muzzle-loading firearms on open hunting days beginning the third Saturday before Thanksgiving through the following Wednesday.**
- (D) The Deer With Visible Antlers season consists of the open hunting days from the second Saturday before Thanksgiving through the third Saturday after Thanksgiving.**
- (E) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.**
- (F) The use of dogs for hunting deer is prohibited.**
- (G) Wild turkey hunting is by permit only.**
- (47)(51) North River Game Land in ~~Currituck and Currituck,~~ Camden and Pasquotank counties**
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers ~~Season. Season except in that part in Camden County south of US 158 where the season is the last six open days of the applicable Deer With Visible Antlers Season.~~
- (C) The boundary of the Game Land shall extend five yards from the edge of the marsh or shoreline.
- (D) Wild turkey hunting is by permit only on that portion in Camden County.
- (E) Hunting on the posted waterfall impoundment is by permit only.
- (48)(52) Northwest River Marsh Game Land in Currituck County**
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) The boundary of the Game Land shall extend five yards from the edge of the marsh or shoreline.
- (49)(53) Pee Dee River Game Land in Anson, Montgomery, Richmond and Stanly counties**
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Use of centerfire rifles prohibited in that portion in Anson and Richmond counties North of US-74.
- (50)(54) Perkins Game Land in Davie County**
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (51)(55) Pisgah Game Land in Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Madison, McDowell, Mitchell, Transylvania, Watauga and Yancey counties**
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season except on that portion in Avery County south of the Blue Ridge Parkway, and ~~Yancey counties~~ County, and that portion in Haywood County encompassed by US 276 on the north, US 74 on the west, and the Blue Ridge Parkway on the south and east.
- (C) Harmon Den and Sherwood Bear Sanctuaries in Haywood County are closed to hunting raccoon, opossum and wildcat. Training raccoon and opossum dogs is prohibited from March 1 to the Monday on or nearest October 15 in that part of Madison County north of the French Broad River, south of US 25-70 and west of SR 1319.
- (52)(56) Pungo River Game Land in Hyde County**
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the first six open days and the last six ~~open days~~ of the applicable Deer With Visible Antlers Season.
- (57) Rhodes Pond Game Land in Cumberland County – hunting is by permit only.**
- (A) Swimming is prohibited on the area.**
- (53)(58) Roanoke River Wetlands in Bertie, Halifax and Martin counties**
- (A) Hunting is by Permit only.
- (B) Vehicles are prohibited on roads or trails except those operated on official Commission business or by permit holders.
- (C) Camping is restricted to September 1 – February 28 and April 7- May 14 in areas both designated and posted as camping areas.

- ~~(54)~~**(59)** Roanoke Sound Marshes Game Land in Dare County-Hunting is by permit only.
- ~~(55)~~**(60)** Robeson Game Land in Robeson County
- (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the **first six open days and the last six open days of the applicable Deer With Visible Antlers Season.**
- (61) Rockfish Creek Game Land in Hoke County**
- (A) Three Days per Week Area**
 - (B) Deer of either sex may be taken with bow and arrow on open hunting days from the Saturday on or nearest September 10 to the third Friday before Thanksgiving.**
 - (C) Deer of either sex may be taken with muzzle-loading firearms on open hunting days beginning the third Saturday before Thanksgiving through the following Wednesday.**
 - (D) The Deer With Visible Antlers season consists of the open hunting days from the second Saturday before Thanksgiving through the third Saturday after Thanksgiving.**
 - (E) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.**
 - (F) The use of dogs for hunting deer is prohibited.**
 - (G) Wild turkey hunting is by permit only.**
- ~~(56)~~**(62)** Sampson Game Land in Sampson County
- (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- ~~(57)~~**(63)** Sandhills Game Land in Hoke, Moore, Richmond and Scotland counties
- (A) Three Days per Week Area
 - (B) The Deer With Visible Antlers season for deer consists of the open hunting days from the second Saturday before Thanksgiving through the third Saturday after Thanksgiving except on the field trial grounds where the gun season is open days from the second Monday before Thanksgiving through the Saturday following Thanksgiving. Deer may be taken with bow and arrow on all open hunting days during the bow and arrow season, as well as during the regular gun season. Deer may be taken with muzzle-loading firearms on open days beginning the third Saturday before Thanksgiving

through the following Wednesday, and during the Deer With Visible Antlers season.

- (C) Gun either-sex deer hunting is by permit only. For participants in the Disabled Sportsman Program, either-sex deer hunting with any legal weapon is permitted on all areas the Thursday and Friday prior to the muzzle-loading season described in the preceding paragraph. Except for the deer, opossum, ~~rabbit and rabbit~~, raccoon ~~and squirrel~~ seasons specifically indicated for the field trial grounds in this Rule and Disabled Sportsman Program hunts, the field trial grounds are closed to all hunting during the period October 22 to March 31.
 - (D) In addition to the regular hunting days, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons
 - (E) Wild turkey hunting is by permit only.
 - (F) Dove hunting on the field trial grounds will be prohibited from the second Sunday in September through the remainder of the hunting season.
 - (G) ~~Opossum and Opossum~~, raccoon ~~and squirrel (fox and gray)~~ hunting on the field trial grounds will be allowed on open days from the second Monday before Thanksgiving through the Saturday following Thanksgiving and rabbit season on the field trial grounds will be from the Saturday preceding Thanksgiving through the Saturday following Thanksgiving.
 - (H) The following areas are closed to all quail and woodcock hunting and dog training on birds: In Richmond County: that part east of US 1; In Scotland County: that part east of east of SR 1001 and west of US 15/501.
 - (I) Horseback riding on field trial grounds from October 22 through March 31 shall be prohibited except by participants in authorized field trials.
- (64) Sandy Mush Game Land in Buncombe and Madison counties.**
- (A) Three Days per Week Area**
 - (B) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1**

- through May 15. This rule includes all equine species.
- ~~(58)~~**(65)** Scuppernong Game Land in Tyrrell and Washington counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- ~~(59)~~**(66)** Shocco Creek Game Land in Franklin and Warren counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Horseback riding, including all equine species, is prohibited.**
- ~~(60)~~**(67)** South Mountains Game Land in Burke, Cleveland, McDowell and Rutherford counties
- (A) Six Days per Week Area
- (B) The Deer With Visible Antlers season for deer consists of the open hunting days from the Monday before Thanksgiving through the third Saturday after Thanksgiving.
- (C) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (D) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- (E) That part of South Mountains Game Land in Cleveland, McDowell, and Rutherford counties is closed to all grouse, quail and woodcock hunting and all bird dog training.
- ~~(61)~~**(68)** Stones Creek Game Land in Onslow County
- (A) Six-Day per Week Area.
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season
- (C) Swimming in all lakes is prohibited.
- ~~(62)~~**(69)** Suggs Mill Pond Game Land in Bladen County;
- (A) Hunting is by Permit only.
- (B) Camping is restricted to September 1 – February 28 and April 7- May 14 in areas both designated and posted as camping areas.
- ~~(63)~~**(70)** Sutton Lake Game Land in New Hanover County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- ~~(64)~~**(71)** Tar River Game Land in Edgecombe County - **— hunting is by permit only.**
- ~~(A) — Six Days per Week Area~~
- ~~(B) — Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.~~
- ~~(C) — Waterfowl may be taken on the following days~~
- ~~(i) — the opening and closing days of the applicable waterfowl seasons;~~
- ~~(ii) — Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and~~
- ~~(iii) — Tuesdays and Saturdays of the applicable waterfowl seasons.~~
- ~~(65)~~**(72)** Three Top Mountain Game Land in Ashe County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- ~~(66)~~**(73)** Thurmond Chatham Game Land in Wilkes County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season. Participants of the Disabled Sportsman Program may also take either-sex deer with bow and arrow on the Saturday prior to Northwestern bow and arrow season.
- (C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species. Participants must obtain a game lands license prior to horseback riding on this area.
- (D) Bearded or beardless turkeys may be taken from the Monday on or nearest to January 15 through the following Saturday by permit only.**
- ~~(67)~~**(74)** Toxaway Game Land in Transylvania County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season. Participants of the Disabled

Sportsman Program may also take deer of either sex with any legal weapon on the Saturday prior to the first segment of the Western bow and arrow season.

- (C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.

~~(68)~~(75) Uwharrie Game Land in Davidson, Montgomery and Randolph counties

- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last open six days of the applicable Deer With Visible Antlers Season.

~~(69)~~(76) Vance Game Land in Vance County

- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) The use of dogs, centerfire rifles and handguns for hunting deer is prohibited on the Nutbush Peninsula tract.

~~(70)~~(77) Van Swamp Game Land in Beaufort and Washington counties

- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(C) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days during the second week of the December Bear Season.

~~(71)~~(78) White Oak River ~~Impoundment~~ Game Land in Onslow County

- (A) Three Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Except as provided in Part (D) of this Subparagraph, waterfowl in posted waterfowl impoundments shall be taken only on the following days:
 - (i) the opening and closing days of the applicable waterfowl seasons; and
 - (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and
 - (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.

- (D) After October 1, a special permit is required for hunting on opening and closing days of the applicable waterfowl seasons, Saturdays of the applicable waterfowl seasons, and on Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days.

(g) On permitted type hunts deer of either sex may be taken on the hunt dates indicated on the permit. Completed applications must be received by the Commission not later than the first day of September next preceding the dates of hunt. Permits shall be issued by random computer selection, shall be mailed to the permittees prior to the hunt, and shall be nontransferable. A hunter making a kill must validate the kill and report the kill to a wildlife cooperator agent or by phone.

(h) The following game lands and refuges shall be closed to all hunting except to those individuals who have obtained a valid and current permit from the Wildlife Resources Commission: Bertie, Halifax and Martin counties-Roanoke River Wetlands Bertie County-Roanoke River National Wildlife Refuge Bladen County—Suggs Mill Pond Game Lands Burke County—John's River Waterfowl Refuge Dare County-Dare Game Lands (Those parts of bombing range posted against hunting) Dare County--Roanoke Sound Marshes Game Lands Davie-Hunting Creek Swamp Waterfowl Refuge Gaston, Lincoln and Mecklenburg counties-Cowan's Ford Waterfowl Refuge Henderson and Transylvania counties--Dupont State Forest Game Lands

Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-305.

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Resources Commission intends to amend the rule cited as 15A NCAC 10F .0327.

Proposed Effective Date: August 1, 2006

Public Hearing:

Date: April 25, 2006

Time: 10:00 a.m.

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

Reason for Proposed Action: Add a no wake zone to the waters of Badin Lake in Montgomery County

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 this rule, the contact person is Betsy Foard.

Comments may be submitted to: Betsy Foard, 1701 Mail Service Center, Raleigh, NC 27699-1701, phone (919) 707-0013, email Betsy.Foard@ncwildlife.org

Comment period ends: June 2, 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 10 – WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - MOTORBOAT REGISTRATION

15A NCAC 10F .0327 MONTGOMERY COUNTY

(a) Regulated Areas. This Rule applies to the waters and portions of waters described as follows:

- (1) Badin Lake:
(A) Lakeshore Drive Cove as delineated by appropriate markers.
(B) Entrance to fueling site and marina west of the main channel of Lake Forest Drive Cove.
(C) Gar Creek.
(D) Beyer's Island waterfront channel facing the mainland.
(2) Lake Tillery:
(A) Woodrun Cove as delineated by appropriate markers.
(B) Carolina Forest Cove as delineated by appropriate markers.
(3) Tuckertown Reservoir.

(b) 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.

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

(d) Restricted Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked public swimming area established with the approval of the Wildlife Resources Commission on the waters of the regulated areas described in Paragraph (a) of this Rule.

(e) Placement and Maintenance of Markers. The Board of Commissioners of Montgomery County is hereby designated a suitable agency for placement and maintenance of the markers implementing this Rule in accordance with the Uniform System.

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

TITLE 21 – OCCUPATIONAL LICENSING BOARDS

CHAPTER 14 – COSMETIC ART EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Board of Cosmetic Art Examiners intends to amend the rules cited as 21 NCAC 14H .0112 - .0113, .0120.

Proposed Effective Date: August 1, 2006

Public Hearing:

Date: April 20, 2006

Time: 9:00 a.m.

Location: 1201 Front Street, Suite 110, Raleigh, NC 27609

Reason for Proposed Action: To clarify sanitation rules.

Procedure by which a person can object to the agency on a proposed rule: Submit a letter to 1201 Front Street, Suite 110, Raleigh, NC 27609

Comments may be submitted to: Stefanie Shore, 1201 Front Street, Suite 110, Raleigh, NC 27609, phone (919) 715-3171, fax (919) 733-4127, email sshore@nccosmeticarts.com

Comment period ends: June 2, 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 14H – SANITATION

SECTION .0100 – SANITATION

21 NCAC 14H .0112 CLEANLINESS OF CLINIC AREA: SUPPLIES: COMBS AND BRUSHES

- (a) The clinic area shall be kept clean.
- (b) Waste material shall be kept in covered receptacles. The area surrounding the waste receptacles shall be maintained in a neat and sanitary manner.
- (c) Sanitation rules which apply to towels and cloths are as follows:
 - (1) Separate and clean towels shall be used for each patron.
 - (2) After a towel has been used once, it shall be discarded and placed in a clean, closed container until laundered.
 - (3) There shall be a supply of clean towels at all times.
 - (4) All capes used on patrons shall be kept clean and shall not be allowed to come in direct contact with the patron's neck.
- (d) At least six combs and brushes shall be provided for each cosmetology operator and cosmetology student.
- (e) All combs, brushes, esthetics and manicurist instruments shall be cleaned and disinfected after each use in the following manner:
 - (1) They shall be soaked in a cleaning solution that shall not leave a residue and, if necessary, scrubbed.
 - (2) They shall be disinfected in accordance with the following:
 - (A) EPA registered, hospital/pseudomonacidal (bactericidal, virucidal, and fungicidal) and tuberculocidal, that is mixed and used according to the manufacturer's directions;
 - (B) household bleach in a 10 percent solution for 10 ~~minutes;~~ minutes.
 - ~~(D) 70% or higher isopropyl alcohol for 15 minutes; or~~
 - ~~(E) 90% ethyl alcohol for 15 minutes.~~
 The disinfectant shall not shorten the service life of the comb, brush, esthetics or manicuring instrument. In using a disinfectant, the user shall wear any personal protective equipment, such as gloves, recommended in the Material Safety Data Sheet prepared on the disinfectant manufacturer.

- (3) They shall be rinsed with hot tap water and dried with a clean towel before their next use. If they are not used immediately, they shall be stored in a clean, closed cabinet until they are needed.

Authority G.S. 88B-4.

21 NCAC 14H .0113 CLEANLINESS OF SCISSORS: SHEARS: RAZORS AND OTHER EQUIPMENT

- (a) All scissors, shears, razors, and other metal instruments used while shaping hair must be cleaned and disinfected after each use in the following manner:
 - (1) If the implement is not immersible, it shall be cleaned by wiping it with a clean cloth moistened with a disinfectant that states the solution will destroy HIV, TB or HBV viruses and approved by the Federal Environmental Protection Agency in accordance with the manufacturer's instructions.
 - (2) If it is immersible, it shall be disinfected by immersion, at least once a day and whenever it comes in contact with blood, with:
 - (A) a disinfectant that states the solution will destroy HIV, TB or HBV viruses, and approved by the Federal Environmental Protection Agency in accordance with the manufacturer's instructions;
 - (B) EPA registered, hospital/pseudomonacidal (bactericidal, virucidal, and fungicidal) and or tuberculocidal, that is mixed and used according to the manufacturer's directions;
 - (C) household bleach in a ten(10) percent solution for 10 ~~minutes;~~ minutes.
 - ~~(D) 70% or higher isopropyl alcohol for 15 minutes; or~~
 - ~~(E) 90% ethyl alcohol for 15 minutes.~~
 - (3) If the implement is not used immediately after cleaning, it must be stored in a clean, closed cabinet until it is needed.
 - (b) Furniture, equipment and fixtures must be of a washable material and kept clean and in good repair.
- Authority G.S. 88B-4.
- 21 NCAC 14H .0120 FOOTSPA SANITATION
- Manicurists and Cosmetologists shall use the following disinfection procedures to ensure proper cleaning and maintenance of the footspa equipment and to prevent bacterial infection:
- (1) Between each customer a manicurist or cosmetologist shall:
 - (a) drain all water and remove all debris from the footspa;
 - (b) clean and scrub the surfaces and walls of the footspas with a scrub brush

soap or detergent and rinse with clean, clear water; and

- (c) disinfect with an EPA registered disinfectant with bactericidal, fungicidal, and virucidal activity used according to the manufacturer's instructions.
- (2) At the end of the day a manicurist or cosmetologist shall:
 - (a) remove the screen. All debris trapped behind the screen of each footspa shall be removed, and the screen and the inlet shall be washed with soap or detergent and water;
 - (b) before replacing the screen:
 - (i) wash the screen with a chlorine bleach solution of one ~~teaspoon of five per cent chlorine bleach to one gallon of part bleach to ten parts~~ water, or totally immerse the screen in an EPA registered disinfectant;
 - ~~(ii) flush the system with low sudsing soap and warm water for 10 minutes; and~~
 - ~~(iii) finally, rinse and drain; and~~
 - ~~(c) make a record of the date/time of this cleaning and disinfecting.~~
- ~~(3) Every other week a manicurist or cosmetologist shall:~~
 - ~~(a) after following the outlined procedures for the end of each day,~~
 - ~~(c) fill the footspa tub with five gallons of water and four ~~teaspoons~~ cups of five per cent bleach solution;~~
 - ~~(b)(d) circulate the solution through the footspa system for five to ten minutes;~~
 - ~~(e)(e) let the solution sit overnight (at least six - ten hours);~~
 - ~~(d)(f) drain and flush the system the following morning; and~~
 - ~~(e)(g) make a record of the date/time of this cleaning and disinfecting.~~

Proposed Effective Date: August 1, 2006

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): Request for hearing must be sent to the Board Administrator, Jennifer Robertson, P.O. Box 1369, Garner, NC 27529-1369

Reason for Proposed Action: Updating and clarifying Rules and defining terms.

Procedure by which a person can object to the agency on a proposed rule: Notify the Board Administrator, Jennifer Robertson at the Board office, P. O. Box 1369 Garner, NC 27529

Comments may be submitted to: Jennifer Robertson, P.O. Box 1369, Garner, NC 27529-1369

Comment period ends: June 2, 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

SECTION .0100 - GENERAL INFORMATION

21 NCAC 53 .0102 PROFESSIONAL ETHICS
The Board of Licensed Professional Counselors has adopted the Code of Ethics and Ethical Standards of Practice promulgated by the American Counseling Association, effective 2005, including the guidelines for the practice of online counseling adopted in October 1999 ~~March 1988~~, and any subsequent revisions or amendments to the Code of Ethics and Standards ~~standards~~ published by the American Counseling Association. Copies of ~~these~~ the Code of Ethics and Standards ~~standards~~ are available free of charge from the American Counseling Association, 5999 Stevenson Ave., Alexandria, VA ~~22304~~-22304, and online at www.counseling.org.

Authority G.S. 90-334(h).

Authority G.S. 88B-4.

CHAPTER 53 - BOARD OF LICENSED PROFESSIONAL COUNSELORS

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Board of Licensed Professional Counselors intends to adopt the rule cited as 21 NCAC 53 .0212 and amend the rules cited as 21 NCAC 53 .0102, .0205, .0208 - .0209, .0304 - .0305, .0308, .0401 - .0402, .0502 - .0503.

SECTION .0200 – GENERAL INFORMATION

21 NCAC 53 .0205 COUNSELING EXPERIENCE

Counseling [counseling services as defined in G.S. 90-330(a)(3)] experience applicable to the experience requirement for licensure consists of a minimum of 2000 hours of professional practice. No more than 750 hours can be obtained as part of the master's degree. The remaining 1250 hours must be obtained after the master's degree has been awarded. ~~master's and post-master's supervised counseling experience in professional settings. The post-master's experience shall be for a period of at least two years-years. including a minimum of 2,000 hours of such experience.~~ To be applicable, experience shall be gained at a rate of not less than eight hours per week. At least 100 hours of individual or group clinical supervision shall be documented during the minimum of 2000 hours of supervised professional practice at a rate of not less than one hour of clinical supervision per 40 hours of experience, and at least three-quarters of the hours of clinical supervision shall be individual.

Authority G.S. 90-334(i); 90-336(b)(2).

21 NCAC 53 .0208 SUPERVISED PROFESSIONAL PRACTICE

Supervised professional practice consists of counseling experience under the on site supervision of a qualified clinical supervisor, as defined in Rule .0209 of this Section, including a minimum of at least one hour of individual and group clinical supervision per 40 hours of counseling practice. At least three-quarters of the hours of clinical supervision shall be individual. The supervisor shall monitor the supervised professional practice on a case-by-case basis. Persons who are exempt from licensure under the provisions of G.S. 90-332.1(a)(4) and who wish to counsel as supervised counselors in supervised professional practices under G.S. 90-336(b)(2) may have their arrangements for supervised practice approved by the Board prior to engaging in practice.

Authority G.S. 90-332.1(a)(4); 90-334(i); 90-336(b)(2).

21 NCAC 53 .0209 QUALIFIED CLINICAL SUPERVISOR

A qualified clinical supervisor is a licensed professional counselor with at least a master's degree in counseling and a minimum of five years of post licensure counseling experience. Other equivalently ~~credentialed~~ licensed and experienced qualified mental health professionals, as determined by the Board on a case-by-case basis, may be approved by the Board. Equivalently experienced means that the licensed professional must have a minimum of five years post licensure counseling experience.

Authority G.S. 90-330(a)(4); 90-334(i); 90-336(b)(2).

21 NCAC 53 .0212 FACE TO FACE SUPERVISION DEFINED

For the purposes of the supervision required, face to face supervision means supervision that is live, interactive, and

visual. Video supervision with no interaction with the facilitator does not qualify for face to face supervision.

Authority G.S. 90-334(h).

SECTION .0300 – GENERAL INFORMATION

21 NCAC 53 .0304 APPLICANTS LICENSED IN OTHER STATES

If a candidate is licensed ~~or certified~~ to practice counseling by a ~~similar~~ Board in another state, the applicant must apply for licensure with the North Carolina Board. The Board will consider the application in accordance with the provisions of G.S. 90-336 and G.S. 90-337. may waive the formal examination requirements of a candidate, provided the North Carolina Board accepts the standards and qualifications required for the practice of counseling in the candidate's credentialing state as substantially similar to or exceeding those required by North Carolina.

Authority G.S. 90-334; 90-337; 1993 S.L. c. 514, s. 5.

21 NCAC 53 .0305 EXAMINATION

The National Counseling Examination (NCE) of the National Board for Certified Counselors (NBCC) is the examination required for licensure. The Board will accept counselor licensing examinations from other states if recognized by the NBCC. The Board may accept similar examinations administered by other state counselor licensing boards and professional counselor credentialing associations on a case-by-case basis if the Board determines that such examinations are equivalent to the NCE relative to content and minimum satisfactory performance level.

Authority G.S. 90-334(g); 90-336(b)(3); 90-337.

21 NCAC 53 .0308 RECEIPT OF APPLICATION

Applications and all supporting documentation shall be received by the Board (not postmarked) by the close of the business day not less than ~~60~~ 90 days prior to the next regularly scheduled examination date in order for applicants to be eligible to take the examination on that date.

Authority G.S. 90-336(a).

SECTION .0400 – GENERAL INFORMATION

21 NCAC 53 .0401 RULE OF PROCEDURE

When the Board is made aware of an individual who is engaging in the practice of counseling who is not ~~credentialed licensed~~ by the North Carolina Board of Licensed Professional Counselors, the North Carolina Board of Examiners of Practicing Psychologists, the North Carolina ~~Certification Board for Social Work, Work Certification and Licensure Board,~~ or the North Carolina Marital and Family Therapy ~~Certification Licensure Board,~~ or other North Carolina Boards with statutory authority to regulate the practice of counseling, or who is not otherwise exempt from the provisions of G.S. 90, Article 24, or who is using the designation "Licensed Professional Counselor" without

being licensed by the North Carolina Board of Licensed Professional Counselors, a registered letter with return receipt, showing delivery to addressee only, shall be mailed to the last known address of the person in question. The letter shall direct attention to pertinent aspects of the law and the rules of the Board. If this does not induce said person to cease violating the law and to desist from practicing counseling, and using the title "Licensed Professional Counselor," the information shall be forwarded to the appropriate law enforcement authorities.

Authority G.S. 90-331; 90-334; 90-341; 1993 S.L. c. 514, s. 5.

21 NCAC 53 .0402 GROUNDS FOR DENIAL, SUSPENSION, OR REVOCATION OF A LICENSE

When an individual who is licensed pursuant to G.S. 90, Article 24 is charged with violating any of the provisions of G.S. 90-340, the Board may conduct proceedings to investigate the complaint. The Board may conduct hearings to determine if grounds for denial, suspension, or revocation of a license have occurred. The Board may will then take appropriate action. ~~impose appropriate sanctions.~~

Authority G.S. 90-334; 1993 S.L. c. 514, s. 5.

SECTION .0500 – GENERAL INFORMATION

21 NCAC 53 .0502 EXAMINATION FEE

~~An examination fee of one hundred dollars (\$100.00) will be assessed for administration and processing of the written examination.~~ Examination fees are set by the individual examination agencies.

Authority G.S. 90-334; 1993 S.L. c. 514, s. 5.

21 NCAC 53 .0503 RENEWAL FEE

The biennial renewal fee of one hundred dollars (\$100.00) is due and payable by June 20 of the renewal year. Checks shall be made payable to the North Carolina Board of Licensed Professional Counselors. Failure to pay the biennial renewal fee within the time stated shall automatically suspend the right of any licensee to practice while delinquent. Such lapsed licensure may be renewed within a period of one year after expiration upon payment of the renewal fee plus a late renewal fee of twenty-five dollars ~~(\$25.00).~~ (\$25.00), provided all other requirements are met.

Authority G.S. 90-334; 90-339; 1993 S.L. c. 514, s. 5.

TITLE 25 – DEPARTMENT OF STATE PERSONNEL

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Personnel Commission intends to adopt the rule cited as 25 NCAC 01D .0115.

Proposed Effective Date: August 1, 2006

Public Hearing:

Date: May 31, 2006

Time: 10:00 a.m.

Location: Office of State Personnel Conference Room, Administration Bldg., 3rd floor, 116 W. Jones St., Raleigh, NC

Reason for Proposed Action: *The State Auditor's Office brought to our attention a finding that some employees in one of the State agencies were receiving additional compensation from a foundation for duties performed in their regular employment. In some cases, these supplements were added to the base salary and in other cases, they were paid as a separate payment. The proposed policy requires they submit, with justification, any requests to pay supplements and that these be approved by the State Personnel Commission.*

Procedure by which a person can object to the agency on a proposed rule: *A person may object to this proposed rule by one of the following methods: 1. A written letter to Peggy Oliver, HR Policy Administrator, Office of State Personnel, 1331 Mail Service Center, Raleigh, NC 27699-1331, 2. An e-mail to peggy.oliver@ncmail.net, 3. A telephone call to Peggy Oliver at (919) 733-7108.*

Comments may be submitted to: *Peggy Oliver, Office of State Personnel, 1331 Mail Service Center, Raleigh, NC 27699-1331, Phone (919)733-7108*

Comment period ends: June 2, 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 (\geq \$3,000,000)
- None

CHAPTER 01 – OFFICE OF STATE PERSONNEL

SUBCHAPTER 01D - COMPENSATION

SECTION .0100 - ADMINISTRATION OF THE PAY PLAN

25 NCAC 01D .0115 SUPPLEMENTAL SALARY

(a) Supplemental salary is any compensation from an affiliated public charity, foundation or other private source paid to a state employee for services that are part of the employee's regular job and is in addition to the employee's base salary paid by the state and any other compensation authorized by this Chapter.

(b) Receipt of supplements shall be subject to the approval of the agency head with final approval by the state personnel commission. Requests shall be submitted to the office of state personnel and shall include documentation of relevant labor market information and any other information that the agency head believes justifies a salary supplement. The documentation

shall also include why the payment of the supplement will not result in any conflict of interest.

(c) Salary supplements in existence on the effective date of this Rule shall be submitted for review and approval within 90 days.

(d) Any proposed changes in the amount of a salary supplement shall be resubmitted to the office of state personnel and shall be subject to final approval by the state personnel commission.

Authority G.S. 126-4.

APPROVED RULES

*This Section includes the Register Notice citation to rules approved by the Rules Review Commission (RRC) at its meeting February 16, 2006 and reported to the Joint Legislative Administrative Procedure Oversight Committee pursuant to G.S. 150B-21.16. The full text of rules are published below when the rules have been approved by RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register. The rules published in full text are identified by an * in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

These rules have been entered into the North Carolina Administrative Code.

APPROVED RULE CITATION				REGISTER CITATION TO THE NOTICE OF TEXT
01	NCAC	30I	.0309*	20:08 NCR
01	NCAC	35	.0103*	20:07 NCR
01	NCAC	35	.0201-.0203*	20:07 NCR
01	NCAC	35	.0204	20:07 NCR
01	NCAC	35	.0205*	20:07 NCR
01	NCAC	35	.0301-.0302	20:07 NCR
01	NCAC	35	.0304	20:07 NCR
01	NCAC	35	.0305*	20:07 NCR
01	NCAC	35	.0307*	20:07 NCR
07	NCAC	05	.0103*	n/a G.S. 150B-21.5(a)(4)
10A	NCAC	09	.1718*	20:02 NCR
10A	NCAC	27G	.1301	20:09 NCR
10A	NCAC	27G	.1701*	20:09 NCR - Effective per Executive Order No. 101
10A	NCAC	27G	.1702	20:09 NCR - Effective per Executive Order No. 101
10A	NCAC	27G	.1703-.1705*	20:09 NCR - Effective per Executive Order No. 101
10A	NCAC	27G	.1706-.1708	20:09 NCR - Effective per Executive Order No. 101
11	NCAC	08	.0713*	20:08 NCR
11	NCAC	08	.0718*	20:08 NCR
12	NCAC	11	.0505*	20:04 NCR
13	NCAC	13	.0213	20:10 NCR
15A	NCAC	02B	.0240*	20:05 NCR
15A	NCAC	07K	.0209*	n/a G.S. 150B-21.5(a)(5)
17	NCAC	01C	.0701-.0702*	n/a G.S. 150B-1(d)(4)
17	NCAC	05B	.0108*	n/a G.S. 150B-1(d)(4)
17	NCAC	05C	.1904-.1905*	n/a G.S. 150B-1(d)(4)
21	NCAC	16B	.0101*	20:09 NCR
21	NCAC	16B	.0201-.0202*	20:09 NCR
21	NCAC	16B	.0203	20:09 NCR
21	NCAC	16B	.0301*	20:09 NCR
21	NCAC	16B	.0303*	20:09 NCR
21	NCAC	16B	.0304-.0309	20:09 NCR
21	NCAC	16B	.0315	20:09 NCR
21	NCAC	16B	.0401*	20:09 NCR
21	NCAC	16B	.0402	20:09 NCR
21	NCAC	16B	.0403-.0405*	20:09 NCR
21	NCAC	36	.0303*	20:01 NCR
21	NCAC	36	.0317*	20:01 NCR
21	NCAC	46	.1607*	20:06 NCR
21	NCAC	46	.1612*	20:10 NCR
21	NCAC	46	.2511*	20:10 NCR
21	NCAC	46	.2601*	20:10 NCR
21	NCAC	52	.0205*	20:10 NCR
21	NCAC	57A	.0203	20:10 NCR
21	NCAC	57A	.0204*	20:10 NCR
21	NCAC	57A	.0402*	20:10 NCR

APPROVED RULES

21	NCAC	57A	.0405*	20:10 NCR
21	NCAC	57A	.0407*	20:10 NCR
21	NCAC	57B	.0211*	20:10 NCR
21	NCAC	57B	.0306*	20:10 NCR
21	NCAC	57B	.0403	20:10 NCR
21	NCAC	57B	.0503*	20:10 NCR
21	NCAC	57B	.0602*	20:10 NCR
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21	NCAC	57B	.0612	20:10 NCR
21	NCAC	58A	.0104*	20:10 NCR
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21	NCAC	58A	.0107*	20:10 NCR
21	NCAC	58A	.0109	20:10 NCR
21	NCAC	58A	.0110*	20:10 NCR
21	NCAC	58A	.0111	20:10 NCR
21	NCAC	58A	.0112*	20:10 NCR
21	NCAC	58A	.0113-.0114	20:10 NCR
21	NCAC	58A	.0301-.0302*	20:10 NCR
21	NCAC	58A	.0304*	20:10 NCR
21	NCAC	58A	.0402*	20:10 NCR
21	NCAC	58A	.0404	20:10 NCR
21	NCAC	58A	.0406*	20:10 NCR
21	NCAC	58A	.0502-.0504*	20:10 NCR
21	NCAC	58A	.0506	20:10 NCR
21	NCAC	58A	.0510	20:10 NCR
21	NCAC	58A	.0616	20:10 NCR
21	NCAC	58A	.1701-.1703*	20:10 NCR
21	NCAC	58A	.1704	20:10 NCR
21	NCAC	58A	.1708*	20:10 NCR
21	NCAC	58A	.1711	20:10 NCR
21	NCAC	58A	.1801	20:10 NCR
21	NCAC	58A	.1803-.1804	20:10 NCR
21	NCAC	58A	.1806	20:10 NCR
21	NCAC	58A	.1807*	20:10 NCR
21	NCAC	58A	.1808	20:10 NCR
21	NCAC	58A	.1809	20:10 NCR
21	NCAC	58A	.1901	20:10 NCR
21	NCAC	58A	.1903-.1904	20:10 NCR
21	NCAC	58B	.0202	20:10 NCR
21	NCAC	58B	.0501	20:10 NCR
21	NCAC	58B	.0601-.0602	20:10 NCR
21	NCAC	58C	.0101-.0102	20:10 NCR
21	NCAC	58C	.0104-.0105	20:10 NCR
21	NCAC	58C	.0202	20:10 NCR
21	NCAC	58C	.0203*	20:10 NCR
21	NCAC	58C	.0204	20:10 NCR
21	NCAC	58C	.0206	20:10 NCR
21	NCAC	58C	.0209	20:10 NCR
21	NCAC	58C	.0216*	20:10 NCR
21	NCAC	58C	.0217	20:10 NCR
21	NCAC	58C	.0301	20:10 NCR
21	NCAC	58C	.0304-.0305*	20:10 NCR
21	NCAC	58C	.0307	20:10 NCR
21	NCAC	58C	.0309*	20:10 NCR
21	NCAC	58C	.0311*	20:10 NCR
21	NCAC	58C	.0601	20:10 NCR
21	NCAC	58C	.0602-.0603*	20:10 NCR
21	NCAC	58C	.0604-.0606	20:10 NCR

21	NCAC	58C	.0607*	20:10 NCR
21	NCAC	58C	.0608	20:10 NCR
21	NCAC	58E	.0102	20:10 NCR
21	NCAC	58E	.0302	20:10 NCR
21	NCAC	58E	.0406*	20:10 NCR
21	NCAC	58E	.0407	20:10 NCR
21	NCAC	58F	.0101	20:10 NCR
21	NCAC	58F	.0103	20:10 NCR
21	NCAC	58F	.0104-.0106*	20:10 NCR
21	NCAC	58G	.0101	20:10 NCR
21	NCAC	61	.0103	20:09 NCR
21	NCAC	63	.0403*	n/a G.S. 150B-21.5(a)(5)

TITLE 01 – ADMINISTRATION

01 NCAC 30I .0309 MINORITY BUSINESS RESPONSIBILITIES

(a) Minority businesses seeking to be counted toward the minority business participation goals of G.S. 143-128.2 shall be certified or designated as minority business by the Department of Administration HUB Office or another certifying agency of the State of North Carolina, a local unit of government, or The Carolinas Minority Suppliers Development Council.

(b) Minority and HUB contractors shall make a good faith effort to participate in construction projects as demonstrated by:

- (1) Attending the scheduled prebid conference.
- (2) Responding promptly whether or not they wish to submit a bid when contacted by owners or bidders.
- (3) Attending training and contractor outreach sessions given by owners, contractors and state agencies, when feasible.
- (4) Participating in Mentor/Protégé programs, training, or other business development programs offered by owners, contractors or state agencies.
- (5) Negotiating in good faith with owners or contractors.

History Note: Authority G.S. 143-128.3(e); Eff. March 1, 2006.

01 NCAC 35 .0103 ORGANIZATION OF THE CAMPAIGN

The State Employees Combined Campaign is organized as follows:

- (1) Chair. Each year the Governor shall appoint the Statewide Combined Campaign Chair "or Statewide Campaign Chair" from one of the Executive Cabinet, Council of State, System of Community Colleges, or University Administration agencies. The Statewide Campaign Chair shall serve as director of the campaign. The responsibilities of the Chair

include enlisting the support and cooperation of the head of each state department and university in coordinating an effective campaign, promoting the participation of state employees, setting the dates of and approving the published materials for the Combined Campaign, contracting for the selection of the Statewide Campaign Organization as set out in these Rules, and appointing members to and serving as chair of the SECC Advisory Committee. For the purposes of selecting the Statewide Campaign Organization, the Statewide Campaign Chair shall consider the following criteria:

- (a) The selected organization shall have the ability to manage a state-wide fund-raising campaign.
 - (b) The selected organization shall have an audit to demonstrate financial accountability.
 - (c) The selected organization shall be a tax-exempt organization under the Internal Revenue Code.
 - (d) The organization shall verify a bond or proof of insurance in an amount that covers the total amount of designated and undesignated funds to be allocated to each of the respective member charitable organizations.
 - (e) The selected organization shall agree to comply with the terms of the State/Statewide Campaign Organization contract as determined in Subitem (4) of this Rule.
- (2) SECC Advisory Committee. This committee serves as an application point for all charitable organizations applying to participate in the SECC. The duties of the SECC Advisory Committee include the following:
- (a) The committee shall recommend policy for the campaign to the

- Governor, the Statewide Campaign Chair, and state agencies and shall recommend the criteria for participation by charitable organizations. The committee shall review the recommendations made by the Statewide Campaign Organization and shall accept or reject its recommendations. Prior to each year's campaign, the SECC Advisory Committee shall approve a budget to cover all of its costs related to the campaign and shall develop an annual work plan.
- (b) The committee shall be composed of at least 20 state employee members appointed by the Statewide Campaign Chair. Members shall serve four-year staggered terms. If a vacancy occurs, the Statewide Campaign Chair shall appoint a replacement to fill the unexpired term. No member shall serve more than two consecutive terms of four years.
- (c) The SECC Advisory Committee shall meet at the discretion of the Statewide Campaign Chair; however, no fewer than four meetings per year will shall be held. The SECC Advisory Committee shall conduct business only when a quorum of one-third of the committee membership, including the Statewide Campaign Chair or his designee is present.
- (d) Any State employee who serves on the SECC Advisory Committee shall not participate in any decision where that employee may have a conflict of interest or the appearance of a conflict of interest, either of a personal nature or with regard to the agency in which the employee works. Any SECC Advisory Committee member who is also a member of a charitable organization's board shall recuse himself from taking part in deliberation or voting on matters by which that charitable organization may be impacted.
- (3) Statewide Campaign Organization. The Statewide Campaign Organization shall be selected by the Statewide Campaign Chair. The entity selected to manage the campaign shall conduct its own organization operations separately from duties performed as the Statewide Campaign Organization. The duties of the Statewide Campaign Organization include the following:
- (a) serving as the financial administrator of the SECC;
 - (b) determining if the applicant charitable organizations meet the requirements of Rule .0202 of this Chapter;
 - (c) providing centralized pledge processing services in order to process all pledge forms of state employees;
 - (d) compiling reports for the SECC Advisory Committee and notifying federations and independent organizations no later than March 1 following the close of the campaign on December 1 of the amounts designated to them and their member charitable organizations and of the amounts of the undesignated funds allocated to them;
 - (e) transmitting quarterly to each federation and independent organization its share of the state employee's funds. When the total contribution for any federation or independent organization is two hundred fifty dollars or less, the SECC Advisory Committee may direct the contributions be made in a lump sum the first quarter to the recipient federation or independent organization. Interest earnings shall be disbursed to each participating federation and independent organization based on its proportionate share of the campaign's total gross contributions if an interest bearing account is established. Undesignated funds shall be distributed in accordance with the rules in this Chapter;
 - (f) printing and distributing the pledge form, the campaign report form and collection envelopes to state departments and universities;
 - (g) collecting pledge reports and envelopes from state department and university volunteers;
 - (h) maintaining an accounting of all funds raised and submitting an audited end-of-campaign report of the following:
 - (i) amounts contributed and pledged;
 - (ii) number of contributions; and
 - (iii) amounts distributed to each participating charitable organization;

- (i) preparing a list of all accepted organizations and distributing them to all applicants;
 - (j) coordinating an annual statewide or regional training session for state employee volunteers;
 - (k) serving as liaison to participating charitable organizations;
 - (l) providing staff to administer the SECC in consultation with SECC Advisory Committee.
 - (m) preparing a budget of anticipated campaign and administrative expenses for the SECC;
 - (n) preparing a suggested annual work plan of goals and objectives for the SECC;
 - (o) educating state employees in the services provided through their support;
 - (p) deducting, before disbursements are made, direct costs of operating the campaign from the gross contributions and charging each federation or independent organization its proportionate share of the campaign's operational cost as determined in Subitem (4)(a) of this Rule. The Statewide Campaign Organization shall document the total actual costs of the campaign, which shall not exceed 20% of gross contributions;
 - (q) maintaining records related to campaign activities;
 - (r) providing such other central management functions as may be agreed upon as essential in its contract with the State Campaign Chair; and
 - (s) collecting pledge reports and envelopes from state department and university volunteers.
- (4) A three-year contract between the state and the Statewide Campaign Organization shall be executed in order to develop an audit trail. The contracts shall allow a charge for campaign expenses to be claimed by the Statewide Campaign Organization. All terms and conditions of this contract shall be subject to approval by the Statewide Campaign Chair. The Statewide Campaign Organization shall recover from gross receipts of the campaign its expenses which shall reflect the actual costs of administering the campaign. Total actual costs of the campaign to be recovered shall be documented and shall not exceed 20% of budgeted gross receipts. The campaign expenses shall be shared proportionately by all the recipient organizations reflecting their percentage share of gross campaign receipts. No costs associated with the campaign shall be borne by the State. All costs shall be borne by the proceeds from the campaign.
- (5) Solicitation Campaign Organization. The campaign shall be divided into no more than 15 administrative regions, and managed within each state department or university according to the following structure:
- (a) State Department Head or University Chancellor. The director or chancellor of each state department or university shall set the tone and provide leadership for the campaign in the following manner: This person shall ensure that voluntary fundraising within the department or university is conducted in accordance with these Rules, communicate support for the campaign to all employees, and appoint Department Executives and University Chairs within the agency's or university's central office.
 - (b) Department Executives or University Chairs. Department Executives or University Chairs shall manage the campaign at the agency or university level. The Department Executives and University Chairs shall ensure that personal solicitations are organized and conducted in accordance with the procedures set forth in these Rules and shall appoint coordinators at agency institutions or local offices and universities and shall provide direction and guidance to the coordinators.
 - (c) Coordinators. Coordinators shall be appointed by their respective Department Executives and University Chairs and shall manage the campaign in agency institutions or local offices and universities. The coordinators shall undertake the official campaign within their agency institution or local office and university and assist in setting campaign goals. The coordinators shall ensure that personal solicitations are organized and in accordance with the procedures set forth in these Rules and shall work with solicitors.
 - (d) Solicitors. Solicitors shall work with coordinators to promote the campaign. Solicitors shall communicate the importance of the campaign to their fellow workers,

encourage participation by payroll deduction, explain how to designate gifts and answer questions regarding the campaign. Solicitors shall personally solicit employees in their assigned area, report all pledges and contributions to the coordinator and ensure that pledge forms are distributed, completed and collected. Solicitors shall also assist in planning campaign strategies and events.

- (2) A complete description of services provided; the service area of the organization; and the percentage of its total support and revenue that is allocated to administration and fund-raising or copies of its annual report, newsletters, brochures or fact sheets as long as they include the required information.
- (3) The most recent audited financial statement prepared within the past three years.
- (4) A completed and signed copy of the organization's IRS 990 form exclusive of other IRS schedules regardless of whether or not the IRS requires the organization to file the form, to indicate program services, administrative and fund-raising expenses. The form shall be signed by an authorized agent of the organization. If the organization is not required to file the form with the IRS, the organization shall submit pages 1 and 2 of the completed form with a note at the top of page 1 that the document is for SECC purposes only.
- (5) A statement that assures compliance with all applicable State and Federal laws. The policy shall be board approved, in written form, and available to the SECC.
- (6) A copy of articles of incorporation and bylaws.
- (7) A list of the current members of the board, including their business or home addresses.
- (8) A letter from the board of directors certifying compliance with the eligibility standards listed in Paragraph (d) of this Rule.

History Note: Authority G.S. 143-340(26); 143B-10; Eff. February 1, 1984; Amended Eff. December 1, 1994; December 1, 1993; February 3, 1992; June 1, 1988; Temporary Amendment Eff. February 15, 2002; Amended Eff. March 1, 2006; August 1, 2004.

SECTION .0200 - APPLICATION PROCESS AND SCHEDULE

01 NCAC 35 .0201 APPLICATIONS

- (a) To be eligible to participate in the State Employees Combined Campaign, an organization shall apply annually for consideration, either as an independent organization or as a federation.
- (b) Independent organizations or federations wishing to receive an application can do so by making a request in writing to the Statewide Campaign Organization. Such written requests may be made by letter, facsimile or email communication; however, telephone or verbal requests shall not be honored.
- (c) Any independent organization or federation which was eligible to participate in the State Employees Combined Campaign immediately preceding the campaign for which application is currently made shall be required to submit to the Statewide Campaign Organization only its most recent information, which shall specifically update the requirements of 01 NCAC 35 .0202 and include a completed Certificate of Compliance.

History Note: Authority G.S. 143-340(26); 143B-10; Eff. February 1, 1984; Amended Eff. December 1, 1993; Temporary Amendment Eff. February 15, 2002; Amended Eff. March 1, 2006; August 1, 2004.

01 NCAC 35 .0202 CONTENT OF APPLICATIONS

- (a) All organizations seeking inclusion in the State Employees Combined Campaign shall submit an application to the state campaign. The application shall include a completed State Employees Combined Campaign Certificate of Compliance, provided by the Statewide Campaign Organization. Included in or attached to the Certificate of Compliance shall be:
 - (1) A letter from the board of directors requesting inclusion in the campaign. The letter shall be on organization letterhead and signed by a voting member of the board of directors.

- (b) A federation may submit applications on behalf of its member charitable organizations; however, the application shall include a completed and signed Certificate of Compliance for each member charitable organization. If any member charitable organization is new to the federation, or did not participate in the SECC during the previous year, the federation shall provide a completed application and sufficient documentation to show that the member charitable organization is in compliance with all eligibility criteria. By the submission of such, the federations shall certify that all of its member charitable organizations comply with all the SECC rules, unless there are exceptions. If there are exceptions to the rules, the federations shall disclose such. The SECC Advisory Committee shall accept or reject the certifications of the eligibility of the member charitable organizations of the federations based upon criteria in these rules. If the Committee requests information supporting a certification of eligibility, that information shall be furnished promptly. Failure to furnish such information within 10 days of the notification postmark date constitutes grounds for the denial of eligibility of that member charitable organization.
- (c) The SECC Advisory Committee may elect to decertify a federation or independent organization which makes a false certification, subject to the requirement that any federation or independent organization that the Committee proposes to decertify shall be notified by the Statewide Campaign Organization of the Committee's decision stating the grounds for decertification. The federation or independent organization may

file an appeal to the Committee within 10 days of the notification postmark date. False certifications are presumed to be deliberate. The presumption may be overcome by evidence presented at the appeal hearing.

(d) Organizations shall meet the following criteria to be accepted as participants in the Combined Campaign:

- (1) Shall be licensed to solicit funds in North Carolina if a license is required by law and provide written proof of the same. All organizations applying as domestic or foreign nonprofit corporations shall also submit a certificate of existence (for domestic corporations) or a certificate of authorization (for foreign corporations) issued by the office of the North Carolina Secretary of State pursuant to G.S. 55A-1-28.
- (2) Shall provide written proof of tax exempt status for both federal income tax under section 501(c)(3) of the Internal Revenue Code and state tax purposes under Sections 105-125 and 105-130.11(3), respectively, of the North Carolina General Statutes, but the organization shall not be a private foundation as defined in section 509(a) of the Internal Revenue Code. Organizations shall certify that contributions from state employees are tax deductible by the donor under N.C. and federal law.
- (3) Shall prepare and make available to the general public an audited financial statement prepared by a CPA within the past three years. The SECC Advisory Committee shall permit organizations with annual budgets of less than three hundred thousand dollars (\$300,000) total support and revenue to submit an audited financial statement or review prepared by a CPA. Total support and revenue is determined by the IRS 990 form covering the organization's most recent fiscal year ending not more than three years prior to the current year's campaign date. The CPA opinion rendered on the financial statements shall be unqualified. The year-end of such audited financial statement or review shall be no more than three years prior to the current year's campaign date. The SECC Advisory Committee may grant an exception to this requirement if an organization has filed its Articles of Incorporation with the Secretary of State's Office since March 1 of the preceding year of the current campaign.
- (4) Shall provide a completed and signed copy of the organization's IRS 990 form exclusive of other IRS schedules regardless of whether or not the IRS requires the organization to file the form, to indicate program services, administrative and fund-raising expenses. The form shall be signed by an authorized agent of the organization. If the organization is not required to file the form with the IRS, the

organization shall submit pages 1 and 2 of the completed form with a note at the top of page 1 that the document is for SECC purposes only. The IRS 990 form and CPA audit or review shall cover the same fiscal year and, if revenue and expenses on the two documents differ, these amounts shall be reconciled on an accompanying statement by the CPA who completed the financial audit or review. The SECC may reject any application from an organization with fund-raising and administrative expenses in excess of 25 percent of total revenue, unless the organization demonstrates to the Committee that its actual expenses for those purposes are reasonable under all the circumstances of the case and specifies steps the organization shall take to accomplish a reduction within the next fiscal year. The percentage shall be computed from the information on the IRS 990 form by adding the amount spent on management and general expenses to the amount spent on fundraising and dividing the resulting total by total revenue.

- (5) Shall certify that all publicity and promotional activities are truthful and non-deceptive and that all material provided to the SECC is truthful, non-deceptive, includes all material facts, and makes no exaggerated or misleading claims.
- (6) Shall agree to maintain the confidentiality of the contributor list unless otherwise required by law.
- (7) Shall not permit payments of commissions, kickbacks, finders fees, percentages, bonuses, or overrides for fund-raising, and permit no paid solicitations by a fund-raising consultant or solicitor in the SECC.
- (8) Shall have a written board policy that assures compliance with all applicable State and Federal laws. Nothing herein denies eligibility to any organization which is otherwise eligible because it is organized by, on behalf of or to serve persons of a particular race, color, religion, sex, age, national origin or physical or mental disability.
- (9) Shall provide benefits or services to state employees or their families within a solicitation area and be available through a telephone number to respond to inquiries from state employees. However, an international organization which provides health and welfare services overseas, whose activities do not require a local presence and which meet the other eligibility criteria in these Rules, may be accepted for participation in the campaign.
- (10) Shall not use SECC contributions for lobbying activities.

- (11) Shall have an active board of directors that contains no less than three persons who meet at least three times a year. The board of directors shall maintain records of all decisions made and these decisions shall be made available for SECC inspection.

History Note: Authority G.S. 143-340(26); 143B-10; Eff. February 1, 1984; Amended Eff. December 1, 1994; December 1, 1993; February 3, 1992; June 1, 1988; Temporary Amendment Eff. February 15, 2002; Amended Eff. March 1, 2006; August 1, 2004.

01 NCAC 35 .0203 REVIEW AND SCHEDULE

- (a) Completed applications shall be postmarked or received by the Statewide Campaign Organization by February 15 to be included in the following fall campaign. The SECC Advisory Committee (the "Committee") shall not consider incomplete applications.
- (b) The Statewide Campaign Organization and the Committee shall review the application materials for accuracy, completeness and compliance with these rules. The Statewide Campaign Organization shall report to the Committee its recommendation on each application within four weeks of the closing deadline.
- (c) The Committee may reject an application for failing to meet any of the criteria outlined in these Rules.
- (d) Failure to supply any of the information required by the application may be deemed a failure to comply with the requirements of public accountability, and the applicant may be ruled ineligible for inclusion.
- (e) The burden of demonstrating eligibility shall rest with the applicant.
- (f) If the due date in Paragraph (a) of this Rule falls on a Saturday, Sunday or a legal holiday, then the information shall be postmarked or received by the Statewide Campaign Organization by the end of the next day which is not a Saturday, Sunday or a legal holiday.

History Note: Authority G.S. 143-340(26); 143B-10; Eff. February 1, 1984; Amended Eff. February 3, 1992; May 1, 1987; Transferred and Recodified from 1 NCAC 35 .0301 Eff. December 1, 1993; Amended Eff. December 1, 1994; December 1, 1993; Temporary Amendment Eff. February 15, 2002; Amended Eff. March 1, 2006; August 1, 2004.

01 NCAC 35 .0205 AGREEMENTS

- (a) Following acceptance into the SECC, federations and independent charitable organization(s) shall execute a contract with the State. The parties shall agree to abide by the terms and conditions of the rules. The contract shall be signed by the State Chair, the SECC Executive Director, the organization's board chair and the organization's chief executive officer.
- (b) Each federation shall be responsible for the accuracy of the distribution amount to their member charitable organizations. Each federation shall have a policy to deduct no more than 10% of gross receipts. Each federation shall justify amounts deducted

from their disbursements to participating charitable organizations based on this policy. Each federation shall verify a bond or proof of insurance in an amount that covers the total amount of designated and undesignated funds to be allocated to each of the respective member charitable organizations.

(c) Each federation is expected to disburse on the basis of actual funds received, both designated and undesignated, rather than the amount pledged. Each federation shall disburse contributions quarterly to participating member charitable organizations.

(d) The SECC Advisory Committee may discontinue distribution of funds to any charitable organization(s) that ceases to comply with the criteria and procedures as set forth in these Rules. The remainder of the charitable organization funds shall be distributed as the SECC Advisory Committee may designate.

(e) In the event a federation ceases to comply with the criteria and procedures as set forth in these Rules, the SECC Advisory Committee shall distribute the funds contributed to the federation, designated and undesignated, equally among the SECC charitable organizations under said federation.

(f) In the event a SECC charitable organization in a federation ceases to comply with the criteria and procedures as set forth in these Rules, the SECC Advisory Committee shall distribute the funds contributed to that organization, designated and undesignated, to the federation for distribution in accordance with federation policy, notwithstanding 01 NCAC 35 .0306(c).

(g) In the event a SECC charitable organization or any of its directors, officers or employees are the subject of any investigation or legal proceeding by any federal, state or local law enforcement authority based upon its charitable solicitation activities, delivery of program services, or use of funds, the organization shall disclose the same to the SECC within 10 days of its learning of the investigation or proceeding. It shall also disclose within 10 days the outcome of any such investigation or proceeding.

History Note: Authority G.S. 143-340(26); 143B-10; Eff. December 1, 1994; Temporary Amendment Eff. February 15, 2002; Amended Eff. March 1, 2006; August 1, 2004.

01 NCAC 35 .0305 CAMPAIGN LITERATURE

(a) Each charitable organization accepted as a part of the campaign:

- (1) Shall provide information about its services including administrative and fund-raising costs, to the Statewide Campaign Organization for use in the campaign;
- (2) Shall not be listed more than one time in the campaign literature unless the SECC Advisory Committee and the Statewide Campaign Organization, each determines the following:
 - (A) It is in contributors' interests to more specifically direct their gifts to separate geographic locations; and
 - (B) The organization maintains records that determine that gifts so designated to that geographic area accrue only to the benefit and purposes of the organization in that designated area;

(b) The State Employees Combined Campaign shall provide a campaign resource guide designed by the SECC Advisory Committee and all publicity shall be subject to the State Chair's approval. Publicity shall not favor one charitable organization or federation over another.

(c) The State Chair shall approve, prior to distribution, the content of any campaign pledge or distribution card to ensure that the information contained is accurate and complies with the State Controller's requirements for format and substance.

History Note: Authority G.S. 143-340(26); 143B-10; Eff. February 1, 1984; Amended Eff. May 1, 1987; Transferred and Recodified from 1 NCAC 35 .0404 Eff. December 1, 1993; Amended Eff. December 1, 1994; December 1, 1993; Temporary Amendment Eff. February 15, 2002; Amended Eff. March 1, 2006; August 1, 2004.

01 NCAC 35 .0307 DISTRIBUTION OF UNDESIGNATED FUNDS

Any monies not designated to a particular recipient shall be deemed as undesignated funds. The local SECC shall communicate in campaign literature how the undesignated funds will be allocated in their local campaigns and shall distribute these funds to approved independent organizations and federations. Undesignated funds shall be distributed to approved independent organizations and federations based on its percentage of total designated funds during the current campaign year after actual costs of the campaign are recovered pursuant to Rule .0103(3)(p) of this Chapter.

History Note: Authority G.S. 143B-10; Eff. February 1, 1984; Amended Eff. January 1, 1988; Transferred and Recodified from 1 NCAC 35 .0406 Eff. December 1, 1993; Amended Eff. March 1, 2006; December 1, 1994; December 1, 1993.

TITLE 07 – CULTURAL RESOURCES

07 NCAC 05 .0103 ADDRESS

The address of the U.S.S. North Carolina Battleship Commission is P.O. Box 480, Wilmington, N.C. 28402-0480.

History Notes: Authority G.S. 143B-73; Eff. February 1, 1976; Readopted Eff. December 1, 1977; Amended Eff. September 1, 2006.

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 09 .1718 REQUIREMENTS FOR DAILY OPERATIONS

The operator shall provide the following on a daily basis for all children in care:

- (1) Meals and snacks which comply with the Meal Patterns for Children in Child Care standards which are based on the recommended nutrient intake judged by the National Research Council to be adequate for maintaining good nutrition. The types of food and number and size of servings shall be appropriate for the ages and developmental levels of the children in care. The Meal Patterns for Children in Child Care nutrition standards are incorporated by reference and include subsequent amendments. A copy of these standards is available free of charge from the Division at the address in Rule .0102 of this Chapter.
- (2) No child shall go more than four hours without a meal or a snack being provided.
- (3) Drinking water shall be freely available to children and offered at frequent intervals.
- (4) When milk, milk products, or fruit juices are provided by the operator, only pasteurized products or products which have undergone an equivalent process to pasteurization shall be used. Any formula which is prepared by the operator shall be prepared according to the instructions on the formula package or label, or according to written instructions from the child's health care provider.
- (5) Each infant shall be held for bottle feeding until able to hold his or her own bottle. Bottles shall not be propped. Each child shall be held or placed in feeding chairs or other age-appropriate seating apparatus to be fed.
- (6) The parent or health care provider of each child under 15 months of age shall provide the operator an individual written feeding schedule for the child. This schedule shall be followed at the home. This schedule shall include the child's name, be signed by the parent or health care provider, and be dated when received by the operator. Each infant's schedule shall be modified in consultation with the child's parent or health care provider to reflect changes in the child's needs as he or she develops.
- (7) Frequent opportunities for outdoor play or fresh air.
- (8) An individual sleeping space such as a bed, crib, play pen, cot, mat, or sleeping bag with individual linens for each pre-school aged child in care for four hours or more, or for all children if overnight care is provided, to rest comfortably. Individual sleep requirements for infants aged 12 months or younger shall be provided for as specified in 10A NCAC 09 .1724(a)(2). Linens shall be changed weekly or whenever they become soiled or wet.
- (9) A quiet, separate area which can be easily supervised for children too sick to remain with other children. Parents shall be notified

- immediately if their child becomes too sick to remain in care.
- (10) Adequate supervision as described below:
- (a) For children who are awake, staff shall interact with the children while moving about the indoor or outdoor area, and shall be able to hear and see the children at all times, except when emergencies necessitate that direct supervision is impossible for brief periods of time.
 - (b) For children who are sleeping or napping, the staff are not required to visually supervise them, but shall be able to hear and respond quickly to them. Children shall not sleep or nap in a room with a closed door between the children and the supervising staff. The staff shall be on the same level of the home where children are sleeping or napping.
- (11) A safe sleep environment by ensuring that when a child is sleeping or napping, bedding or other objects shall not be placed in a manner that covers the child's face.
- (12) The opportunity each day for each child under the age of 12 months to play while awake while positioned on his or her stomach.
- (13) Developmentally appropriate activities as planned on a written schedule. Materials or equipment shall be available to support the activities listed on the written schedule. The written schedule shall:
- (a) Show blocks of time usually assigned to types of activities and shall include periods of time for both active play and quiet play or rest; and
 - (b) Be displayed in a place where parents are able to view; and
 - (c) Reflect daily opportunities for both free-choice and guided activities.

History Note: Authority G.S. 110-88; 110-91(2),(12); Eff. July 1, 1998; Amended Eff. March 1, 2006; May 1, 2004.

SECTION .1700 - RESIDENTIAL TREATMENT STAFF SECURE FOR CHILDREN OR ADOLESCENTS

10A NCAC 27G .1701 SCOPE

- (a) A residential treatment staff secure facility for children or adolescents is one that is a free-standing residential facility that provides intensive, active therapeutic treatment and interventions within a system of care approach. It shall not be the primary residence of an individual who is not a client of the facility.
- (b) Staff secure means staff are required to be awake during client sleep hours and supervision shall be continuous as set forth in Rule .1704 of this Section.

- (c) The population served shall be children or adolescents who have a primary diagnosis of mental illness, emotional disturbance or substance-related disorders; and may also have co-occurring disorders including developmental disabilities. These children or adolescents shall not meet criteria for inpatient psychiatric services.
- (d) The children or adolescents served shall require the following:
 - (1) removal from home to a community-based residential setting in order to facilitate treatment; and
 - (2) treatment in a staff secure setting.
- (e) Services shall be designed to:
 - (1) include individualized supervision and structure of daily living;
 - (2) minimize the occurrence of behaviors related to functional deficits;
 - (3) ensure safety and deescalate out of control behaviors including frequent crisis management with or without physical restraint;
 - (4) assist the child or adolescent in the acquisition of adaptive functioning in self-control, communication, social and recreational skills; and
 - (5) support the child or adolescent in gaining the skills needed to step-down to a less intensive treatment setting.
- (f) The residential treatment staff secure facility shall coordinate with other individuals and agencies within the child or adolescent's system of care.

History Note: Authority G.S. 122C-26; 143B-147; Eff. April 3, 2006 pursuant to E.O. 101, Michael F. Easley, March 27, 2006.

10A NCAC 27G .1703 REQUIREMENTS FOR ASSOCIATE PROFESSIONALS

- (a) In addition to the qualified professional specified in Rule .1702 of this Section, each facility shall have at least one full-time direct care staff who meets or exceeds the requirements of an associate professional as set forth in 10A NCAC 27G .0104(1).
- (b) The governing body responsible for each facility shall develop and implement written policies that specify the responsibilities of its associate professional(s). At a minimum these policies shall address the following:
 - (1) management of the day to day day-to-day operations of the facility;
 - (2) supervision of paraprofessionals regarding responsibilities related to the implementation of each child or adolescent's treatment plan; and
 - (3) participation in service planning meetings.

History Note: Authority G.S. 122C-26; 143B-147; Eff. April 3, 2006 pursuant to E.O. 101, Michael F. Easley, March 27, 2006.

10A NCAC 27G .1704 MINIMUM STAFFING REQUIREMENTS

- (a) A qualified professional shall be available by telephone or page. A direct care staff shall be able to reach the facility within 30 minutes at all times.
- (b) The minimum number of direct care staff required when children or adolescents are present and awake is as follows:
- (1) two direct care staff shall be present for one, two, three or four children or adolescents;
 - (2) three direct care staff shall be present for five, six, seven or eight children or adolescents; and
 - (3) four direct care staff shall be present for nine, ten, eleven or twelve children or adolescents.
- (c) The minimum number of direct care staff during child or adolescent sleep hours is as follows:
- (1) two direct care staff shall be present and one shall be awake for one through four children or adolescents;
 - (2) two direct care staff shall be present and both shall be awake for five through eight children or adolescents; and
 - (3) three direct care staff shall be present of which two shall be awake and the third may be asleep for nine, ten, eleven or twelve children or adolescents.
- (d) In addition to the minimum number of direct care staff set forth in Paragraphs (a)-(c) of this Rule, more direct care staff shall be required in the facility based on the child or adolescent's individual needs as specified in the treatment plan.
- (e) Each facility shall be responsible for ensuring supervision of children or adolescents when they are away from the facility in accordance with the child or adolescent's individual strengths and needs as specified in the treatment plan.

History Note: Authority G.S. 122C-26; 143B-147; Eff. April 3, 2006 pursuant to E.O. 101, Michael F. Easley, March 27, 2006.

10A NCAC 27G .1705 REQUIREMENTS OF LICENSED PROFESSIONALS

- (a) Face to face clinical consultation shall be provided in each facility at least four hours a week by a licensed professional. For purposes of this Rule, licensed professional means an individual who holds a license or provisional license issued by the governing board regulating a human service profession in the State of North Carolina. For substance-related disorders this shall include a licensed Clinical Addiction Specialist or a certified Clinical Supervisor.
- (b) The consultation specified in Paragraph (a) of this Rule shall include:
- (1) clinical supervision of the qualified professional specified in Rule .1702 of this Section;
 - (2) individual, group or family therapy services; or
 - (3) involvement in child or adolescent specific treatment plans or overall program issues.

History Note: Authority G.S. 122C-26; 143B-147; Eff. April 3, 2006 pursuant to E.O. 101, Michael F. Easley, March 27, 2006.

TITLE 11 – DEPARTMENT OF INSURANCE

11 NCAC 08 .0713 CONTINUING EDUCATION REQUIREMENTS

- (a) To be eligible to renew a certificate, whether active standard or active limited, a Code Enforcement Official (CEO) shall have completed the requisite number of credit hours by June 30, 2007, and each June 30 thereafter.
- (b) A credit hour is 60 minutes of class contact course instruction or 60 minutes of distance learning time.
- (c) A CEO with an active limited certificate must complete six hours of continuing education courses per renewal year in each technical area for which the limited certificate is valid. A CEO with an active standard certificate must complete six hours of continuing education courses per renewal year for each standard certificate. A CEO with a limited and a standard certificate valid for the same technical area must complete only six hours for that technical area.
- (d) A CEO with only a probationary certificate and no standard or limited certificate is not required to complete any continuing education courses.
- (e) If a course exceeds the number of credit hours specified for renewal of a technical area certificate, the excess credit hours may be carried forward into the following renewal year of that technical area certificate. The number of carry over credit hours may not exceed six.
- (f) Within 180 days prior to or subsequent to the effective date of a new edition of the Building Code, each CEO must complete Building Code coursework offered by the Engineering and Building Codes Division of the Department of Insurance, or offered by a course sponsor approved in accordance with 11 NCAC 08 .0718. In order to meet this requirement, the CEO must complete two credit hours of coursework in each area in which that CEO holds certificates. The coursework shall address Code changes appearing in the new edition of the Code. The credit hours received for completion of this coursework shall be credited towards the continuing education requirements for a CEO. Any additional credit hours of coursework taken may be applied towards the continuing education requirement for that renewal year or towards carry-over credit subject to the limitations of Paragraph (e) of this Rule.

History Note: Authority G.S. 143-151.13A(b); 143-151.13A(f)(1); 143-151.13A(f)(4); 143-151.13A(f)(5); 143-151.16(b); Eff. March 1, 2006.

11 NCAC 08 .0718 COURSE SPONSORS

- (a) A course sponsor is an organization or individual that has submitted an application and has been approved by the Board to provide courses and instructors for continuing education. No retroactive approval of a sponsor shall be granted by the Board for any reason.
- (b) A prospective sponsor of a CE course shall obtain written approval from the Board to conduct the course before offering or

conducting the course and before advertising or otherwise representing that the course is or may be approved for continuing education credit.

(c) Sponsors may include community colleges; colleges and universities; CEO associations; trade associations; providers of self-paced or internet based training programs; city, county, and state inspection departments or other agencies; and private instructors. A prospective sponsor shall be approved by the Board as a course sponsor if, upon submission of a completed application under Paragraph (d) of this Rule, the Board determines that at least one course proposed to be offered by the prospective sponsor meets the criteria for course approval under 11 NCAC 08 .0720, each instructor that is to offer course instruction for the prospective sponsor satisfies the requirements of Paragraph (e) of this Rule, and there are no other grounds under the laws of North Carolina on the basis of which approval should not be granted to the sponsor.

(d) Each course sponsor shall submit an application for continuing education course sponsor approval to the Board on a form provided by the Board. The application shall include:

- (1) The name of the sponsor;
- (2) The sponsor contact person, address and telephone number;
- (3) The course contact hours;
- (4) A description of the courses or types of courses the sponsor proposes to offer and the schedule of courses, if established, including dates, time and locations; and
- (5) The identity and qualifications and experience of each instructor.

(e) Instructors shall have a minimum of one year of experience in architecture; engineering; construction; inspection; installation of equipment, building materials, or components; or other Code-related areas which shall be pertinent to the nature and purpose of the course(s) for which they will provide instruction. Instructors shall possess the ability to:

- (1) Communicate through speech, with the ability to speak clearly, and with voice inflection, using proper grammar and vocabulary;
- (2) Present instruction in a thorough, accurate, logical, orderly and understandable manner;
- (3) Use varied instructional techniques in addition to straight lecture, such as class discussion, role-playing, or other techniques; and
- (4) Use instructional aids, such as projectors and computers to enhance learning.

Instructors shall assure that class sessions are started on time and are conducted for the full amount of time that is scheduled. Instructors shall also assure that each CE course is taught according to the course outline and plan that was approved by the Board, including the furnishing of approved student materials.

History Note: Authority G.S. 143-151.13A(f)(2); Eff. March 1, 2006.

TITLE 12 – DEPARTMENT OF JUSTICE

12 NCAC 11 .0505 RECORDING AND REPORTING CONTINUING EDUCATION CREDITS

(a) Each licensee shall be responsible for recording and reporting continuing education credits to the Board at the time of license or registration renewal, and for each course taken such report shall include a certificate of course completion that is signed by at least one course instructor, indicates the name of the licensee or registrant who completed the course, indicates the date of course completion, and indicates the number of hours taken by the licensee or registrant. Credit shall not be given if a certificate of course completion is dated more than two years from the license or registration permit renewal date. Each course instructor shall be required to maintain a course roster and shall verify the identity of each participant by a government issued photo identification, such as a driver's license. Said roster shall be delivered to the Board's office within two weeks of the completion date of the course.

(b) All applications for renewal of a license or registration permit shall have a CE Certificate(s) attached verifying completion of the required number of credit hours. If an applicant is filing an application designated as "new" and the applicant has been licensed or registered for any period of time within the previous two years, the applicant shall attach a CE Certificate(s) verifying completion of the required number of credit hours. An applicant shall not be required to submit a CE Certificate if the applicant is filing an application designated as a "transfer" or "duplicate" and if the applicant has a current registration card issued by the Board.

History Note: Authority G.S. 74D-2; 74D-5; Eff. May 1, 1999; Amended Eff. March 1, 2006; March 1, 2004; July 18, 2002.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

15A NCAC 02B .0240 NUTRIENT OFFSET PAYMENTS

(a) The purpose of this Rule is to establish procedures for the optional payment of fees to partially offset nutrient loading requirements. This Rule may apply to any area of the State as directed by the Environmental Management Commission (EMC). Monies paid to this fund pursuant to this Rule shall be targeted toward the same river basin in which the nutrient reduction credits have been purchased.

(b) For the Neuse and Tar-Pamlico River Basins this Rule authorizes the partial offsetting of the nitrogen loading requirements specified in 15A NCAC 02B .0234 and 02B .0235 and the partial offsetting of the nitrogen and phosphorous loading requirements specified in 15A NCAC 02B .0258 by payment into the Riparian Buffer Restoration Fund administered by the North Carolina Department of Environment and Natural Resources according to the equations presented in this Rule.

(c) Payments to offset nitrogen loading shall be calculated by using the following equation:

$$\text{N Payment} = [(\$/\text{lb})(\# \text{ of lbs/year})(30 \text{ years}) + (\text{Land Cost } \$/\text{Ac})(1 \text{ Ac} / 35 \text{ Ac})(\text{Devel. in Ac})] \\ \times (1.1 \text{ Ad Costs})$$

Where,

$\$/\text{lb} =$ The cost of mitigation in dollars per pound of nitrogen mitigation. For stormwater offsets required under 15A NCAC 02B .0235 and 02B .0258, this factor will be initially established at \$57/lb for calendar year 2006 and thereafter adjusted on an annual basis (in January of every year) based upon the construction cost index factor published every December in the *Engineering News Record (ENR)*. For group compliance association wastewater discharge offsets required under 15A NCAC 02B .0234(9), this factor will be initially established at \$57/lb for calendar year 2006 and thereafter adjusted on an annual basis (in January of every year) based upon the construction cost index factor published every December in the *Engineering News Record (ENR)*. For new and expanding wastewater discharge offsets required under 15A NCAC 02B .0234(7) and (8), this factor will be initially established at \$28.50/lb for calendar year 2006 and thereafter adjusted on an annual basis (in January of every year) based upon the construction cost index factor published every December in the *Engineering News Record (ENR)*. The annual updating of these costs will be performed by the In-Lieu Fee Program Coordinator in the Ecosystem Enhancement Program.

$\# \text{ of lbs/year} =$ The number of pounds of nitrogen exported or discharged each year for which mitigation is being requested.

$\text{Land Cost } \$/\text{Ac} =$ The current property value, in dollars per acre, of the property being developed, based upon the most recent county tax assessment.

$1 \text{ Ac} / 35 \text{ Ac} =$ An adjustment factor, indicating that one acre of mitigation is required for every 35 acres of development.

$\text{Devel in Ac} =$ The overall size of the development, for which the mitigation is requested, in acres.

$(1.1 \text{ Ad Costs}) =$ An adjustment factor, necessary to cover the administrative costs associated with the requested mitigation.

(d) Payments to offset phosphorous loading shall be calculated by using the following equation:

$$\text{P Payment} = [(\$/0.1 \text{ lb})(\# \text{ of } 0.1 \text{ lbs/year})(30 \text{ yrs}) + (\text{Land Cost } \$/\text{Ac})(1 \text{ Ac}/35 \text{ Ac})(\text{Devel in Ac})] \\ \times (1.1 \text{ Ad Costs})$$

Where,

$\$/0.1 \text{ lb} =$ The cost of mitigation in dollars per tenth of a pound of phosphorous mitigation. This factor will be initially established at \$45/0.1 lb for calendar year 2006 and thereafter adjusted on an annual basis (in January of every year) based upon the construction cost index factor published every December in the *Engineering News Record (ENR)*. The annual updating of this cost will be performed by the In-Lieu Fee Program Coordinator in the Ecosystem Enhancement Program.

$\# \text{ of } 0.1 \text{ lbs/year} =$ The number of tenths of a pound of phosphorous exported or discharged each year for which mitigation is being requested.

$\text{Land Cost } \$/\text{Ac} =$ The current property value, in dollars per acre, of the property being developed, based upon the most recent county tax assessment.

$1 \text{ Ac} / 35 \text{ Ac} =$ An adjustment factor, indicating that one acre of mitigation is required for every 35 acres of development.

$\text{Devel in Ac} =$ The overall size of the development, for which the mitigation is requested, in acres.

(1.1 Ad Costs) = An adjustment factor, necessary to cover the administrative costs associated with the requested mitigation.

(e) In those cases where offset reductions are required for both nitrogen and phosphorous, the appropriate calculations shall be performed for both the nitrogen and phosphorous offset payments, as detailed in Paragraphs (c) and (d) of this Rule. In these cases, only the greater value of the two payments shall be required to satisfy the offset reductions for both the nitrogen and phosphorous limits.

(f) For loading offset in the Neuse River Basin in wastewater discharge found in 15A NCAC 02B .0234, payment shall be made prior to permit issuance or as provided in Paragraph (i) of this Rule. For loading offset in the Neuse River Basin in stormwater discharge as specified in 15A NCAC 02B .0235, payment shall be made prior to approval of the development plan.

(g) For loading offset in the Tar-Pamlico River Basin in stormwater discharge as specified in 15A NCAC 02B .0258, payment shall be made prior to approval of the development plan.

(h) The nitrogen and phosphorous reduction credits associated with restored wetlands and riparian areas funded under this Rule shall be awarded exclusively to the person, municipality, discharger, or group of dischargers who paid the offset fee.

(i) Wastewater dischargers subject to the nutrient requirements in 15A NCAC 02B .0234 shall be provided the option of making incremental payments for additional nutrient allocations. In the event that a discharger seeking a National Pollutant Discharge Elimination System (NPDES) Permit for a new or expanded wastewater discharge chooses to purchase some or all of the requisite allocation through this Nutrient Offset Payments Rule and to make incremental payments for this allocation, the Division of Water Quality may issue or modify the affected NPDES Permit to authorize the increased discharge, provided that the Division conditions any increase associated with that incremental purchase to notification that the total cost of the additional allocation has been paid in full. Mitigation responsibility for nutrient increases covered under this Paragraph shall not be transferred to the Ecosystem Enhancement Program of the Department of Environment and Natural Resources until the entire payment has been made to the Riparian Buffer Restoration Fund; provided, however, that the Ecosystem Enhancement Program shall provide a letter of commitment to provide the mitigation as necessary for issuance of the NPDES Permit for a discharger covered under the provisions of this Paragraph.

History Note: Authority G.S. 143-214.1; 143-214.20; 143-214.21; S.L. 1995, c. 572; Eff. August 1, 1998; Amended Eff. August 1, 2006.

15A NCAC 07K .0209 EXEMPTION/ACCESSORY USES/MAINTENANCE REPAIR/REPLACEMENT

(a) Accessory buildings customarily incident to an existing structure are specifically excluded from the definition of development if the work does not involve filling, excavation, or the alteration of any sand dune or beach as set out in G.S. 113A-103(5)(b)(6). Accessory buildings shall be subordinate in area and purpose to the principal structure and shall not require, or consist of the expansion of the existing structure as defined by an increase in footprint or total floor area of the existing structure. A building with a footprint of 100 square feet or less shall be considered an accessory building as long as it is customarily incident to and subordinate in area and purpose to the principal structure. Buildings of a larger size may be considered accessory buildings if necessary for customary use.

(b) Accessory uses as defined in Paragraph (a) of this Rule and that are directly related to the existing dominant use, but not within the exclusion set out in G.S. 113A-103(5)(b)(6), and that require no plumbing, electrical or other service connections and do not exceed 200 square feet shall be exempt from the CAMA minor development permit requirement if they also meet the criteria set out in Paragraph (d) of this Rule.

(c) Any structure or part thereof may be maintained, repaired or replaced in a similar manner, size and location as the existing structure without requiring a permit, unless such repair or replacement would be in violation of the criteria set out in Paragraph (d) of this Rule. This exemption applies to those projects that are not within the exclusion for maintenance and

repairs as set out in G.S. 113A-103(5)(b)(5) and Rule .0103 of this Subchapter.

(d) In order to be eligible for the exemptions described in Paragraphs (b) and (c) of this Rule, the proposed development activity must meet the following criteria:

- (1) the development must not disturb a land area of greater than 200 square feet on a slope of greater than 10 percent;
- (2) the development must not involve removal, damage, or destruction of threatened or endangered animal or plant species;
- (3) the development must not alter naturally or artificially created surface drainage channels;
- (4) the development must not alter the land form or vegetation of a frontal dune;
- (5) the development must not be within 30 feet of normal water level or normal high water level; and
- (6) the development must be consistent with all applicable use standards and local land use plans in effect at the time the exemption is granted.

History Note: Authority G.S. 113A-103(5)(b); 113A-103(5)(c); 113A-111; 113A-118(a); 113A-120(8); Eff. November 1, 1984; Amended Eff. March 1, 2006; August 1, 2004; August 1, 2002; August 1, 2000.

TITLE 17 – DEPARTMENT OF REVENUE

SECTION .0700 - ELECTRONIC FILING OF RETURNS

17 NCAC 01C .0701 ELECTRONIC FILING OF RETURNS

A taxpayer may file a tax return with the Department of Revenue electronically only when the Department has established and implemented procedures permitting electronic filing of a specific tax return. A return may be filed electronically only by using the procedures established by the Department for the particular return.

History Note: Authority G.S. 105-262; Eff. March 1, 2006.

17 NCAC 01C .0702 ELECTRONIC SIGNATURE

The name and identification number of the taxpayer shall constitute the taxpayer's signature when transmitted as part of a tax return filed electronically by the taxpayer or at the taxpayer's direction.

History Note: Authority G.S. 105-262; Eff. March 1, 2006.

17 NCAC 05B .0108 ELECTRONIC FILING OF GENERAL BUSINESS FRANCHISE TAX RETURNS

The Department of Revenue participates in the Federal/State Electronic Filing Program and accepts general business franchise tax returns filed under that program.

History Note: Authority G.S. 105-262; Eff. March 1, 2006.

17 NCAC 05C .1904 OVERPAYMENTS APPLIED TO NEXT YEAR

(a) A corporation may elect to have an income tax refund applied to estimated income tax for the following tax year. A return reflecting an election to apply a refund to estimated tax for the following year must be filed by the last allowable date for making estimated tax payments for that year for the election to be valid.

(b) If a corporation makes a valid election, that corporation may not revoke the election after the return has been filed in order to have the amount refunded or applied in any other manner, such as an offset against any subsequently determined tax liability.

History Note: Authority G.S. 105-163.39; 105-163.40; 105-262; 105-266; Eff. March 1, 2006.

17 NCAC 05C .1905 ELECTRONIC FILING OF CORPORATION INCOME TAX RETURNS

The Department of Revenue participates in the Federal/State Electronic Filing Program and accepts corporation income tax returns filed under that program.

History Note: Authority G.S. 105-262; Eff. March 1, 2006.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS

SUBCHAPTER 16B - LICENSURE DENTISTS

SECTION .0100 - GENERAL PROVISIONS

21 NCAC 16B .0101 EXAMINATION REQUIRED

All persons desiring to practice dentistry in North Carolina are required to pass Board approved, according to these Rules, written and clinical examinations before receiving a license.

History Note: Authority G.S. 90-28; 90-30; 90-36; 90-38; 90-48; Eff. September 3, 1976; Readopted Eff. September 26, 1977; Amended Eff. March 1, 2006; May 1, 1991; May 1, 1989; January 1, 1983.

SECTION .0200 - QUALIFICATIONS

21 NCAC 16B .0201 IN GENERAL

(a) An applicant for licensure as a dentist must be a graduate of and have a diploma from a university or college accredited by the Commission on Dental Accreditation of the American Dental Association.

(b) Graduates of foreign colleges may be accepted as applicants for licensure after completing at least two years in a dental school accredited by the Commission on Accreditation of the American Dental Association, passing Board approved written and clinical examinations, and graduating with a dental degree from that dental school.

History Note: Authority G.S. 90-28; 90-30; 90-48; Eff. September 3, 1976; Readopted Eff. September 26, 1977; Amended Eff. March 1, 2006; May 1, 1989; October 1, 1986.

21 NCAC 16B .0202 STUDENT MAY APPLY

Applications for a dental license will be accepted from students currently enrolled in schools of dentistry. Such applications will automatically be deemed denied if the applicant should fail to complete the required course of study or fail Board approved licensure examinations.

History Note: Authority G.S. 90-28; 90-30; 90-48; Eff. September 3, 1976; Readopted Eff. March 1, 2006; September 26, 1977.

SECTION .0300 - APPLICATION FOR LICENSURE

21 NCAC 16B .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 relative to the applicant. Any candidate who changes his address shall immediately notify the Board office. Applicants shall furnish transcripts of undergraduate college and dental school credits.

- (b) The application fee shall accompany the application. Such fee is non-refundable.
- (c) Applicants who are licensed in other states shall furnish verification of licensure from the secretary of the dental 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 Rule .0303(a) of this Subchapter. All applicants shall arrange for and ensure the submission to the Board office the examination scores as required by Rule .0303(c) of this Subchapter, if applicable.

History Note: Authority G.S. 90-28; 90-30; 90-39; 90-48; Eff. September 3, 1976; Readopted Eff. September 26, 1977; Amended Eff. March 1, 2006.

21 NCAC 16B .0303 BOARD APPROVED EXAMINATIONS

- (a) The Board, having reviewed and evaluated the written examinations as administered by the Joint Commission on National Dental Examinations and having found the same to be reliable, accurate and valid examinations, has adopted as part of its written examination the National Board Dental Examination. Applicants for dental licensure shall achieve a passing score upon such examination. Each applicant shall arrange for and ensure the submission to the Board office the National Board score.
- (b) All applicants for dental licensure shall achieve passing scores on the Board's sterilization and jurisprudence examinations. Reexamination on the written examinations shall be governed by Rule 16B .0406(c).
- (c) In order to fulfill the clinical examination component for dental licensure, the Board shall accept passing scores from Board approved testing agencies which administer reliable, accurate and valid examinations and allow for Board representation on both the Board of Directors and the Examination Review Committee or equivalent committees and allow for Board input in the examination development and administration.

- (1) The clinical examination shall be substantially equivalent to the clinical licensure examination most recently administered by the Board and include procedures performed on human subjects as part of the assessment of restorative clinical competencies and shall have included evaluations in at least four of the following subject matter areas:
 - (A) periodontics, clinical abilities testing;
 - (B) endodontics, clinical abilities testing;
 - (C) amalgam preparation and restoration;
 - (D) anterior composite preparation and restoration;

- (E) posterior ceramic or composite preparation and restoration;
- (F) cast gold, clinical abilities testing;
- (G) prosthetics, written or clinical abilities testing;
- (H) oral diagnosis, written or clinical abilities testing; or
- (I) oral surgery, written or clinical abilities testing.
- (2) In addition to the foregoing requirements, the examination shall include:
 - (A) anonymity between candidates and examination raters;
 - (B) standardization and calibration of raters; and
 - (C) a mechanism for post exam analysis.
- (3) The Board shall accept scores upon such examinations for a period of five years following the date of such examinations. Each applicant shall arrange for and ensure the submission to the Board office the applicant's scores.
- (4) The applicant shall comply with all requirements of such testing agency in applying for and taking the examination.

History Note: Authority G.S. 90-39; 90-48; Eff. September 3, 1976; Readopted Eff. September 26, 1977; Amended Eff. March 1, 2006; August 1, 1998; March 1, 1988.

SECTION .0400 – LICENSURE BY BOARD CONDUCTED EXAMINATION

21 NCAC 16B .0401 APPLICATION FOR BOARD CONDUCTED EXAMINATION

- (a) All applications for Board conducted examination 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 said Board relative to the applicant. Any candidate who changes his address shall immediately notify the Board office.
- (b) The fee for each examination or re-examination must accompany the application. Such fee is non-refundable.
- (c) Two identical photographs of the applicant, taken within six months prior to the date of the application, not over two inches in height, must be submitted. One photograph must be affixed to the application and the second photograph must be paper-clipped to the application to be used as part of the identification badge.

History Note: Authority G.S. 90-28; 90-30; 90-39; 90-41; 90-48; Eff. March 1, 2006.

21 NCAC 16B .0403 EXAMINATION CONDUCTED BY THE BOARD

- (a) Written instructions designating the subject areas to be covered will be made available to candidates prior to the date fixed for each examination.

(b) Each candidate will be given a numbered badge. This badge will contain the candidate's photograph and will be presented to the candidate prior to the examination. The number on the badge will be the only identification allowed on any paper or manuscript during this examination. This 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 assistance not provided as an accommodation. If such violation is discovered by the Board after a license has been issued to the violator, the license shall be revoked.

History Note: Authority G.S. 90-28; 90-30; 90-48; Eff. March 1, 2006.

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

Each candidate must furnish his own patients and instruments for the Board conducted clinical examination. Additional instructions concerning supplies will be mailed to each candidate. A dental unit, chair, and stand to hold instrument cases are available for each candidate.

History Note: Authority G.S. 90-28; 90-30; 90-48; Eff. March 1, 2006.

21 NCAC 16B .0405 SCOPE OF BOARD CONDUCTED CLINICAL EXAMINATION

(a) The Board conducted clinical examination may cover such of the following subject areas as the Board may designate:

- (1) Clinical operative dentistry;
- (2) Oral surgery, radiography, radiographic interpretation and oral diagnosis;
- (3) Fixed and removable prosthodontics;
- (4) Periodontics;
- (5) Simulated clinical procedures;
- (6) Endodontics.

(b) Each graded procedure will be examined separately by at least three examiners.

(c) The clinical examination will begin and end promptly as designated.

History Note: Authority G.S. 90-28; 90-30; 90-48; Eff. March 1, 2006.

21 NCAC 36 .0303 EXISTING NURSING PROGRAM

(a) Full Approval

- (1) The Board shall review approved programs at least every eight years as specified in G.S. 90-171.40. Reviews of individual programs shall be conducted at shorter intervals upon request from the individual institution or as considered necessary by the Board.
- (2) The Board shall send a written report of the review no more than 20 business days following the completion of the review process. Responses from a nursing education program regarding a review report or Board Warning Status as referenced in Paragraph (b)

of this Rule shall be received in the Board office by the deadline date specified in the letter accompanying the report or notification of Warning Status. If no materials or documents are received by the specified deadline date, the Board shall act upon the findings in the review report and testimony of the Board staff.

(3) If the Board determines that a program has complied with the rules in this Section, the program shall be continued on Full Approval status.

(4) If the Board determines a pattern of noncompliance with one or more rules in this Section, a review shall be conducted. The program shall submit to the Board a detailed plan of compliance to correct the identified pattern. Failure to comply with the correction plan shall result in withdrawal of approval, constituting closure, consistent with 21 NCAC 36 .0309.

(b) Warning Status

(1) If the Board determines that a program is not complying with the rules in this Section, the Board shall assign the program Warning Status, and shall give written notice by certified mail to the program specifying:

- (A) the areas in which there is noncompliance;
- (B) the date of notice by which the program must comply. The maximum timeframe for compliance is two years; and
- (C) the opportunity to schedule a hearing.

(2) On or before the required date of compliance identified in this Paragraph, if the Board determines that the program is complying with the rules in this Section, the Board shall assign the program Full Approval Status.

(3) If the Board finds the program is not in compliance with the rules in this Section by the date specified in Part (c)(1)(B) of this Rule, the Board shall withdraw approval constituting closure consistent with 21 NCAC 36 .0309.

(4) Upon written request from the program, submitted within 10 business days of the Board's written notice of Warning Status, the Board shall schedule a hearing within 30 business days from the date on which the request was received.

(5) When a hearing is held at the request of the program and the Board determines that:

- (A) the program is in compliance with the rules in this Section, the Board shall assign the program Full Approval status; or
- (B) the program is not in compliance with the rules in this Section, the program

shall remain on Warning Status. A review by the Board shall be conducted during that time.

History Note: Authority G.S. 90-171.23(b); 90-171.38; 90-171.39; 90-171.40; Eff. February 1, 1976; Amended Eff. March 1, 2006; January 1, 2004; June 1, 1992; January 1, 1989.

21 NCAC 36 .0317 ADMINISTRATION

(a) The controlling institution of a nursing program shall provide those human, physical, technical and financial resources and services essential to support program processes, outcomes and maintain compliance with Section .0300 of this Chapter.

(b) A full time registered nurse qualified pursuant to Paragraph (c) of this Rule shall have the authority for the direction of the nursing program. This authority must encompass responsibilities for maintaining compliance with rules and other legal requirements in all areas of the program. The program director shall have non-teaching time sufficient to allow for program organization, administration, continuous review, planning and development.

(c) Program director qualifications in a program preparing for nurse licensure shall include:

- (1) faculty qualifications as specified in 21 NCAC 36 .0318
- (2) beginning January 1, 2015, two years of full-time experience as a faculty member with a master's degree in an approved nursing program;
- (3) for a program preparing individuals for registered nurse practice, a master's degree; and
- (4) for a program leading to a baccalaureate, a doctoral degree in nursing; or a master's degree in nursing and a doctoral degree in a health or education field.

(d) The nursing education program shall implement, for quality improvement, a comprehensive program evaluation which shall include:

- (1) students' achievement of program outcomes;
- (2) evidence of program resources including fiscal, physical, human, clinical and technical learning resources; student support services, and the availability of clinical sites and the viability of those sites adequate to meet the objectives of the program;
- (3) measures of program outcomes for graduates;
- (4) evidence that accurate program information for consumers is readily available;
- (5) evidence that the head of the academic institution and the administration support program outcomes;
- (6) evidence that program director and program faculty meet board qualifications and are sufficient in number to achieve program outcomes;

- (7) evidence that the academic institution assures security of student information;
- (8) evidence that collected evaluative data is utilized in implementing quality improvement activities; and
- (9) evidence of student participation in program planning, implementation, evaluation and continuous improvement.

(e) The controlling institution and the nursing education program shall communicate information describing the nursing education program that is accurate, complete, consistent across mediums and accessible by the public. At least the following must be made known to all applicants and students:

- (1) admission policies and practices;
- (2) policy on advanced placement, transfer of credits;
- (3) number of credits required for completion of the program;
- (4) tuition, fees and other program costs;
- (5) policies and procedures for withdrawal, including refund of tuition/fees;
- (6) grievance procedure;
- (7) criteria for successful progression in the program including graduation requirements; and
- (8) policies for clinical performance.

History Note: Authority G.S. 90-171.23(b)(8); 90-171.38; Eff. June 1, 1992; Amended Eff. March 1, 2006.

21 NCAC 46 .1607 OUT-OF-STATE PHARMACIES

(a) In order to protect the public health and safety and implement G.S. 90-85.21A, the following provisions apply to out-of-state pharmacies that ship, mail, or deliver in any manner a dispensed legend drug into this State.

(b) Such pharmacies shall:

- (1) Maintain, in readily retrievable form, records of prescription drugs dispensed to North Carolina residents;
- (2) Supply all information requested by the Board in carrying out the Board's responsibilities under the statutes and rules pertaining to out-of-state pharmacies;
- (3) During the pharmacy's regular hours of operation but not less than six days per week, for a minimum of 40 hours per week, provide a toll-free telephone service to facilitate communication between patients and pharmacists at the pharmacy who have access to the patient's records. This toll-free number must be disclosed on the label affixed to each container of dispensed drugs;
- (4) Comply with all USP and FDA requirements regarding the storage, packaging, and shipping of prescription medications;
- (5) Develop policies governing:
 - (A) normal delivery protocols and times;

- (B) the procedure to be followed if the patient's medication is not available at the out-of-state pharmacy, or if delivery will be delayed beyond the normal delivery time;
 - (C) the procedure to be followed upon receipt of a prescription for an acute illness, which shall include a procedure for delivery of the medication to the patient from the out-of-state pharmacy at the earliest possible time (such as courier delivery), or an alternative that assures the patient the opportunity to obtain the medication at the earliest possible time; and
 - (D) the procedure to be followed when the out-of-state pharmacy is advised that the patient's medication has not been received within the normal delivery time and that the patient is out of medication and requires interim dosage until mail prescription drugs become available;
- (6) Disclose the location, names, and titles, of all principal corporate officers, if incorporated, and if unincorporated, partners, or owners of the pharmacy. Disclose the names and license numbers of all pharmacists dispensing prescription legend drugs to an ultimate user in this State, the names and, if available, license or registration numbers of all supportive personnel employed by the out-of-state pharmacy who assist such pharmacists in such dispensing. A report containing this information shall be made on an annual basis and within 30 days of each change of any principal office, pharmacist-manager of any location dispensing prescription legend drugs to an ultimate user in this State, principal corporate officer if incorporated, and if unincorporated, partner or owner of the pharmacy. A new registration shall be required for a change of ownership of an established pharmacy to a successor business entity which results in a change in the controlling interest in the pharmacy;
- (7) Submit evidence of possession of a valid license, permit, or registration as a pharmacy in compliance with the laws of the state in which the pharmacy is located. Such evidence shall consist of one of the following:
- (A) a copy of the current license, permit, or registration certificate issued by the regulatory or licensing agency of the state in which the pharmacy is located; or
 - (B) a letter from the regulatory or licensing agency of the state in which the pharmacy is located certifying the pharmacy's compliance with the pharmacy laws of that state;
- (8) Designate a resident agent in North Carolina for service of process. Any such out-of-state pharmacy that does not so designate a resident agent shall be deemed to have appointed the Secretary of State of the State of North Carolina to be its true and lawful attorney upon whom process may be served. All legal process in any action or proceeding against such pharmacy arising from shipping, mailing or delivering prescription drugs in North Carolina shall be served on the resident agent. In addition, a copy of such service of process shall be mailed to the out-of-state pharmacy by certified mail, return receipt requested, at the address of the out-of-state pharmacy as designated on the registration form filed with the Board. Any out-of-state pharmacy which does not register in this State, shall be deemed to have consented to service of process on the Secretary of State as sufficient service.
- (c) The facilities and records of an out-of-state pharmacy shall be subject to inspection by the Board; provided however, the Board may accept in lieu thereof satisfactory inspection reports by the licensing entity of the state in which the pharmacy is located.
 - (d) An out-of-state pharmacy shall comply with the statutes and regulations of the state in which the pharmacy is located.
 - (e) Any person who ships, mails, or delivers prescription drugs to North Carolina residents from more than one out-of-state pharmacy shall register each pharmacy separately.
 - (f) Prior to original registration, a pharmacist who is an authorized representative of the pharmacy's owner must appear personally at the Board office on the first Monday of the month, the Monday before the monthly Board meeting, or such other time as scheduled with the Board's staff. Such authorized pharmacist may represent all pharmacies having the same ownership.
 - (g) An out-of-state pharmacy shall report to the Board information that reasonably suggests that there is a probability that a prescription drug or device dispensed from such out-of state pharmacy has caused or contributed to the death of any patient. The report shall be filed in writing on a form provided by the Board within 14 days of the pharmacy becoming aware of the death. The Board may not disclose the identity of any person or entity making the report, except when it is necessary to protect life or health of any person. No such report in possession of the Board shall be discoverable or admissible into evidence or otherwise used in any civil action involving private parties, except as otherwise required by law.
 - (h) The Board may, in accordance with Chapter 150B of the General Statutes, issue a letter of reprimand or suspend, restrict, revoke, or refuse to grant or renew registration to an out-of-state pharmacy if such pharmacy has:
 - (1) made false representations or withheld material information in connection with obtaining registration;

- (2) been found guilty of or plead guilty or nolo contendere to any felony in connection with the practice of pharmacy or the distribution of drugs;
- (3) made false representations in connection with the practice of pharmacy that endanger or are likely to endanger the health or safety of the public, or that defraud any person;
- (4) failed to comply with this Rule;
- (5) been the subject of a negligence complaint resulting from the dispensing of prescription drugs to a resident of North Carolina and based on an investigation of such complaint been found to be negligent:

- (A) by the Board of Pharmacy of the state in which the pharmacy is located;
- (B) by the North Carolina Board of Pharmacy if the Board of Pharmacy of the state where the pharmacy is located failed to initiate an investigation of such complaint within 45 days after referral of the complaint from the North Carolina Board of Pharmacy; or
- (C) by the North Carolina Board of Pharmacy if the Board of Pharmacy of the state where the pharmacy is located initiates an investigation of such complaint within 45 days, but later advises the North Carolina Board that it will not make a determination of negligence or that it has made no determination of the issue of negligence within one year after referral of the complaint and has discontinued any active investigation or proceeding for such determination. In any disciplinary proceeding based on negligence, the standard of practice shall be that applicable in the state in which the pharmacy is located. In disciplinary proceedings pursuant to Part (h)(5)(A) of this Rule, the Board shall adopt the findings of negligence by the Board of Pharmacy of the state in which the pharmacy is located as part of the Board's final decision without producing its own evidence of negligence.

(i) An out-of-state pharmacy shall notify the Board within five days of receipt of any order or decision by a Board of Pharmacy imposing disciplinary action on the pharmacy. Notwithstanding the provisions of Paragraph (h) of this Rule, if the permit or registration in the state where the pharmacy is located is suspended or revoked, then the pharmacy's registration in North Carolina will be immediately suspended or revoked for the same period of time.

(j) An out-of-state pharmacy registration shall expire on December 31 of each year.

(k) The fees provided for in G.S. 90-85.21A as maximum fees which the Board is entitled to charge and collect are hereby established as the fees for each original registration and for annual renewal of each registration.

History Note: Authority G.S. 90-85.6; 90-85.21A; 90-85.26; 90-85.28; 90-85.29; 90-85.30; 90-85.32; Eff. July 1, 1994; Amended Eff. March 1, 2006.

21 NCAC 46 .1612 REINSTATEMENT OF LICENSES AND PERMITS

(a) All licenses and registrations issued to individuals that are not renewed by March 1 of the succeeding year, lapse and are subject to the maximum reinstatement and renewal fees set out in G.S. 90-85.24 in order to be reinstated. All permits and registrations issued to locations that are reinstated after March 1 and prior to April 1 of the succeeding year are subject to the maximum reinstatement and renewal fees set out in G.S. 90-85.21A and 90-85.24. After March 31, permits and registrations issued to locations shall submit new applications and are subject to the maximum original registration fees. This Rule also applies to licenses, registrations, and permits reinstated following voluntary surrender or disciplinary action by the Board.

(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 application.

(c) The Board shall require applicants for reinstatement of a lapsed license who have not practiced pharmacy within two years prior to application for reinstatement to obtain continuing education in addition to that required by Rule .2201 of this Chapter, practical pharmacy experience, successfully complete one or more parts of the Board's licensure examination, or a combination of the foregoing, as the Board deems necessary to ensure that the applicant can safely and properly practice pharmacy.

(d) The Board shall also restrict licenses reinstated pursuant to G.S. 90-85.19 for such period of time as the Board deems necessary to ensure that the applicant can safely and properly practice pharmacy.

History Note: Authority G.S. 90-85.19; 90-85.24; Eff. April 1, 1999; Amended Eff. March 1, 2006; July 1, 2005.

21 NCAC 46 .2511 CHARGE FOR STATUS AFFIDAVIT

The Board shall charge persons requesting a verified duplicate copy of any license, permit, or registration a fee of twenty-five dollars (\$25.00). The Board shall furnish such affidavits free of charge to governmental entities.

History Note: Authority G.S. 90-85.24(a)(16); Eff. March 1, 2006.

SECTION .2600 – DEVICES

21 NCAC 46 .2601 DISPENSING AND DELIVERY

(a) Devices, as defined in G.S. 90-85.3(e), shall be dispensed only in a pharmacy as defined in G.S. 90-85.3(q) or other place registered with the Board pursuant to G.S. 90-85.22. Medical equipment, as defined in G.S. 90-85.3(11) shall be delivered only by a pharmacy as defined in G.S. 90-85.3(q) or other place registered with the Board pursuant to G.S. 90-85.22. Devices dispensed in hospitals and medical equipment delivered by hospitals are presumed to be the responsibility of the hospital pharmacy unless otherwise registered. This Rule shall apply only to entities engaged in the regular activity of delivering medical equipment.

(b) A pharmacy dispensing and delivering devices and medical equipment and not holding a device and medical equipment permit shall operate its device and medical equipment business at the same physical location as the pharmacy and through the same legal entity that holds the pharmacy permit. The pharmacist-manager shall be responsible for the dispensing and delivery of devices and medical equipment.

(c) Device and medical equipment permits shall not be issued to applicants located on residential property.

History Note: Authority G.S. 90-85.3(e), (11), (r); 90-85.6; 90-85.22;

Eff. October 1, 1990;

Amended Eff. March 1, 2006; March 1, 2004; October 1, 1995.

21 NCAC 52 .0205 PRACTICE ORIENTATION

The board shall require each applicant, who has otherwise successfully completed his or her requirements to practice in the state, to attend by personal appearance a practice- and ethics-orientation prior to receiving his or her license. Should an applicant be unable to attend the required orientation for a documented emergency reason, such as death in the family or personal medical emergency, e.g., emergency appendectomy, then the board shall require an applicant to spend up to one week as a trial period to better equip them to practice podiatry in North Carolina in the office of and under the direction of a podiatrist practicing in North Carolina. Such orientation shall take place only in those offices approved by the board according to these Rules and assignment of an orientation office in which to work shall be considered as a portion of the clinical examination in podiatry. The license shall not be issued until the orientation requirement has been fulfilled.

History Note: Authority G.S. 90-202.4(g); 90-202.6(a)(b);

Eff. February 1, 1976;

Amended Eff. March 1, 2006; May 1, 2005; December 1, 1988.

21 NCAC 57A .0204 CONTINUING EDUCATION

(a) All registered trainees, real estate appraiser licensees and certificate holders shall, upon the renewal of their registration, license or certificate in every odd-numbered year, present evidence satisfactory to the Board of having obtained continuing education as required by this Section. Registered trainees who

were initially registered with the Board after January 1 of an odd numbered year will not be required to show continuing education credit for renewal of their registration in that odd numbered year.

(b) Each trainee, licensee and certificate holder who is required to complete continuing education pursuant to Paragraph (a) of this Rule must complete 28 hours of continuing education by June 1 of every odd numbered year. Except as provided in Paragraphs (g) and (h) of this Rule, such education must have been obtained by taking courses approved by the Board for continuing education purposes, at schools approved by the Board according to these Rules to offer such courses. Such education must relate to real estate appraisal and must contribute to the goal of improving the knowledge, skill and competence of trainees, and licensed and certified real estate appraisers. There is no exemption from the continuing education requirement for trainees or appraisers whose registered, licensed or certified status has been upgraded to the level of licensed residential, certified residential or certified general appraiser since the issuance or most recent renewal of their registration, license or certificate, and courses taken to satisfy the requirements of a higher level of certification may not be applied toward the annual continuing education requirement. Trainees, licensees and certificate holders may not take the same continuing education course more than once during the two year continuing education cycle. The 7 hour National Uniform Standards of Professional Appraisal Practice (USPAP) update course may be taken once for each edition of USPAP.

(c) Each appraisal continuing education course must involve a minimum of three and one-half classroom hours of instruction on real estate appraisal or related topics such as the application of appraisal concepts and methodology to the appraisal of various types of property; specialized appraisal techniques; laws, rules or guidelines relating to appraisal; standards of practice and ethics; building construction; financial or investment analysis; land use planning or controls; feasibility analysis; statistics; accounting; or similar topics. The trainee, license or certificate holder must have attended at least 90 percent of the scheduled classroom hours for the course in order to receive credit for the course.

(d) Each trainee, licensee and certificate holder who is required to complete continuing education pursuant to .0204(a) must, as part of the 28 hours of continuing education required in .0204(b) of this Section, complete the seven hour National USPAP update course, as required by the Appraiser Qualifications Board of the Appraisal Foundation, or its equivalent, prior to June 1 of every odd numbered year.

(e) A licensee who elects to take approved continuing education courses in excess of the requirement shall not carry over into the subsequent years any continuing education credit.

(f) Course sponsors must provide a certificate of course completion as prescribed in 21 NCAC 57B .0607 to each trainee, licensee and certificate holder satisfactorily completing a course. In addition, course sponsors must send directly to the Board a certified roster of all who successfully completed the course. This roster must be sent within 15 days of completion of the course, but not later than June 15 of each year. In order to renew a registration, license or certificate in a timely manner, the Board must receive proper proof of satisfaction of the continuing

education requirement prior to processing a registration, license or certificate renewal application. If proper proof of having satisfied the continuing education requirement is not provided, the registration, license or certificate shall expire and the trainee, licensee or certificate holder shall be subject to the provisions of Rules .0203(e) and .0206 of this Section.

(g) A current or former trainee, licensee or certificate holder may request that the Board grant continuing education credit for a course taken by the trainee, licensee or certificate holder that is not approved by the Board, or for appraisal education activity equivalent to a Board-approved course, by making such request and submitting a non-refundable fee of fifty dollars (\$50.00) for each course or type of appraisal education activity to be evaluated. Continuing education credit for a non-approved course shall be granted only if the trainee, licensee or certificate holder provides satisfactory proof of course completion and the Board finds that the course satisfies the requirements for approval of appraisal continuing education courses with regard to subject matter, course length, instructor qualifications, and student attendance. Appraisal education activities for which credit may be awarded include, but are not limited to, teaching appraisal courses, authorship of appraisal textbooks, and development of instructional materials on appraisal subjects. Trainees or licensed or certified appraisers who have taught an appraisal course or courses approved by the Board for continuing education credit shall be deemed to have taken an equivalent course and shall not be subject to the fifty (\$50.00) fee, provided they submit verification satisfactory to the Board of having taught the course(s). A trainee, licensee or certificate holder who teaches a Board-approved continuing education course may not receive continuing education credit for the same course more than once every three years, regardless of how often he teaches the course. Requests for equivalent approval for continuing education credit must be received by June 15 of an odd-numbered year to be credited towards the continuing education requirement for that odd-numbered year.

(h) A trainee, licensee or certificate holder may receive continuing education credit by taking any of the Board-approved prelicensing or precertification courses or their approved equivalents. These courses cannot be used for both continuing education credit and for credit for licensing purposes. In order to receive continuing education credit for these courses, the examination must be taken. Trainee, licensees and certificate holders who wish to use a prelicensing course for continuing education credit must comply with the provisions of 21 NCAC 57B .0604.

(i) A trainee, licensee or certificate holder who resides in another state and is currently licensed by the appraiser certification board of that state may satisfy the requirements of this Section by providing a current letter of good standing from the resident state showing that the licensee has met all continuing education requirements in the resident state.

History Note: Authority G.S. 93E-1-7(a); 93E-1-10; Eff. July 1, 1994; Amended Eff. March 1, 2006; September 1, 2005; July 1, 2003; August 1, 2002; April 1, 1999.

21 NCAC 57A .0402 DISPLAY OF REGISTRATIONS,

LICENSES AND CERTIFICATES

(a) The original or a copy of the trainee registration, real estate appraiser license or certificate of a trainee, licensed or certified real estate appraiser shall be displayed at each of the trainee's or appraiser's places of business.

(b) The annual registration, license or certificate renewal pocket card issued by the Board to each trainee, licensed or certified real estate appraiser shall be retained by the trainee, licensee or certificate holder as evidence of registration, licensure or certification.

History Note: Authority G.S. 93E-1-10; Eff. July 1, 1994; Amended Eff. March 1, 2006; August 1, 2002; April 1, 1999.

21 NCAC 57A .0405 APPRAISAL REPORTS

(a) Each written appraisal report prepared by or under the supervision of a licensed or certified real estate appraiser shall bear the signature of the licensed or certified appraiser, the license or certificate number of the licensee or certificate holder in whose name the appraisal report is issued, and the designation "licensed residential real estate appraiser", "certified residential real estate appraiser", "certified general real estate appraiser", "certified residential/general real estate appraiser", as applicable. Each such appraisal report shall also indicate whether or not the licensed or certified appraiser has personally inspected the property, and shall identify any other person who has assisted in the appraisal process other than by providing clerical assistance.

(b) Every licensed and certified real estate appraiser shall affix or stamp to all appraisal reports a seal which shall set forth the name and license or certificate number of the appraiser in whose name the appraisal report is issued and shall identify the appraiser as a "licensed residential real estate appraiser", a "certified residential real estate appraiser", a "certified general real estate appraiser" or "certified residential/general real estate appraiser", as applicable. Registered trainees are prohibited from using a seal on appraisal reports.

(c) A licensed or certified real estate appraiser who signs an appraisal report prepared by another person, in any capacity, shall be responsible for the content and conclusions of the report.

(d) A written appraisal report shall be issued on all real estate appraisals performed in connection with federally related transactions.

History Note: Authority G.S. 93E-1-10; Eff. July 1, 1994; Amended Eff. March 1, 2006; July 1, 2003; August 1, 2002; April 1, 1999.

21 NCAC 57A .0407 SUPERVISION OF TRAINEES

(a) A licensed or certified real estate appraiser may engage a registered trainee to assist in the performance of real estate appraisals, provided that the licensed or certified real estate appraiser:

- (1) has been licensed or certified for at least two years;
- (2) has no more than one trainee working under his or her supervision at any one time, if the supervisor is a licensed real estate appraiser, or

two trainees if the supervisor is a certified real estate appraiser. Prior to the date any trainee begins performing appraisals under his or her supervision, the supervisor must inform the Board of the name of the trainee. The supervisor must also inform the Board when a trainee is no longer working under his or her supervision;

- (3) actively and personally supervises the trainee. The supervisor must accompany the trainee on the inspections of the subject property on the first 50 appraisal assignments performed after the effective date of this Rule for which the trainee will perform more than 75% of the work. After that point, the trainee may perform the inspections without the presence of the supervisor provided that the trainee is competent to perform those inspections, and provided that the subject property is less than 50 miles from the supervisor's primary business location. The supervisor must accompany the trainee on all inspections of subject properties that are located more than 50 miles from the supervisor's primary business location;
- (4) reviews all appraisal reports and supporting data used in connection with appraisals in which the services of a trainee is utilized;
- (5) complies with all provisions of Rule 21 NCAC 57A .0405 of this Section regarding appraisal reports;
- (6) prepares and furnishes to each trainee, whose services were utilized in connection with the appraisal, a report describing the nature and extent of assistance rendered by the trainee in connection with the appraisal, and places a copy of such report in the supporting file for the appraisal. In addition, the supervisor must make available to the trainee a copy of every appraisal report to the trainee where the trainee performs more than 75% of the work on the appraisal; and
- (7) has not received any disciplinary action regarding his or her appraisal license or certificate from the State of North Carolina or any other state within the previous two years. For the purposes of this Section, disciplinary action means only an active suspension or a revocation.

(b) The trainee must maintain a log on a form prescribed by the Board that includes, but is not limited to, each appraisal performed by the trainee, the name of the supervisor for that appraisal, the supervisor's license or certificate number, and whether the supervisor accompanied the trainee on the inspection of the subject.

(c) A license or certificate holder who wishes to supervise a trainee must attend an education program regarding the role of a supervisor before such supervision may begin.

(d) Trainees must assure that the supervisor has properly completed and sent the Supervisor Declaration Form to the Appraisal Board on or before the time the trainee begins assisting the supervising appraiser. Trainees shall not receive appraisal experience credit for appraisals performed in violation of this Section.

(e) Supervising appraisers shall not be employed by a trainee or by a company, firm or partnership in which the trainee has a controlling interest.

History Note: Authority G.S. 93E-1-3(b), 93E-1-10; Eff. July 1, 1994; Amended Eff. March 1, 2006; July 1, 2005; August 1, 2002; April 1, 1999.

21 NCAC 57B .0211 PROGRAM CHANGES

Approved schools and course sponsors must notify the Board of any changes to be made with respect to course content, course completion standards, instructors, school director or textbooks as prescribed in Section .0300 of this Subchapter. Requests for approval of such changes must be in writing, and must be sent to the Board at least 15 calendar days before the proposed change would take effect. In the event of an emergency, such as the disability, death or unforeseen departure of the instructor or school director, where it is not possible to request approval of a change at least 15 days in advance, the school must request such change immediately but no later than the end of the next business day via fax, telephone or other electronic means.

History Note: Authority G.S. 93E-1-8(a); 93E-1-10; Eff. July 1, 1994; Amended Eff. March 1, 2006; August 1, 2002.

21 NCAC 57B .0306 INSTRUCTOR REQUIREMENTS

(a) Except as indicated in Paragraph (b) of this Rule, all appraisal prelicensing and precertification courses or courses deemed equivalent by the Board shall be taught by instructors who possess the fitness for licensure required of applicants for trainee registration or real estate appraiser licensure or certification and either the minimum appraisal education and experience qualifications listed in this Rule or other qualifications that are found by the Board to be equivalent to those listed. These qualification requirements shall be met on a continuing basis. The minimum qualifications are as follows:

- (1) Residential appraiser courses: 120 classroom hours of real estate appraisal education equivalent to the residential appraiser education courses prescribed in Rules .0101 and .0102 of this Subchapter and either two years' full-time experience as a residential real estate appraiser within the previous five years or three years full-time experience as a general real estate appraiser within the previous five years, with at least one-half of such experience being in residential property appraising. Instructors must also be a certified residential appraiser and have been so certified for at least three years.

- (2) General appraiser courses: 180 classroom hours of real estate appraisal education equivalent to the general appraiser education courses prescribed in Rules .0101, .0102 and .0103 of this Subchapter and three years' full-time experience as a general real estate appraiser within the previous five years, with at least one-third of such experience being in income property appraising. Instructors must also be a certified general real estate appraiser and have been so certified for at least five years.
- (3) USPAP: certification by the Appraiser Qualifications Board of the Appraisal Foundation as an instructor for the National USPAP Course.

(b) Guest lecturers who do not possess the qualifications stated in Paragraph (a) of this Rule may be utilized to teach collectively up to one-fourth of any course, provided that each guest lecturer possesses education and experience directly related to the particular subject area the lecturer is teaching.

(c) Instructors shall conduct themselves in a professional manner when performing their instructional duties and shall conduct their classes in a manner that demonstrates knowledge of the subject matter being taught and mastery of the following basic teaching skills:

- (1) The ability to communicate effectively through speech, including the ability to speak clearly at an appropriate rate of speed and with appropriate grammar and vocabulary;
- (2) The ability to present instruction in a thorough, accurate, logical, orderly, and understandable manner, to utilize illustrative examples as appropriate and to respond appropriately to questions from students;
- (3) The ability to effectively utilize varied instructive techniques other than straight lecture, such as class discussion or other techniques;
- (4) The ability to effectively utilize instructional aids to enhance learning;
- (5) The ability to maintain an effective learning environment and control of a class; and
- (6) The ability to interact with adult students in a manner that encourages students to learn, that demonstrates an understanding of students' backgrounds, that avoids offending the sensibilities of students, and that avoids personal criticism of any other person, agency or organization.

(d) Upon request of the Board, an instructor or proposed instructor must submit to the Board a videotape or DVD in a manner and format which depicts the instructor teaching portions of a prelicensing course specified by the Board and which demonstrates that the instructor possesses the basic teaching skills described in Rule .0306(c) of this Section.

(e) The inquiry into fitness shall include consideration of whether the instructor has ever had any disciplinary action taken on his or her appraisal license or certificate or any other

professional license or certificate in North Carolina or any other state, or whether the instructor has ever been convicted of or pleaded guilty to any criminal act. This inquiry may include consideration of whether disciplinary action or criminal charges are pending.

(f) Instructors shall not have received any disciplinary action regarding his or her appraisal license or certificate from the State of North Carolina or any other state within the previous two years. For the purposes of this Section, disciplinary action means a reprimand, suspension (whether active or inactive) or a revocation.

(g) Proposed prelicensing or precertification instructors who do not meet the minimum appraisal education and experience qualifications listed in Paragraph (a) of this Rule, and who seek to have their qualifications determined by the Board to be equivalent to the qualifications listed in Paragraph (a) of this Rule, must supply the Board with copies of sample appraisal reports.

(h) Persons desiring to become instructors for prelicensing and precertification courses must file an application for approval with the Board. Board approval of instructors expires on the next December 31 following the date of issuance. Instructors who wish to renew their approval must file an application for renewal of approval annually on or before December 1. There is no fee for application for or renewal of instructor approval. Once an instructor has been approved to teach a specific prelicensing or precertification course, that person may teach the course at any school or for any course sponsor approved by the Appraisal Board to offer prelicensing and precertification courses.

History Note: Authority G.S. 93E-1-8(a); 93E-1-10 Eff. July 1, 1994 Amended Eff. March 1, 2006; July 1, 2005; July 1, 2003; August 1, 2002.

21 NCAC 57B.0503 FEE FOR RENEWAL OF COURSE APPROVAL

(a) Approval of private school courses expires on the next December 31 following the date of issuance. In order to assure continuous approval, applications for renewal of course approval, accompanied by the prescribed renewal fee, must be filed with the Board annually on or before December 1. Applications which are incomplete, as well as all applications for renewal of course approval submitted after December 1, shall be treated as original course approval applications.

(b) The course renewal fee shall be twenty dollars (\$20.00) for each previously approved appraisal prelicensing or precertification course for which the applicant requests continuing approval. The fee is non-refundable.

History Note: Authority G.S. 93E-1-8(a),(b); 93E-1-10; Eff. July 1, 1994; Amended Eff. March 1, 2006; August 1, 2002.

21 NCAC 57B.0602 APPLICATION AND FEE

(a) Course sponsors seeking approval of their courses as appraisal continuing education courses must make written application to the Board. A course sponsor must be the owner of the proprietary rights to the course for which approval is sought

or must have the permission of the course owner to seek course approval. If the course for which approval is sought is one that may be offered outside North Carolina, and the course owner wants the Board to approve such course when it is conducted outside North Carolina, application must be made by the course owner. After receipt of a properly completed application, the Board will review the application pursuant to the criteria set forth in 21 NCAC 57B .0603 and shall notify the sponsor of its decision.

(b) The original application fee shall be one hundred dollars (\$100.00) for each course for which approval is sought, provided that no fee is required if the course sponsor is an accredited North Carolina college, university, junior college, or community or technical college, or if the course sponsor is an agency of the federal, state or local government. The fee is non-refundable. A course sponsor may offer approved courses as frequently as is desired during the period for which approval is granted without paying additional fees.

(c) Each application must be accompanied by copies of all course materials, including handbooks, slides, overheads, and other non-published materials. The application must also include the title, author, publisher and edition for each published textbook. Each application must also have a timed outline for the course.

*History Note: Authority G.S. 93E-1-8(c),(d);
Eff. July 1, 1994;
Amended Eff. March 1, 2006; August 1, 2002.*

21 NCAC 57B .0609 CHANGES DURING THE APPROVAL PERIOD

Course sponsors must obtain advance approval from the Board for any changes to be made in approved courses with regard to the number of classroom hours, course content or instructors. Requests for approval of such changes must be in writing, and must be sent to the Board at least 15 calendar days before the proposed change would take effect. In the event of an emergency, such as the disability, death or unforeseen departure of the instructor or school director, where it is not possible to request approval of a change at least 15 days in advance, the school must request such change immediately but no later than the end of the next business day via fax, telephone or other electronic means.

*History Note: Authority G.S. 93E-1-8(c); 93E-1-10;
Eff. July 1, 1994;
Amended Eff. March 1, 2006.*

21 NCAC 58A .0104 AGENCY AGREEMENTS AND DISCLOSURE

(a) Every agreement for brokerage services in a real estate transaction and every agreement for services connected with the management of a property owners association shall be in writing. Every agreement for brokerage services between a broker and an owner of the property to be the subject of a transaction must be in writing from the time of its formation. Every agreement for brokerage services between a broker and a buyer or tenant shall be express and shall be reduced to writing not later than the time one of the parties makes an offer to

purchase, sell, rent, lease, or exchange real estate to another. However, every agreement between a broker and a buyer or tenant which seeks to bind the buyer or tenant for a period of time or to restrict the buyer's or tenant's right to work with other agents or without an agent shall be in writing from its formation. A broker shall not continue to represent a buyer or tenant without a written agreement when such agreement is required by this Rule. Every written agreement for brokerage services of any kind in a real estate transaction shall provide for its existence for a definite period of time, shall include the licensee's license number, and shall provide for its termination without prior notice at the expiration of that period, except that an agency agreement between a landlord and broker to procure tenants or receive rents for the landlord's property may allow for automatic renewal so long as the landlord may terminate with notice at the end of any contract period and any subsequent renewals. For the purposes of this rule, an agreement between licensees to cooperate or share compensation shall not be considered an agreement for brokerage services and, except as required by Rule .1807 of this Subchapter, need not be memorialized in writing.

(b) Every listing agreement, written buyer agency agreement or other written agreement for brokerage services in a real estate transaction shall contain the following provision: The broker shall conduct all brokerage activities in regard to this agreement without respect to the race, color, religion, sex, national origin, handicap or familial status of any party or prospective party to the agreement. The provision shall be set forth in a clear and conspicuous manner which shall distinguish it from other provisions of the agreement. For the purposes of this Rule, the term, familial status, shall be defined as it is in G.S. 41A-3(1b).

(c) In every real estate sales transaction, a broker shall, at first substantial contact directly with a prospective buyer or seller, provide the prospective buyer or seller with a copy of the publication "Working with Real Estate Agents," set forth the broker's name and license number thereon, review the publication with the buyer or seller, and determine whether the agent will act as the agent of the buyer or seller in the transaction. If the first substantial contact with a prospective buyer or seller occurs by telephone or other electronic means of communication where it is not practical to provide the "Working with Real Estate Agents" publication, the broker shall at the earliest opportunity thereafter, but in no event later than three days from the date of first substantial contact, mail or otherwise transmit a copy of the publication to the prospective buyer or seller and review it with him or her at the earliest practicable opportunity thereafter. For the purposes of this Rule, "first substantial contact" shall include contacts between a broker and a consumer where the consumer or broker begins to act as though an agency relationship exists and the consumer begins to disclose to the broker personal or confidential information.

(d) A real estate broker representing one party in a transaction shall not undertake to represent another party in the transaction without the written authority of each party. Such written authority must be obtained upon the formation of the relationship except when a buyer or tenant is represented by a broker without a written agreement in conformity with the requirements of Paragraph (a) of this Rule. Under such circumstances, the written authority for dual agency must be

reduced to writing not later than the time that one of the parties represented by the broker makes an offer to purchase, sell, rent, lease, or exchange real estate to another party.

(e) In every real estate sales transaction, a broker working directly with a prospective buyer as a seller's agent or subagent shall disclose in writing to the prospective buyer at the first substantial contact with the prospective buyer that the broker represents the interests of the seller. The written disclosure shall include the broker's license number. If the first substantial contact occurs by telephone or by means of other electronic communication where it is not practical to provide written disclosure, the broker shall immediately disclose by similar means whom he represents and shall immediately mail or otherwise transmit a copy of the written disclosure to the buyer. In no event shall the broker mail or transmit a copy of the written disclosure to the buyer later than three days from the date of first substantial contact with the buyer.

(f) In every real estate sales transaction, a broker representing a buyer shall, at the initial contact with the seller or seller's agent, disclose to the seller or seller's agent that the broker represents the buyer's interests. In addition, in every real estate sales transaction other than auctions, the broker shall, no later than the time of delivery of an offer to the seller or seller's agent, provide the seller or seller's agent with a written confirmation disclosing that he represents the interests of the buyer. The written confirmation may be made in the buyer's offer to purchase and shall include the broker's license number.

(g) The provisions of Paragraphs (c), (d) and (e) of this Rule shall not apply to real estate licensees representing sellers in auction sales transactions.

(h) A broker representing a buyer in an auction sale transaction shall, no later than the time of execution of a written agreement memorializing the buyer's contract to purchase, provide the seller or seller's agent with a written confirmation disclosing that he represents the interests of the buyer. The written confirmation may be made in the written agreement.

(i) A firm which represents more than one party in the same real estate transaction is a dual agent and, through the brokers associated with the firm, shall disclose its dual agency to the parties.

(j) When a firm represents both the buyer and seller in the same real estate transaction, the firm may, with the prior express approval of its buyer and seller clients, designate one or more individual brokers associated with the firm to represent only the interests of the seller and one or more other individual brokers associated with the firm to represent only the interests of the buyer in the transaction. The authority for designated agency must be reduced to writing not later than the time that the parties are required to reduce their dual agency agreement to writing in accordance with Paragraph (d) of this Rule. An individual broker shall not be so designated and shall not undertake to represent only the interests of one party if the broker has actually received confidential information concerning the other party in connection with the transaction. A broker-in-charge shall not act as a designated broker for a party in a real estate sales transaction when a provisional broker under his or her supervision will act as a designated broker for another party with a competing interest.

(k) When a firm acting as a dual agent designates an individual broker to represent the seller, the broker so designated shall represent only the interest of the seller and shall not, without the seller's permission, disclose to the buyer or a broker designated to represent the buyer:

- (1) that the seller may agree to a price, terms, or any conditions of sale other than those established by the seller;
- (2) the seller's motivation for engaging in the transaction unless disclosure is otherwise required by statute or rule; and
- (3) any information about the seller which the seller has identified as confidential unless disclosure of the information is otherwise required by statute or rule.

(l) When a firm acting as a dual agent designates an individual broker to represent the buyer, the broker so designated shall represent only the interest of the buyer and shall not, without the buyer's permission, disclose to the seller or a broker designated to represent the seller:

- (1) that the buyer may agree to a price, terms, or any conditions of sale other than those established by the seller;
- (2) the buyer's motivation for engaging in the transaction unless disclosure is otherwise required by statute or rule; and
- (3) any information about the buyer which the buyer has identified as confidential unless disclosure of the information is otherwise required by statute or rule.

(m) A broker designated to represent a buyer or seller in accordance with Paragraph (j) of this Rule shall disclose the identity of all of the brokers so designated to both the buyer and the seller. The disclosure shall take place no later than the presentation of the first offer to purchase or sell.

(n) When an individual broker represents both the buyer and seller in the same real estate sales transaction pursuant to a written agreement authorizing dual agency, the parties may provide in the written agreement that the broker shall not disclose the following information about one party to the other without permission from the party about whom the information pertains:

- (1) that a party may agree to a price, terms or any conditions of sale other than those offered;
- (2) the motivation of a party for engaging in the transaction, unless disclosure is otherwise required by statute or rule; and
- (3) any information about a party which that party has identified as confidential, unless disclosure is otherwise required by statute or rule.

History Note: Authority G.S. 41A-3(1b); 41A-4(a); 93A-3(c); 93A-9; Eff. February 1, 1976; Readopted Eff. September 30, 1977; Amended Eff. April 1, 2006; July 1, 2005; July 1, 2004; April 1, 2004; September 1, 2002; July 1, 2001; October 1, 2000; August 1, 1998; July 1, 1997; August 1, 1996; July 1, 1995.

21 NCAC 58A .0107 HANDLING AND ACCOUNTING OF FUNDS

(a) Except as provided herein, all monies received by a licensee acting in his or her fiduciary capacity shall be deposited in a trust or escrow account maintained by a broker not later than three banking days following receipt of such monies except that earnest money deposits paid by means other than currency which are received on offers to purchase real estate and tenant security deposits paid by means other than currency which are received in connection with real estate leases shall be deposited in a trust or escrow account not later than three banking days following acceptance of such offer to purchase or lease; the date of acceptance of such offer to purchase or lease shall be set forth in the purchase or lease agreement. All monies received by a provisional broker shall be delivered immediately to the broker by whom he or she is employed, except that all monies received by nonresident commercial licensees shall be delivered as required by Rule .1808 of this Subchapter. A licensee may accept custody of a check or other negotiable instrument made payable to the seller of real property as option money only for the purpose of delivering the instrument to the optionor-seller. While the instrument is in the custody of the licensee, the licensee shall, according to the instructions of the buyer-optionee, either deliver it to the seller-optionor or return it to the buyer-optionee. The licensee shall safeguard the instrument and shall be responsible to the parties on the instrument for its prompt and safe delivery. In no event shall a licensee retain such an instrument for more than three business days after the acceptance of the option contract.

(b) In the event monies received by a licensee while acting in a fiduciary capacity are deposited in a trust or escrow account which bears interest, the licensee having custody over such monies shall first secure from all parties having an interest in the monies written authorization for the deposit of the monies in an interest-bearing account. Such authorization shall specify how and to whom the interest will be disbursed, and, if contained in an offer, contract, lease, or other transaction instrument, such authorization shall be set forth in a conspicuous manner which shall distinguish it from other provisions of the instrument.

(c) Closing statements shall be furnished to the buyer and the seller in the transaction not more than five days after closing.

(d) Trust or escrow accounts shall be so designated by the bank or savings and loan association in which the account is located, and all deposit tickets and checks drawn on said account as well as the monthly bank statement for the account shall bear the words "Trust Account" or "Escrow Account."

(e) A licensee shall maintain and retain records sufficient to identify the ownership of all funds belonging to others. Such records shall be sufficient to show proper deposit of such funds in a trust or escrow account and to verify the accuracy and proper use of the trust or escrow account. The required records shall include:

- (1) bank statements;
- (2) canceled checks which shall be referenced to the corresponding journal entry or check stub entries and to the corresponding sales transaction ledger sheets or for rental transactions, the corresponding property or owner ledger sheets. Checks shall

conspicuously identify the payee and shall bear a notation identifying the purpose of the disbursement. When a check is used to disburse funds for more than one sales transaction, owner, or property, the check shall bear a notation identifying each sales transaction, owner, or property for which disbursement is made, including the amount disbursed for each, and the corresponding sales transaction, property, or owner ledger entries. When necessary, the check notation may refer to the required information recorded on a supplemental disbursement worksheet which shall be cross-referenced to the corresponding check. In lieu of retaining canceled checks, a licensee may retain digitally imaged copies of the canceled checks or substitute checks provided that such images are legible reproductions of the front and back of such instruments with no smaller images than 1.1875 x 3.0 inches and provided that the licensee's bank retains for a period of at least six years the original checks, "substitute checks" as described in 12 C.F.R. 229.51 or the capacity to provide substitute checks as described in 12 C.F. R. 229.51, and makes the original or substitute checks available to the licensee and the Commission upon request;

(3) deposit tickets. For a sales transaction, the deposit ticket shall identify the purpose and remitter of the funds deposited, the property, the parties involved, and a reference to the corresponding sales transaction ledger entry. For a rental transaction, the deposit ticket shall identify the purpose and remitter of the funds deposited, the tenant, and the corresponding property or owner ledger entry. For deposits of funds belonging to or collected on behalf of a property owner association, the deposit ticket shall identify the property or property interest for which the payment is made, the property or interest owner, the remitter, and the purpose of the payment. When a single deposit ticket is used to deposit funds collected for more than one sales transaction, property owner, or property, the required information shall be recorded on the ticket for each sales transaction, owner, or property, or the ticket may refer to the same information recorded on a supplemental deposit worksheet which shall be cross-referenced to the corresponding deposit ticket;

(4) a payment record sheet for each property or interest for which funds are collected and deposited into a property owner association trust account as required by Paragraph (i) of this Rule. Payment record sheets shall identify the amount, date, remitter, and purpose of payments received, the amount and nature of

the obligation for which payments are made, and the amount of any balance due or delinquency;

- (5) a separate ledger sheet for each sales transaction and for each property or owner of property managed by the licensee identifying the property, the parties to the transaction, the amount, date, and purpose of the deposits and from whom received, the amount, date, check number, and purpose of disbursements and to whom paid, and the running balance of funds on deposit for the particular sales transaction or, in a rental transaction, the particular property or owner of property. Monies held as tenant security deposits in connection with rental transactions may be accounted for on a separate tenant security deposit ledger for each property or owner of property managed by the licensee. For each security deposit the tenant security deposit ledger shall identify the remitter, the date the deposit was paid, the amount, the tenant, landlord, and subject property. For each disbursement of tenant security deposit monies, the ledger shall identify the check number, amount, payee, date, and purpose of the disbursement. The ledger shall also show a running balance. When tenant security deposit monies are accounted for on a separate ledger as provided herein, deposit tickets, canceled checks and supplemental worksheets shall reference the corresponding tenant security deposit ledger entries when appropriate;
- (6) a journal or check stubs identifying in chronological sequence each bank deposit and disbursement of monies to and from the trust or escrow account, including the amount and date of each deposit and a reference to the corresponding deposit ticket and any supplemental deposit worksheet, and the amount, date, check number, and purpose of disbursements and to whom paid. The journal or check stubs shall also show a running balance for all funds in the account;
- (7) copies of contracts, leases and management agreements;
- (8) closing statements and property management statements;
- (9) covenants, bylaws, minutes, management agreements and periodic statements relating to the management of a property owner association; and
- (10) invoices, bills, and contracts paid from the trust account, and any documents not otherwise described herein necessary and sufficient to verify and explain record entries.

Records of all receipts and disbursements of trust or escrow monies shall be maintained in such a manner as to create an audit trail from deposit tickets and canceled checks to check

stubs or journals and to the ledger sheets. Ledger sheets and journals or check stubs must be reconciled to the trust or escrow account bank statements on a monthly basis. To be sufficient, records of trust or escrow monies must include a worksheet for each such monthly reconciliation showing the ledger sheets, journals or check stubs, and bank statements to be in agreement and balance.

(f) All trust or escrow account records shall be made available for inspection by the Commission or its authorized representatives in accordance with Rule 21 NCAC 58A .0108.

(g) In the event of a dispute between the seller and buyer or landlord and tenant over the return or forfeiture of any deposit other than a residential tenant security deposit held by a licensee, the licensee shall retain said deposit in a trust or escrow account until the licensee has obtained a written release from the parties consenting to its disposition or until disbursement is ordered by a court of competent jurisdiction. Alternatively, the licensee may deposit the disputed monies with the appropriate clerk of court in accordance with the provisions of G.S. 93A-12. If it appears to a licensee holding a disputed deposit that a party has abandoned his or her claim, the licensee may disburse the money to the other claiming parties according to their written agreement provided that the licensee first makes a reasonable effort to notify the party who has apparently abandoned his or her claim and provides that party with an opportunity to renew his or her claim to the disputed funds. Tenant security deposit monies shall be disposed of in accordance with the requirements of G.S. 42-50 through 56 and G.S. 42A-18.

(h) A licensee may transfer earnest money deposits in his or her possession collected in connection with a sales transaction from his or her trust account to the closing attorney or other settlement agent not more than ten days prior to the anticipated settlement date. A licensee shall not disburse prior to settlement any earnest money in his or her possession for any other purpose without the written consent of the parties.

(i) The funds of a property owner association, when collected, maintained, disbursed or otherwise controlled by a licensee, are trust monies and shall be treated as such in the manner required by this Rule. Such funds must be deposited into and maintained in a trust or escrow account dedicated exclusively for funds belonging to a single property owners association and may not be commingled with funds belonging to other property owner associations or other persons or parties. A licensee who undertakes to act as manager of a property owner association or as the custodian of funds belonging to a property owner association shall provide the association with periodic statements which report the balance of association funds in the licensee's possession or control and which account for the funds the licensee has received and disbursed on behalf of the association. Such statements must be made in accordance with the licensee's agreement with the association, but in no event shall the statements be made less frequently than every 90 days.

(j) Every licensee shall safeguard the money or property of others coming into his or her possession in a manner consistent with the requirements of the Real Estate License Law and the rules adopted by the Commission. A licensee shall not convert the money or property of others to his or her own use, apply such money or property to a purpose other than that for which it was paid or entrusted to him or her, or permit or assist any other

person in the conversion or misapplication of such money or property.

(k) In addition to the records required by Paragraph (e) of this Rule, a licensee acting as agent for the landlord of a residential property used for vacation rentals shall create and maintain a subsidiary ledger sheet for each property or owner of such properties onto which all funds collected and disbursed are identified in categories by purpose. On a monthly basis, the licensee shall reconcile the subsidiary ledger sheets to the corresponding property or property owner ledger sheet.

(l) In lieu of maintaining a subsidiary ledger sheet, the licensee may maintain an accounts payable ledger sheet for each owner or property and each vendor to whom trust monies are due for monies collected on behalf of the owner or property identifying the date of receipt of the trust monies, from whom the monies were received, rental dates, and the corresponding property or owner ledger sheet entry including the amount to be disbursed for each and the purpose of the disbursement. The licensee may also maintain an accounts payable ledger sheet in the format described in Paragraph (k) of this Rule for vacation rental tenant security deposit monies and vacation rental advance payments.

History Note: Authority G.S. 93A-3(c); 93A-9; Eff. February 1, 1976; Readopted Eff. September 30, 1977; Amended Eff. April 1, 2006; July 1, 2005; July 1, 2004; July 1, 2003; September 1, 2002; August 1, 2000; August 1, 1998; July 1, 1996; July 1, 1993; May 1, 1990.

21 NCAC 58A .0110 BROKER-IN-CHARGE

(a) Every real estate firm shall designate a broker to serve as the broker-in-charge at its principal office and a broker to serve as broker-in-charge at any branch office. No broker shall be broker-in-charge of more than one office at a time. If a firm shares office space with one or more other firms, one broker may serve as broker-in-charge of each firm at that location. No office or branch office of a firm shall have more than one designated broker-in-charge. A broker who is a sole proprietor shall designate himself or herself as a broker-in-charge if the broker engages in any transaction where the broker is required to deposit and maintain monies belonging to others in a trust account, engages in advertising or promoting his or her services as a broker in any manner, or has one or more other brokers affiliated with him or her in the real estate business. Each broker-in-charge shall declare in writing his or her status as broker-in-charge to the Commission on a form prescribed by the Commission within 10 days following the broker's designation as broker-in-charge. The broker-in-charge shall, in accordance with the requirements of G.S. 93A and the rules adopted by the Commission, assume the responsibility at his or her office for:

- (1) the retention of current license renewal pocket cards by all brokers employed at the office for which he or she is broker-in-charge; the proper display of licenses at such office in accordance with Rule .0101 of this Section; and assuring that each licensee employed at the office has complied with Rules .0503, .0504, and .0506 of this Subchapter;

- (2) the proper notification to the Commission of any change of business address or trade name of the firm and the registration of any assumed business name adopted by the firm for its use;
- (3) the proper conduct of advertising by or in the name of the firm at such office;
- (4) the proper maintenance at such office of the trust or escrow account of the firm and the records pertaining thereto;
- (5) the proper retention and maintenance of records relating to transactions conducted by or on behalf of the firm at such office, including those required to be retained pursuant to Rule .0108 of this Section;
- (6) the proper supervision of provisional brokers associated with or engaged on behalf of the firm at such office in accordance with the requirements of Rule .0506 of this Subchapter;
- (7) the proper supervision of all licensees employed at the office for which he or she is broker-in-charge with respect to adherence to agency agreement and disclosure requirements.

(b) When used in this Rule, the term:

- (1) "Branch Office" means any office in addition to the principal office of a broker which is operated in connection with the broker's real estate business; and
- (2) "Office" means any place of business where acts are performed for which a real estate license is required.

(c) To qualify to serve as a broker-in-charge, a broker shall not be a provisional broker and shall:

- (1) possess at least two years of full-time real estate brokerage experience or equivalent part-time real estate brokerage experience within the previous five years or real estate education or experience in real estate transactions that the Commission finds equivalent to such experience; and
- (2) complete the Commission's 12 classroom hour broker-in-charge course either within three years prior to designation as a broker-in-charge or within 120 days following designation as a broker-in-charge.

A broker-in-charge shall certify his or her experience qualifications in the written broker-in-charge declaration he or she submits to the Commission and shall provide to the Commission upon request evidence that he or she possesses the required experience. Status as a broker-in-charge shall be immediately terminated if a broker-in-charge fails to complete the broker-in-charge course during the required time period or if the Commission finds the broker-in-charge does not possess the required experience. A broker-in-charge, upon written request of the Commission or a broker who has been affiliated with the broker-in-charge within the previous five years, shall provide the Commission or broker on a form prescribed by the Commission an accurate written statement regarding the broker's work at the office of the broker-in-charge, including the dates of affiliation,

average number of hours worked per week, and the number and type of properties listed, sold, bought, leased, or rented for others by the broker during his or her affiliation with the broker-in-charge.

(d) A broker who was the broker-in-charge of a real estate office on April 1, 2006, whose broker-in-charge declaration was received by the Commission prior to that date, and who has completed the Commission's broker-in-charge course within five years prior to April 1, 2006 or within 120 days following designation as a broker-in-charge, may continue to serve as a broker-in-charge thereafter until his or her status is terminated as provided in Paragraph (e) of this Rule.

(e) A broker's status as a broker-in-charge shall be terminated upon the occurrence of any of the following events:

- (1) The broker's license expires or the broker's right to engage in real estate brokerage is suspended, revoked or surrendered;
- (2) the broker's license is made inactive for any reason, including failure to satisfy the continuing education requirements described in Rule .1702 of this Subchapter or Paragraph (f) of this Rule;
- (3) the license of the broker's firm expires or the firm's right to engage in real estate brokerage is suspended, revoked, or surrendered;
- (4) the broker's firm is dissolved or otherwise ceases to be lawfully entitled to engage in business in North Carolina; or
- (5) the broker ceases to act as the broker-in-charge of the office for which he or she was designated as broker-in-charge.

When a broker's status as a broker-in-charge is terminated and the broker subsequently seeks to again serve as broker-in-charge of the same or a different office, the broker must fully satisfy all the current broker-in-charge experience and education qualification requirements stated in this Rule, and a broker-in-charge course taken by such broker prior to April 1, 2006 shall not be recognized toward the current education requirement. However, when a broker terminates his or her broker-in-charge status with one office and contemporaneously declares himself or herself broker-in-charge of a different office with the same or a different firm, this change shall be considered a transfer rather than a termination and the broker shall not be required to satisfy the current broker-in-charge experience and education qualification requirements.

(f) To continue to serve as a broker-in-charge, a broker shall complete during each license period a special four classroom hour continuing education course prescribed by the Commission for brokers-in-charge. This course must first be taken during the first full license period following designation as a broker-in-charge and must subsequently be taken each license period. The course shall satisfy the broker's general continuing education elective course requirement, but the broker must continue to take the continuing education update course each license period. When a broker-in-charge fails to take the special continuing education course for brokers-in-charge during any license period, his or her broker-in-charge status shall be terminated at the end of that license period.

(g) Each broker-in-charge shall notify the Commission in writing of any change in his or her status as broker-in-charge within 10 days following the change.

(h) A licensed real estate firm shall not be required to designate a broker-in-charge if it:

- (1) has been organized for the sole purpose of receiving compensation for brokerage services furnished by its qualifying broker through another firm or broker;
- (2) is designated a Subchapter S corporation by the United States Internal Revenue Service;
- (3) has no principal or branch office; and
- (4) has no person associated with it other than its qualifying broker.

(i) A broker-in-charge residing outside of North Carolina who is the broker-in-charge of a principal or branch office not located in North Carolina shall not be required to complete the broker-in-charge course or the special continuing education course prescribed for brokers-in-charge under Paragraph (f) of this Rule.

(j) A nonresident commercial real estate broker licensed under the provisions of Section .1800 of this Subchapter shall not act as or serve in the capacity of a broker-in-charge of a firm or office in North Carolina.

History Note: Authority G.S. 93A-2; 93A-3(c); 93A-4; 93A-4.1; 93A-4.2; 93A-9; Eff. September 1, 1983; Amended Eff. April 1, 2006; July 1, 2005; July 1, 2004; April 1, 2004; September 1, 2002; July 1, 2001; October 1, 2000; August 1, 1998; April 1, 1997; July 1, 1995; July 1, 1994.

21 NCAC 58A .0112 OFFERS AND SALES CONTRACTS

(a) A broker acting as an agent in a real estate transaction shall not use a preprinted offer or sales contract form unless the form describes or specifically requires the entry of the following information:

- (1) the names of the buyer and seller;
- (2) a legal description of the real property sufficient to identify and distinguish it from all other property;
- (3) an itemization of any personal property to be included in the transaction;
- (4) the purchase price and manner of payment;
- (5) any portion of the purchase price that is to be paid by a promissory note, including the amount, interest rate, payment terms, whether or not the note is to be secured, and other material terms;
- (6) any portion of the purchase price that is to be paid by the assumption of an existing loan, including the amount of such loan, costs to be paid by the buyer or seller, the interest rate and number of discount points and a condition that the buyer must be able to qualify for the assumption of the loan and must make every reasonable effort to qualify for the assumption of the loan;

- (7) the amount of earnest money, if any, the method of payment, the name of the broker or firm that will serve as escrow agent, an acknowledgment of earnest money receipt by the escrow agent, and the criteria for determining disposition of the earnest money, including disputed earnest money, consistent with Commission Rule .0107 of this Subchapter;
- (8) any loan that must be obtained by the buyer as a condition of the contract, including the amount and type of loan, interest rate and number of discount points, loan term, loan commitment date, and who shall pay loan closing costs; and a condition that the buyer shall make every reasonable effort to obtain the loan;
- (9) a general statement of the buyer's intended use of the property and a condition that such use must not be prohibited by private restriction or governmental regulation;
- (10) the amount and purpose of any special assessment to which the property is subject and the responsibility of the parties for any unpaid charges;
- (11) the date for closing and transfer of possession;
- (12) the signatures of the buyer and seller;
- (13) the date of offer and acceptance;
- (14) a provision that title to the property must be delivered at closing by general warranty deed and must be fee simple marketable title, free of all encumbrances except ad valorem taxes for the current year, utility easements, and any other encumbrances specifically approved by the buyer, or a provision otherwise describing the estate to be conveyed, and encumbrances, and the form of conveyance;
- (15) the items to be prorated or adjusted at closing;
- (16) who shall pay closing expenses;
- (17) the buyer's right to inspect the property prior to closing and who shall pay for repairs and improvements, if any;
- (18) a provision that the property shall at closing be in substantially the same condition as on the date of the offer (reasonable wear and tear excepted), or a description of the required property condition at closing; and
- (19) a provision setting forth the identity of each real estate agent and firm involved in the transaction and disclosing the party each agent and firm represents.

The provisions of this rule shall apply only to preprinted offer and sales contract forms which a broker acting as an agent in a real estate transaction proposes for use by the buyer and seller. Nothing contained in this Rule shall be construed to prohibit the buyer and seller in a real estate transaction from altering, amending or deleting any provision in a form offer to purchase or contract; nor shall this Rule be construed to limit the rights of

the buyer and seller to draft their own offers or contracts or to have the same drafted by an attorney at law.

(b) A broker acting as an agent in a real estate transaction shall not use a preprinted offer or sales contract form containing the provisions or terms listed in Subparagraphs (b)(1) and (2) of this Rule. A broker or anyone acting for or at the direction of the broker shall not insert or cause such provisions or terms to be inserted into any such preprinted form, even at the direction of the parties or their attorneys:

- (1) any provision concerning the payment of a commission or compensation, including the forfeiture of earnest money, to any broker or firm; or
- (2) any provision that attempts to disclaim the liability of a broker for his or her representations in connection with the transaction.

History Note: Authority G.S. 93A-3(c); Eff. July 1, 1988; Amended Eff. April 1, 2006; October 1, 2000; July 1, 1995; July 1, 1989; February 1, 1989.

SECTION .0300 – APPLICATION FOR LICENSE

21 NCAC 58A .0301 FORM

An individual or business entity who wishes to file an application for a broker license shall make application on a form prescribed by the Commission and may obtain the required form upon request to the Commission. The application form for an individual calls for the applicant's name and address, the applicant's social security number, proof of the applicant's identity, places of residence, education, prior real estate licenses, and other information necessary to identify the applicant and determine the applicant's qualifications and fitness for licensure. The application form for a business entity is described in Rule .0502 of this Section.

History Note: Authority G.S. 93A-3(c); 93A-4(a),(b),(d); Eff. February 1, 1976; Readopted Eff. September 30, 1977; Amended Eff. April 1, 2006; July 1, 2000; February 1, 1991; February 1, 1989; August 1, 1988; December 1, 1985.

21 NCAC 58A .0302 FILING AND FEES

(a) An applicant shall file a complete and accurate application and, except as provided by Rule .0403 of this Subchapter, shall submit his or her application to the Commission's office accompanied by the application fee. Examination scheduling of applicants who are required to pass the real estate licensing examination shall be accomplished in accordance with Rule .0401 of this Subchapter.

(b) Except for persons applying for licensure under the provisions of Section .1800 of this Subchapter, the license application fee shall be thirty dollars (\$30.00). In addition to the license application fee, applicants for licensure who are required to take the license examination must pay the examination fee charged by the Commission's authorized testing service in the form and manner acceptable to the testing service. Persons

applying for licensure under Section .1800 of this Subchapter shall pay the application fee set forth in Rule .1803 of this Subchapter.

(c) An applicant shall update information provided in connection with an application or submit a newly completed application form without request by the Commission to assure that the information provided in the application is current and accurate. Failure to submit updated information prior to the issuance of a license may result in disciplinary action against a licensee in accordance with G.S. 93A-6(b)(1). In the event that the Commission requests an applicant to submit updated information or to provide additional information necessary to complete the application and the applicant fails to submit such information within 90 days following the Commission's request, the Commission shall cancel the applicant's application. The license application of an individual found by the Commission to be qualified for the licensing examination shall be immediately canceled if the applicant fails to pass a scheduled licensing examination, fails to appear for and take any examination for which the applicant has been scheduled without having the applicant's examination postponed or absence excused in accordance with Rule .0401(b) and (c) of this Section, or fails to take and pass the examination within 180 days of filing a complete application as described in Rule .0301 of this Section and having the application entered into the Commission's examination applicant file. Except as permitted otherwise in Rule .0403 of this Subchapter, an applicant whose license application has been canceled and who wishes to obtain a real estate license must start the licensing process over by filing a complete application to the Commission and paying all required fees.

History Note: Authority G.S. 93A-4; 93A-9;
 Eff. February 1, 1976;
 Readopted Eff. September 30, 1977;
 Amended Eff. April 1, 2006; July 1, 2004; April 1, 2004; July 1, 2003; October 1, 2000; August 1, 1998; July 1, 1998; July 1, 1996; February 1, 1989.

21 NCAC 58A .0304 EQUIVALENT EXPERIENCE QUALIFICATIONS FOR APPLICANTS

Experience obtained by a broker applicant in violation of law or rule shall not be recognized by the Commission as fulfilling the requirements for licensure when the applicant is requesting the Commission to waive the prescribed education requirement based wholly or in part on equivalent experience obtained by the applicant.

History Note: Authority G.S. 93A-3(c); 93A-4;
 Eff. July 1, 1993;
 Amended Eff. April 1, 2006; October 1, 2000.

21 NCAC 58A .0402 SUBJECT MATTER AND PASSING SCORES

(a) The real estate licensing examination shall test applicants on the following general subject areas:

- (1) real estate law;
- (2) real estate brokerage law and practices;

- (3) the Real Estate License Law, rules of the Commission, and the Commission's trust account guidelines;
- (4) real estate finance;
- (5) real estate valuation (appraisal);
- (6) real estate mathematics; and
- (7) related subject areas.

(b) In order to pass the real estate licensing examination, an applicant must attain a score at least equal to the passing score established by the Commission in compliance with psychometric standards for establishing passing scores for occupational licensing examinations as set forth in the "Standards for Educational and Psychological Testing" jointly promulgated by the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education. Passing applicants will receive only a score of "pass"; however, failing applicants shall be informed of their actual score. A passing examination score obtained by a license applicant shall be recognized as valid for a period of one year from the date of examination, during which time the applicant must fully satisfy any remaining requirements for licensure that were pending at the time of examination; provided that the running of the one-year period shall be tolled upon mailing the applicant the letter contemplated in 21 NCAC 58A .0616(b) informing the applicant that his or her moral character is in question, and shall resume running when the applicant's application is either approved for license issuance, denied or withdrawn. The application of an applicant with a passing examination score who fails to satisfy all remaining requirements for licensure within one year shall be canceled and the applicant shall be required to reapply and satisfy all requirements for licensure, including retaking and passing the license examination, in order to be eligible for licensure.

History Note: Authority G.S. 93A-3(c); 93A-4(b),(d);
 Eff. February 1, 1976;
 Readopted Eff. September 30, 1977;
 Amended Eff. April 1, 2006; July 1, 2000; July 1, 1996; July 1, 1989; December 1, 1985; May 1, 1982; April 11, 1980.

21 NCAC 58A .0406 EXAMINATION REVIEW

An applicant who fails the license examination may review the examination at the testing center immediately following completion of the examination and receipt of the applicant's examination results but prior to leaving the testing center. An applicant who fails the examination and who declines the opportunity to immediately review the examination prior to leaving the testing center shall be deemed to have waived the right to review the examination. An applicant who is reviewing his or her failed examination may not have any other person present during his or her review, nor may any other person review an examination on behalf of an applicant. An applicant who passes the license examination may not review the examination.

History Note: Authority G.S. 93A-4(d);
 Eff. December 1, 1985;
 Amended Eff. April 1, 2006; October 1, 2000; July 1, 1989;
 February 1, 1989.

21 NCAC 58A .0502 BUSINESS ENTITIES

(a) Every business entity other than a sole proprietorship shall apply for and obtain from the Commission a firm license prior to engaging in business as a real estate broker. An entity that changes its business form shall be required to submit a new application immediately upon making the change and to obtain a new license. Incomplete applications shall not be acted upon by the Commission. Application forms for partnerships, corporations, limited liability companies, associations and other business entities required to be licensed as brokers shall be available upon request to the Commission and shall require the applicant to set forth:

- (1) the name of the entity;
- (2) the name under which the entity will do business;
- (3) the type of business entity;
- (4) the address of its principal office;
- (5) the entity's NC Secretary of State Identification Number if required to be registered with the Office of the NC Secretary of State;
- (6) the name, real estate license number and signature of the proposed qualifying broker for the proposed firm;
- (7) the address of and name of the proposed broker-in-charge for each office where brokerage activities will be conducted, along with a completed broker-in-charge declaration form for each proposed broker-in-charge;
- (8) any past criminal conviction of and any pending criminal charge against any principal in the company or any proposed broker-in-charge;
- (9) any past revocation, suspension or denial of a business or professional license of any principal in the company or any proposed broker-in-charge;
- (10) if a general partnership, a full description of the applicant entity, including a copy of its written partnership agreement or if no written agreement exists, a written description of the rights and duties of the several partners;
- (11) if a business entity other than a corporation, limited liability company or partnership, a full description of the organization of the applicant entity, including a copy of its organizational documents evidencing its authority to engage in real estate brokerage;
- (12) if a foreign business entity, a certificate of authority to transact business in North Carolina and an executed consent to service of process and pleadings; and
- (13) any other information required by this Rule.

When the authority of a business entity to engage in the real estate business is unclear in the application or in law, the Commission may require the applicant to declare in the license application that the applicant's organizational documents authorize the firm to engage in the real estate business and to

submit organizational documents, addresses of affiliated persons and similar information. For purposes of this Paragraph, the term principal shall mean any person or entity owning 10 percent or more of the business entity, or who is an officer, director, manager, member, partner or who holds any other comparable position.

(b) After filing a written application with the Commission and upon a showing that at least one principal of said business entity holds a broker license on active status and in good standing and will serve as qualifying broker of the entity, the entity shall be licensed provided it appears that the applicant entity employs and is directed by personnel possessed of the requisite truthfulness, honesty, and integrity. The qualifying broker of a partnership of any kind must be a general partner of the partnership; the qualifying broker of a limited liability company must be a manager of the company; and the qualifying broker of a corporation must be an officer of the corporation. A licensed business entity may serve as the qualifying broker of another licensed business entity if the qualifying broker-entity has as its qualifying broker a natural person who is licensed as a broker. The natural person who is qualifying broker shall assure the performance of the qualifying broker's duties with regard to both entities. A provisional broker may not serve as a qualifying broker.

(c) The licensing of a business entity shall not be construed to extend to the licensing of its partners, managers, members, directors, officers, employees or other persons acting for the entity in their individual capacities regardless of whether they are engaged in furthering the business of the licensed entity.

(d) The qualifying broker of a business entity shall assume responsibility for:

- (1) designating and assuring that there is at all times a broker-in-charge for each office and branch office of the entity at which real estate brokerage activities are conducted;
- (2) renewing the real estate broker license of the entity;
- (3) retaining the firm's renewal pocket card at the firm and producing it as proof of firm licensure upon request and maintaining a photocopy of the firm license certificate and pocket card at each branch office thereof;
- (4) notifying the Commission of any change of business address or trade name of the entity and the registration of any assumed business name adopted by the entity for its use;
- (5) notifying the Commission in writing of any change of his or her status as qualifying broker within ten days following the change;
- (6) securing and preserving the transaction and trust account records of the firm whenever there is a change of broker-in-charge at the firm or any office thereof and notifying the Commission if the trust account records are out of balance or have not been reconciled as required by Rule .0107 of this Chapter;
- (7) retaining and preserving the transaction and trust account records of the firm upon termination of his or her status as qualifying

broker until a new qualifying broker has been designated with the Commission or, if no new qualifying broker is designated, for the period of time for which said records are required to be retained by Rule .0108 of this Chapter; and

- (8) notifying the Commission if, upon the termination of his or her status as qualifying broker, the firm's transaction and trust account records cannot be retained or preserved or if the trust account records are out of balance or have not been reconciled as required by Rule .0107(e) of this Chapter.

(e) Every licensed business entity and every entity applying for licensure shall conform to all the requirements imposed upon it by the North Carolina General Statutes for its continued existence and authority to do business in North Carolina. Failure to conform to such requirements shall be grounds for disciplinary action or denial of the entity's application for licensure. Upon receipt of notice from an entity or agency of this state that a licensed entity has ceased to exist or that its authority to engage in business in this state has been terminated by operation of law, the Commission shall cancel the license of the entity.

History Note: Authority G.S. 93A-3(c); 93A-4(a),(b),(d); Eff. February 1, 1976; Readopted Eff. September 30, 1977; Amended Eff. April 1, 2006; July 1, 2005; April 1, 2004; July 1, 2003; October 1, 2000; August 1, 1998; January 1, 1997; July 1, 1994; May 1, 1990.

21 NCAC 58A .0503 LICENSE RENEWAL; PENALTY FOR OPERATING WHILE LICENSE EXPIRED

(a) All real estate licenses issued by the Commission under G.S. 93A, Article 1 shall expire on the 30th day of June following issuance. Any licensee desiring renewal of a license shall apply for renewal within 45 days prior to license expiration by submitting a renewal application on a form prescribed by the Commission and submitting with the application the required renewal fee of forty dollars (\$40.00).

(b) Any person desiring to renew his or her license on active status shall, upon the second renewal of such license following initial licensure, and upon each subsequent renewal, have obtained all continuing education required by G.S. 93A-4.1 and Rule .1702 of this Subchapter.

(c) A person renewing a license on inactive status shall not be required to have obtained any continuing education in order to renew such license; however, in order to subsequently change his or her license from inactive status to active status, the licensee must satisfy the continuing education requirement prescribed in Rule .1703 or .1711 of this Subchapter.

(d) Any person or firm which engages in the business of a real estate broker while his, her, or its license is expired is subject to the penalties prescribed in G.S. 93A-6.

History Note: Authority G.S. 93A-3(c); 93A-4(c),(d); 93A-4.1; 93A-6; Eff. February 1, 1976; Readopted Eff. September 30, 1977;

Amended Eff. July 1, 1994; February 1, 1991; February 1, 1989;

Temporary Amendment Eff. April 24, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Amended Eff. April 1, 2006; January 1, 2006; July 1, 2004; December 4, 2002; April 1, 1997; July 1, 1996; August 1, 1995.

21 NCAC 58A .0504 ACTIVE AND INACTIVE LICENSE STATUS

(a) Except for licenses that have expired or that have been canceled, revoked, suspended or surrendered, all licenses issued by the Commission shall be designated as being either on active status or inactive status. The holder of a license on active status may engage in any activity requiring a real estate license and may be compensated for the provision of any lawful real estate brokerage service. The holder of a license on inactive status may not engage in any activity requiring a real estate license, including the referral for compensation of a prospective seller, buyer, landlord or tenant to another real estate licensee or any other party. A licensee holding a license on inactive status must renew such license and pay the prescribed license renewal fee in order to continue to hold such license. The Commission may take disciplinary action against a licensee holding a license on inactive status for any violation of G.S. 93A or any rule promulgated by the Commission, including the offense of engaging in an activity for which a license is required while a license is on inactive status.

(b) A license issued to a provisional broker shall, upon initial licensure, be assigned to inactive status, except that a license issued to a provisional broker based on reciprocity with another licensing jurisdiction shall be assigned to active status. A license issued to a firm or a broker other than a provisional broker shall be assigned to active status. Except for persons licensed under the provisions of Section .1800 of this Subchapter, a broker may change the status of his or her license from active to inactive status by submitting a written request to the Commission. A provisional broker's license shall be assigned by the Commission to inactive status when the provisional broker is not under the active, direct supervision of a broker-in-charge. A firm's license shall be assigned by the Commission to inactive status when the firm does not have a qualifying broker with an active license. Except for persons licensed under the provisions of Section .1800 of this Subchapter, a broker shall also be assigned to inactive status if, upon the second renewal of his or her license following initial licensure, or upon any subsequent renewal, he or she has not satisfied the continuing education requirement described in Rule .1702 of this Subchapter.

(c) A provisional broker with an inactive license who desires to have such license placed on active status must comply with the procedures prescribed in Rule .0506 of this Section.

(d) A broker, other than a provisional broker, with an inactive license who desires to have such license placed on active status shall file with the Commission a request for license activation on a form provided by the Commission containing identifying information about the broker, a statement that the broker has satisfied the continuing education requirements prescribed by Rule .1703 of this Subchapter, the date of the request, and the

signature of the broker. Upon the mailing or delivery of this form, the broker may engage in real estate brokerage activities requiring a license; however, if the broker does not receive from the Commission a written acknowledgment of the license activation within 30 days of the date shown on the form, the broker shall immediately terminate his or her real estate brokerage activities pending receipt of the written acknowledgment from the Commission. If the broker is notified that he or she is not eligible for license activation due to a continuing education deficiency, the broker must terminate all real estate brokerage activities until such time as the continuing education deficiency is satisfied and a new request for license activation is submitted to the Commission.

(e) A firm with an inactive license which desires to have its license placed on active status shall file with the Commission a request for license activation on a form provided by the Commission containing identifying information about the firm and its qualifying broker. If the qualifying broker has an inactive license, he or she must satisfy the requirements of Paragraph (d) of this Rule. Upon the mailing or delivery of the completed form by the qualifying broker, the firm may engage in real estate brokerage activities requiring a license; however, if the firm's qualifying broker does not receive from the Commission a written acknowledgment of the license activation within 30 days of the date shown on the form, the firm shall immediately terminate its real estate brokerage activities pending receipt of the written acknowledgment from the Commission. If the qualifying broker is notified that the firm is not eligible for license activation due to a continuing education deficiency on the part of the qualifying broker, the firm must terminate all real estate brokerage activities until such time as the continuing education deficiency is satisfied and a new request for license activation is submitted to the Commission.

(f) A person licensed as a broker under Section .1800 of this Subchapter shall maintain his or her license on active status at all times as required by Rule .1804 of this Subchapter.

History Note: Authority G.S. 93A-3(c); 93A-4(d); 93A-4.1; 93A-6; 93A-9;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. April 1, 2006; July 1, 2005; July 1, 2004; October 1, 2000; April 1, 1997; July 1, 1996; July 1, 1995; July 1, 1994; February 1, 1989; December 1, 1985.

SECTION .1700 – MANDATORY CONTINUING EDUCATION

21 NCAC 58A .1701 PURPOSE AND APPLICABILITY

This Section describes the continuing education requirement for real estate brokers authorized by G.S. 93A-4.1, establishes the continuing education requirement to change a license from inactive status to active status, establishes attendance requirements for continuing education courses, establishes the criteria and procedures relating to obtaining an extension of time to complete the continuing education requirement, establishes the criteria for obtaining continuing education credit for an unapproved course or related educational activity, and addresses other similar matters.

History Note: Authority G.S. 93A-3(c); 93A-4.1;
Eff. July 1, 1994;
Amended Eff. April 1, 2006; October 1, 2000.

21 NCAC 58A .1702 CONTINUING EDUCATION REQUIREMENT

(a) Except as provided in 21 NCAC 58A .1708 and .1711, in order to renew a broker license on active status, the person requesting renewal of a license shall, upon the second renewal of such license following initial licensure, and upon each subsequent annual renewal, have completed, within one year preceding license expiration, eight classroom hours of real estate continuing education in courses approved by the Commission as provided in Subchapter 58E. Four of the required eight classroom hours must be obtained each license period by completing a mandatory update course developed annually by the Commission. The remaining four hours must be obtained by completing one or more Commission-approved elective courses described in Rule .0305 of Subchapter 58E. The licensee shall provide upon request of the Commission, evidence of continuing education course completion satisfactory to the Commission.

(b) No continuing education shall be required to renew a broker license on inactive status; however, to change a license from inactive status to active status, the licensee must satisfy the continuing education requirement described in Rule .1703 of this Section.

(c) No continuing education shall be required for a licensee who is a member of the U.S. Congress or the North Carolina General Assembly in order to renew his or her license on active status.

(d) The terms "active status" and "inactive status" are defined in Rule .0504 of this Subchapter. For continuing education purposes, the term "initial licensure" shall include the first time that a license of a particular type is issued to a person, the reinstatement of a canceled, revoked or surrendered license, and any license expired for more than six months. The issuance, pursuant to G.S. 93A-4.3, of a broker license on provisional status on April 1, 2006 to licensees who held a salesperson license as of that date shall not be considered to constitute initial licensure for continuing education purposes.

History Note: Authority G.S. 93A-3(c); 93A-4.1;
Eff. July 1, 1994;
Amended Eff. April 1, 2006; July 1, 2005; April 1, 2004; October 1, 2000; August 1, 1998; July 1, 1996.

21 NCAC 58A .1703 CONTINUING EDUCATION FOR LICENSE ACTIVATION

(a) A broker requesting to change an inactive license to active status on or after the licensee's second license renewal following his or her initial licensure shall demonstrate completion of continuing education as described in Paragraph (b) or (c) of this Rule, whichever is appropriate.

(b) If the inactive licensee's license has properly been on active status at any time since the preceding July 1, the licensee is considered to be current with regard to continuing education and no additional continuing education is required to activate the license.

(c) If the inactive licensee's license has not properly been on active status since the preceding July 1 and the licensee has a deficiency in his or her continuing education record for the previous license period, the licensee must make up the deficiency and fully satisfy the continuing education requirement for the current license period in order to activate the license. Any deficiency may be made up by completing, during the current license period or previous license period, approved continuing education elective courses; however, such courses shall not be credited toward the continuing education requirement for the current license period. When crediting elective courses for purposes of making up a continuing education deficiency, the maximum number of credit hours that will be awarded for any course is four hours. When evaluating the continuing education record of a licensee with a deficiency for the previous license period to determine the licensee's eligibility for active status, the licensee shall be deemed eligible for active status if the licensee has fully satisfied the continuing education requirement for the current license period and has taken any two additional continuing education courses since the beginning of the previous license period, even if the licensee had a continuing education deficiency prior to the beginning of the previous license period.

History Note: Authority G.S. 93A-3(c); 93A-4.1; Eff. July 1, 1994; Amended Eff April 1, 2006; July 1, 2000; July 1, 1995.

21 NCAC 58A .1708 EQUIVALENT CREDIT

(a) A licensee may request that the Commission award continuing education credit for a course taken by the licensee that is not approved by the Commission, or for some other real estate education activity, by making such request on a form prescribed by the Commission and submitting a nonrefundable evaluation fee of thirty dollars (\$30.00) for each request for evaluation of a course or real estate education activity. In order for requests for equivalent credit to be considered and credits to be entered into a licensee's continuing education record prior to the June 30 license expiration date, such requests and all supporting documents must be received by the Commission on or before June 10 preceding expiration of the licensee's current license, with the exception that requests from instructors desiring equivalent credit for teaching Commission-approved continuing education courses must be received by June 30. Any equivalent continuing education credit awarded under this Rule shall be applied first to make up any continuing education deficiency for the previous license period and then to satisfy the continuing education requirement for the current license period; however, credit for an unapproved course or educational activity, other than teaching an approved elective course, that was completed during a previous license period shall not be applied to a subsequent license period.

(b) The Commission may award continuing education elective credit for completion of an unapproved course which the Commission finds equivalent to the elective course component of the continuing education requirement set forth in Section .0300 of Subchapter 58E. Completion of an unapproved course may serve only to satisfy the elective requirement and shall not be substituted for completion of the mandatory update course.

(c) Real estate education activities, other than teaching a Commission-approved course, which may be eligible for credit include: developing a Commission-approved elective continuing education course; authorship of a published real estate textbook; and authorship of a scholarly article, on a topic acceptable for continuing education purposes, which has been published in a professional journal such as a law journal or professional college or university journal or periodical. The Commission shall award continuing education elective credit for activities which the Commission finds equivalent to the elective course component of the continuing education requirement set forth in Section .0300 of Subchapter 58E. No activity other than teaching a Commission-developed mandatory update course shall be considered equivalent to completing the mandatory update course.

(d) The Commission shall award credit for teaching the Commission-developed mandatory update course and for teaching an approved elective course. Credit for teaching an approved elective course shall be awarded only for teaching a course for the first time. Credit for teaching a Commission-developed mandatory update course shall be awarded for each licensing period in which the instructor teaches the course. The amount of credit awarded to the instructor of an approved continuing education course shall be the same as the amount of credit earned by a licensee who completes the course. Licensees who are instructors of continuing education courses approved by the Commission shall not be subject to the thirty dollars (\$30.00) evaluation fee when applying for continuing education credit for teaching an approved course. No credit toward the continuing education requirement shall be awarded for teaching a real estate prelicensing or postlicensing course.

(e) A licensee completing a real estate appraisal prelicensing, precertification or continuing education course approved by the North Carolina Appraisal Board may obtain real estate continuing education elective credit for such course by submitting to the Commission a written request for equivalent continuing education elective credit accompanied by a nonrefundable processing fee of twenty dollars (\$20.00) and a copy of the certificate of course completion issued by the course sponsor for submission to the North Carolina Appraisal Board.

History Note: Authority G.S. 93A-3(c); 93A-4.1; Eff. July 1, 1994; Amended Eff. April 1, 2006; July 1, 2001; July 1, 2000; March 1, 1996; July 1, 1995.

21 NCAC 58A .1807 AFFILIATION WITH RESIDENT BROKER

(a) No person licensed under G.S. 93A-9(b) shall enter North Carolina to perform any act or service for which licensure as a real broker is required unless he or she has first entered into a brokerage cooperation agreement and declaration of affiliation with an individual who is a resident in North Carolina licensed as a North Carolina real estate broker.

(b) A brokerage cooperation agreement as contemplated by this Rule shall be in writing and signed by the resident North Carolina broker and the non-resident commercial licensee. It shall contain:

- (1) the material terms of the agreement between the signatory licenses;
- (2) a description of the agency relationships, if any, which are created by the agreement among the nonresident commercial licensee, the resident North Carolina broker, and the parties each represents;
- (3) a description of the property or the identity of the parties and other information sufficient to identify the transaction which is the subject of the affiliation agreement; and
- (4) a definite expiration date.

(c) A declaration of affiliation shall be written and on the form provided by the Commission and shall identify the nonresident commercial licensee and the affiliated resident North Carolina licensee. It shall also contain a description of the duties and obligations of each as required by the North Carolina Real Estate License Law and rules adopted by the Commission. The declaration of affiliation may be a part of the brokerage cooperation agreement or separate from it.

(d) A nonresident commercial licensee may affiliate with more than one resident North Carolina broker at any time. However, a nonresident commercial licensee may be affiliated with only one resident North Carolina broker in a single transaction.

(e) A resident North Carolina broker who enters into a brokerage cooperation agreement and declaration of affiliation with a nonresident commercial licensee shall:

- (1) verify that the nonresident commercial licensee is licensed in North Carolina;
- (2) actively and directly supervise the nonresident commercial licensee in a manner which reasonably insures that the nonresident commercial licensee complies with the North Carolina Real Estate License Law and rules adopted by the Commission;
- (3) promptly notify the Commission if the nonresident commercial licensee violates the Real Estate License Law or rules adopted by the Commission;
- (4) insure that records are retained in accordance with the requirements of the Real Estate License Law and rules adopted by the Commission; and
- (5) maintain his or her license on active status continuously for the duration of the brokerage cooperation agreement and the declaration of affiliation.

(f) The nonresident commercial licensee and the affiliated resident North Carolina broker shall each retain in his or her records a copy of brokerage cooperation agreements and declarations of affiliation from the time of their creation and for at least three years following their expiration. Such records shall be made available for inspection and reproduction by the Commission or its authorized representatives without prior notice.

History Note: Authority G.S. 93A-4; 93A-9; Eff. July 1, 2004; Amended Eff. April 1, 2006; July 1, 2005.

21 NCAC 58C .0203 SCHOOL NAME

The official name of any licensed private real estate school must contain the words "real estate" and other descriptive words which identify the school as a real estate school and which distinguish the school from other licensed private real estate schools and from continuing education course sponsors approved by the Commission. If the official school name includes the name of a person or business entity that is not an owner of the school, then the school owner must have the express permission of such person or business. The school name must be used in all school publications and advertising.

History Note: Authority G.S. 93A-4; 93A-33; Eff. October 1, 1980; Amended Eff. September 1, 1984; Transferred and Recodified from 21 NCAC 58A .1303 Eff. November 27, 1989; Amended Eff. April 1, 2006; July 1, 1994; July 1, 1990.

21 NCAC 58C .0216 CHANGES DURING THE LICENSING PERIOD

Schools shall obtain advance approval from the Commission for any changes to be made during the licensing period with respect to textbooks, facilities, directors, policies and procedures, publications or any other matter subject to regulation by the Commission. Schools are limited to one change in classroom facilities within the same county during any licensing period. In the event a school desires to make a second change in classroom facilities within the same county, or to relocate such facilities to another county, during any licensing period, it shall be necessary for the owner to make application for an original license for the new location.

History Note: Authority G.S. 93A-4; 93A-33; Eff. October 1, 1980; Transferred and Recodified from 21 NCAC 58A .1316 Eff. November 27, 1989; Amended Eff. April 1, 2006, September 1, 2002; February 1, 1989; September 1, 1984.

21 NCAC 58C .0304 COURSE COMPLETION STANDARDS

(a) Academic standards for course completion shall reasonably assure that students receiving a passing grade possess knowledge and understanding of the subject areas prescribed for the course adequate to demonstrate a student's competency with due regard to the paramount interests of the public. A student's grade shall be based solely on his or her performance on examinations and on graded homework and classwork assignments.

(b) Course completion requirements shall include obtaining a grade of at least 75 percent on a comprehensive final course examination which covers all prescribed subject areas and satisfactorily completing any mandatory graded homework or classwork assignments. Schools and instructors may utilize other course tests in addition to the final course examination provided that a student's grade on the final course examination accounts for at least 75 percent of the student's grade for the course. The development or acquisition of appropriate

prelicensing course examinations shall be the responsibility of approved instructors and schools. Prelicensing course examinations shall be subject to review and approval by the Commission as provided in G.S. 93A-4(a) and (d) and Rule .0304(a) of this Section. Postlicensing course final examinations shall be provided by the Commission and shall be used by approved instructors and schools. Take-home or open-book final course examinations are prohibited. For prelicensing courses, schools may, within 90 days of the course ending date, allow a student one opportunity to make up any missed course final examination or to retake any failed course final examination without repeating the course; however, any makeup or repeat examination must be comparable to the initial examination with regard to the number of questions and overall difficulty, and at least 75 percent of the questions in the makeup or repeat examination shall be different from those used on the initial examination. For postlicensing courses, schools shall, within 90 days of the course ending date, allow a student one opportunity to make up any missed course final examination or to retake any failed course final examination without repeating the course; however, if a makeup or repeat examination is specifically requested by a student to be taken at the earliest possible opportunity, the school must provide an opportunity for the student to take such examination within seven days of the student's request. Any makeup or repeat postlicensing course final examination shall consist of a different form of the examination than the one previously administered in the student's course.

(c) Schools and instructors shall take steps to protect the security and integrity of course examinations at all times. These steps shall include:

- (1) Maintaining examinations and answer keys in a secure place accessible only to the instructor or school officials;
- (2) Prohibiting students from retaining copies of examinations, answer sheets, and closing statement forms or scratch paper containing notes or calculations that jeopardize examination security; and
- (3) Monitoring students at all times when examinations are being administered.

(d) Any student who is found by an instructor or other school official to have cheated in any manner on any course examination shall be dismissed from the course in which enrolled and shall not be awarded a passing grade for the course or any credit for partial completion of the course. The cheating incident shall be reported in writing to the Commission within 10 days of the incident.

(e) The minimum attendance required for satisfactory course completion shall be 80 percent of all scheduled classroom hours for the course.

History Note: Authority G.S. 93A-4; Eff. September 1, 1979; Amended Eff. April 1, 1987; September 1, 1984; Recodified Paragraphs (d) and (e) to Rule 58A .1113 (a) and (b) Eff. January 6, 1989; Amended Eff. February 1, 1989;

Transferred and Recodified from 21 NCAC 58A .1105 Eff. November 27, 1989; Amended Eff. April 1, 2006; September 1, 2002; July 1, 2000.

21 NCAC 58C .0305 COURSE SCHEDULING

(a) All courses must have fixed beginning and ending dates, and schools may not utilize a scheduling system that allows students to enroll late for a course and then complete their course work in a subsequently scheduled course. Late enrollment is permitted only if the enrolling student can satisfy the minimum attendance requirement set forth in Rule .0304(c) of this Section.

(b) Courses shall not have class meetings that exceed six classroom hours in any given day and 21 classroom hours in any given seven-day period. However, a school that conducts courses with class meetings that do not exceed a total of 15 classroom hours in any seven-day period may conduct individual class meetings of up to 7 1/2 hours in any given day. A school may request special approval to conduct postlicensing courses that involve an accelerated schedule of up to 30 classroom hours within a seven-day period and the Commission shall grant such approval if the school demonstrates to the Commission that the course will be conducted in a manner that will not compromise instructional quality and course standards. When considering such a request, the Commission will take into consideration the proposed class schedule, the school's instructional plan, including a plan for assuring that students have a reasonable opportunity to perform required out-of-class reading and other assignments, the instructor's experience in teaching prelicensing and postlicensing courses, the license examination performance of the instructor's former prelicensing course students, and similar factors. A school granted approval to conduct postlicensing courses that involve an accelerated schedule that exceeds the basic scheduling restrictions prescribed by this Rule shall assure that such courses are conducted in a manner that fully complies with all applicable Commission rules and the instructional plan submitted to the Commission.

(c) A classroom hour consists of 50 minutes of classroom instruction and ten minutes of break time. For any class meeting that exceeds 50 minutes in duration, breaks at the rate of ten minutes per hour must be scheduled and taken at reasonable times.

History Note: Authority G.S. 93A-4(a),(d); Eff. September 1, 1979; Amended Eff. February 1, 1989; August 1, 1980; Transferred and Recodified from 21 NCAC 58A .1107 Eff. November 27, 1989; Amended Eff. April 1, 2006; October 1, 2000; July 1, 1996; July 1, 1994; July 1, 1993.

21 NCAC 58C .0309 COURSE COMPLETION REPORTING

(a) Schools shall provide each student who completes a prelicensing or postlicensing course in compliance with Commission rules and school course completion standards a course completion certificate in a format prescribed by this Rule. In addition to information identifying the course, student and instructor, the certificate must include the official letterhead of the school and must have the original signature or a signature

stamp in a color other than black of the director, dean or other school official responsible for supervising the conduct of the course.

(b) Schools shall prepare and submit to the Commission, along with the fee prescribed by G.S. 93A-4(a2), accurate reports verifying completion of a postlicensing course for each licensee who completes a postlicensing course in compliance with Commission rules and school course completion standards. Such reports shall include students' names, students' license numbers, course dates, school and course code numbers and course information presented in the format prescribed by the Commission, and shall be transmitted electronically via the Internet to the Commission within seven calendar days following the course.

History Note: Authority G.S. 93A-4(a),(d); 93A-33; Eff. September 1, 1979; Amended Eff. February 1, 1989; September 1, 1984; January 1, 1981; Transferred and Recodified from 21 NCAC 58A .1111 Eff. November 27, 1989; Amended Eff. April 1, 2006; July 1, 1994; May 1, 1990.

21 NCAC 58C .0311 INSTRUCTIONAL DELIVERY METHODS

The principal instructional delivery method utilized in real estate prelicensing and postlicensing courses must provide for the instructor to interact with students either in person in a traditional classroom setting or through an interactive television system or comparable system which permits continuous mutual audio and visual communication between the instructor and all students and which provides for monitoring and technical support at each site where the instructor or students are located. The use of media-based instructional delivery systems such as videotape or digital video disc (DVD), remote non-interactive television, computer-based instructional programs or similar systems not involving continuous mutual audio and visual communication between instructor and students may be employed only to enhance or supplement personal teaching by the instructor. Such delivery systems may not be used to substitute for personal teaching by the instructor. No portion of a course may consist of correspondence instruction.

History Note: Authority G.S. 93A-3(c); 93A-4(a); 93A-34; Eff. July 1, 1996; Amended Eff. April 1, 2006; April 1, 2004.

21 NCAC 58C .0602 NATURE AND SCOPE OF INSTRUCTOR APPROVAL

Approval of real estate prelicensing and postlicensing course instructors shall be accomplished separately from the approval and licensure of schools to conduct real estate prelicensing and postlicensing courses. Approval of an instructor to teach prelicensing and postlicensing courses authorizes the instructor to teach such courses at schools approved or licensed by the Commission to conduct such courses; however, an approved instructor shall not independently conduct a prelicensing or postlicensing course. An instructor must obtain written approval from the Commission prior to teaching a prelicensing or

postlicensing course for any school and prior to representing to any school or other party that the instructor is approved or may be approved as a prelicensing or postlicensing course instructor.

History Note: Authority G.S. 93A-4; 93A-33; 93A-34; Eff. October 1, 2000; Amended Eff. April 1, 2006.

21 NCAC 58C .0603 APPLICATION AND CRITERIA FOR ORIGINAL APPROVAL

(a) An individual seeking original approval as a prelicensing and postlicensing course instructor shall make application on a form provided by the Commission. An applicant who is not a resident of North Carolina shall also file with the application a consent to service of process and pleadings. No application fee shall be required. All required information regarding the applicant's qualifications shall be submitted.

(b) An instructor applicant shall demonstrate that he or she possesses good moral character as set out in G.S. 93A-4(b) and the following qualifications or other qualifications found by the Commission to be equivalent to the following qualifications: a current North Carolina real estate broker license; a current continuing education record; three years active full-time experience in general real estate brokerage, including substantial experience in real estate sales, within the previous seven years; 120 classroom hours of real estate education excluding company or franchise in-service sales training; and 60 semester hours of college-level education at an institution accredited by the Southern Association of Colleges and Schools or any other college accrediting body recognized by the U.S. Department of Education. The Commission shall consider teaching experience at the secondary or post-secondary level in lieu of a portion of the brokerage experience requirement.

(c) In addition to the qualification requirements stated in Paragraph (b) of this Rule, an applicant shall also demonstrate completion of the Commission's new instructor seminar within three years prior to the date of application and shall submit a one-hour video recording which depicts the applicant teaching a real estate prelicensing or postlicensing course topic and which demonstrates that the applicant possesses the basic teaching skills described in Rule .0604 of this Section. The new instructor seminar requirement shall be waived upon a finding by the Commission that the applicant possesses comparable instructor training, three years full-time experience teaching real estate pre-licensing courses in another state within the previous five years, or other equivalent qualifications. The video recording shall comply with the requirements specified in Rule .0605(c) of this Section. An applicant who is a Commission-approved continuing education update course instructor under Subchapter E, Section .0200 of this Chapter or who holds the Distinguished Real Estate Instructor (DREI) designation granted by the Real Estate Educators Association or an equivalent real estate instructor certification shall be exempt from the requirement to demonstrate satisfactory teaching skills by submission of a digital video disc (DVD) or videotape. An applicant who is qualified under Paragraph (b) of this Rule but who has not satisfied these additional requirements at the time of application shall be approved and granted a six-month grace period to complete these requirements. The approval of any

instructor who is granted such six-month period to complete the requirements shall automatically expire on the last day of the period if the instructor has failed to satisfy his or her qualification deficiencies and the period has not been extended by the Commission. The Commission shall extend the six-month period for up to three additional months when the Commission requires more than 30 days to review and act on a submitted video recording, when the expiration date of the period occurs during a course being taught by the instructor, or when the Commission determines that such extension is otherwise warranted by exceptional circumstances which are outside the instructor's control or when failure to extend the grace period could result in harm or substantial inconvenience to students, licensees, or other innocent persons. An individual applying for instructor approval who within the previous three years was allowed the six-month grace period to satisfy the requirements stated in this Paragraph, but did not satisfy such requirements within the allowed grace period, shall not be allowed the grace period.

History Note: Authority G.S. 93A-4; 93A-33; 93A-34; Eff. October 1, 2000; Amended Eff. April 1, 2006; July 1, 2005; April 1, 2004; September 1, 2002.

21 NCAC 58C .0607 EXPIRATION, RENEWAL, AND REINSTATEMENT OF APPROVAL

- (a) Commission approval of prelicensing and postlicensing instructors shall expire on the third December 31 following issuance of approval, except as otherwise provided in Rule .0603(c) of this Section.
- (b) In order to assure continuous approval, approved instructors must file applications for renewal of approval on a form provided by the Commission on or before December 1 immediately preceding expiration of their approval. To qualify for renewal of approval, instructors must demonstrate that they continue to satisfy the criteria for original approval set forth in Rule .0603(b) of this Section and that they have attended, during the immediately preceding approval period, at least three separate real estate instructor educational programs of at least six hours each. When considering an application for renewal of instructor approval, the Commission shall recognize experience in teaching real estate prelicensing or postlicensing courses, Commission-approved continuing education courses or comparable courses in lieu of the real estate brokerage experience requirement set forth in Rule .0603(b) of this Section.
- (c) In order to reinstate an expired instructor approval, the former instructor must file an application provided by the Commission, must satisfy the criteria for original approval set forth in Rule .0603(b) of this Section, and must demonstrate that he or she has attended at least three separate real estate instructor educational programs of at least six hours each during the previous three years. If an applicant's prior approval has been expired for more than three years, the applicant also must satisfy the criteria for original approval set forth in Rule .0603(c) of this Section. A reinstatement applicant who satisfies the criteria set forth in Rule .0603(b) of this Section but who does not satisfy the criteria set forth in Rule .0603(c) of this Section or who has not attended the aforementioned three real estate instructor

educational programs within the previous three years shall be reinstated and granted a six-month grace period to satisfy all remaining requirements. The grace period shall operate in the same manner as the grace period described in Rule 0603(c) of this Section. Any instructor educational programs attended during the grace period to satisfy the reinstatement requirement shall not also be credited toward the instructor educational program attendance requirement described in Paragraph (b) of this Rule when the instructor subsequently applies for renewal of his or her approval.

History Note: Authority G.S. 93A-4(a),(d); 93A-33; 93A-34; Eff. October 1, 2000; Amended Eff. April 1, 2006; July 1, 2005.

21 NCAC 58E .0406 COURSE COMPLETION REPORTING

- (a) Course sponsors must prepare and submit to the Commission, along with the per student fee required by G.S. 93A-4.1(d), reports verifying completion of a continuing education course for each licensee who satisfactorily completes the course according to the criteria in 21 NCAC 58A .1705 and who desires continuing education credit for the course. Such reports shall include students' names, students' license numbers, course date, sponsor and course codes and course information presented in the format prescribed by the Commission, and sponsors shall be held accountable for the completeness and accuracy of all information in such reports. Such reports shall be transmitted electronically via the Internet. Sponsors must submit these reports to the Commission in a manner that will assure receipt by the Commission within seven calendar days following the course, but in no case later than June 15 of any approval period for courses conducted during that approval period.
- (b) At the request of the Commission, course sponsors must provide licensees enrolled in each continuing education course an opportunity to complete an evaluation of each approved continuing education course on a form provided by the Commission. Sponsors must submit the completed evaluation forms to the Commission with the reports verifying completion of a continuing education course.
- (c) Course sponsors shall provide each licensee who satisfactorily completes an approved continuing education course according to the criteria in 21 NCAC 58A .1705 a course completion certificate on a form provided by the Commission. Sponsors must provide the certificates to licensees within fifteen calendar days following the course, but in no case later than June 15 for any course completed prior to that date. The certificate shall be retained by the licensee as his or her proof of having completed the course.
- (d) When a licensee in attendance at a continuing education course does not comply with the student participation standards, the course sponsor shall advise the Commission of this matter in writing at the time reports verifying completion of continuing education for the course are submitted. A sponsor who determines that a licensee failed to comply with either the Commission's attendance or student participation standards shall not provide the licensee with a course completion certificate nor shall the sponsor include the licensee's name on the reports verifying completion of continuing education.

(e) Notwithstanding the provisions of Paragraphs (a) and (c) of this Rule, approved course sponsors who are national professional trade organizations and who conduct Commission-approved continuing education elective courses out of state shall not be obligated to submit reports verifying completion of continuing education courses by electronic means, provided that such sponsors submit to the Commission a roster which includes the names and license numbers of North Carolina licensees who completed the course in compliance with the criteria in 21 NCAC 58A .1705 and who desire continuing education credit for the course. A separate roster must be submitted for each class session and must be accompanied by a per student fee required by G.S. 93A-4.1(d), payable to the North Carolina Real Estate Commission. Rosters must be submitted in a manner which assures receipt by the Commission within 15 calendar days following the course, but not later than the last course reporting dates for an approval period specified in Paragraph (a) of this Rule. Such sponsors may also provide each licensee who completes an approved course in compliance with the criteria in 21 NCAC 58A .1705 a sponsor-developed course completion certificate in place of a certificate on a form provided by the Commission. Sponsors must provide the certificates to licensees within fifteen calendar days following the course.

History Note: Authority G.S. 93A-3(c); 93A-4.1; Eff. July 1, 1994; Amended Eff. April 1, 2006; July 1, 2005; September 1, 2002; October 1, 2000; July 1, 1996; July 1, 1995.

21 NCAC 58F .0104 COURSE OPERATIONAL REQUIREMENTS

The broker transition course shall be conducted in accordance with the course operational requirements prescribed for the conduct of continuing education courses in Section .0500 of Subchapter 58E, except that class sessions shall be limited to a maximum of six hours in any given day. There shall be no examinations required in order for students to successfully complete the course. Students must attend at least 90 percent of the scheduled classroom hours in order to receive credit for the course.

History Note: Authority G.S. 93A-4; Eff. April 1, 2006.

21 NCAC 58F .0105 COURSE COMPLETION REPORTING AND PER STUDENT FEE

The provisions of 21 NCAC 58E .0406(a) through (d) relating to continuing education course completion reporting, course evaluations, course completion certificates and reporting non-compliance with participation standards shall also apply to the broker transition course and course sponsors shall, at the time of reporting course completion, pay to the Commission the per student fee prescribed by G.S. 93A-4.3(c).

History Note: Authority G.S. 93A-4; Eff. April 1, 2006.

21 NCAC 58F .0106 WITHDRAWAL OF SPONSOR AND INSTRUCTOR APPROVAL

The provisions of 21 NCAC 58E .0412 shall apply to any continuing education update course sponsor when conducting the broker transition course and the provisions of 21 NCAC 58E .0205 shall apply to any continuing education update course instructor when conducting the broker transition course. In addition, any violation of this Subchapter by a continuing education update course sponsor or instructor shall be grounds for withdrawal of the approval of a continuing education update course sponsor or instructor.

History Note: Authority G.S. 93A-4; Eff. April 1, 2006.

21 NCAC 63 .0403 RENEWAL FEES

(a) Fees for renewal of certificates or licenses which are due for renewal on or before June 30, 2000 shall be as follows:

- (1) For Certified Social Workers (CSW's) the renewal fee shall be fifty-five dollars (\$55.00).
- (2) For Certified Master Social Workers (CMSW's) the renewal fee shall be sixty-five dollars(\$65.00).
- (3) For Licensed Clinical Social Workers (LCSW's) the renewal fee shall be one hundred dollars (\$100.00).
- (4) For Certified Social Work Managers (CSWM's) the renewal fee shall be one hundred dollars (\$100.00)

(b) Fees for renewal of certificates or licenses which are due for renewal after June 30, 2000 shall be as follows:

- (1) For Certified Social Workers (CSW's) the renewal fee shall be sixty dollars (\$60.00).
- (2) For Certified Master Social Workers (CMSW's) the renewal fee shall be seventy-five dollars (\$75.00)
- (3) For Licensed Clinical Social Workers (LCSW's) the renewal fee shall be one hundred twenty-five dollars (\$125.00).
- (4) For Certified Social Work Managers (CSWM's) the renewal fee shall be one hundred twenty-five dollars (\$125.00).

(c) Persons whose applications for renewal are received by the Board after the renewal date of their certificate or license, but no later than 60 days after the renewal date, shall be assessed a late renewal fee of fifty dollars (\$50.00) in addition to any other applicable fees.

History Note: Authority G.S. 90B-6; 90B-6.2; 90B-9(b); Eff. August 1, 1987; Amended Eff. August 1, 1990; Temporary Amendment Eff. October 1, 1999; Amended Eff. March 1, 2006; July 1, 2000.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission on Thursday April 20, 2006, 10:00 a.m. at 1307 Glenwood Avenue, Assembly Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-733-2721. Anyone wishing to address the Commission should notify the RRC staff and the agency at least 24 hours prior to the meeting.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

Jim R. Funderburke - 1st Vice Chair
David Twiddy - 2nd Vice Chair
Thomas Hilliard, III
Robert Saunders
Jeffrey P. Gray

Appointed by House

Jennie J. Hayman - Chairman
Graham Bell
Lee Settle
Dana E. Simpson
John Tart

RULES REVIEW COMMISSION MEETING DATES

April 20, 2006 May 18, 2006
June 15, 2006 July 20, 2006

**RULES REVIEW COMMISSION
MARCH 16, 2006
MINUTES**

The Rules Review Commission met on Thursday, March 16, 2006, in the Assembly Room of the Methodist Building, 1307 Glenwood Avenue, Raleigh, North Carolina. Commissioners present were: Graham Bell, Jim Funderburk, Jeffrey Gray, Jennie Hayman; Thomas Hilliard; Robert Saunders, Lee Settle, Dana Simpson, John Tart and David Twiddy.

Staff members present were: Joseph DeLuca, Staff Counsel; Bobby Bryan, Rules Review Specialist, and Lisa Johnson, Administrative Assistant.

The following people attended:

Torrey McLean	DHHS/Division of Public Health
Sheila Higgins	DHHS/Division of Public Health
Elizabeth Cannon	DENR/Waste Management Division
Jean Stanley	Board of Nursing
Angela Ellis	Board of Nursing
Ed Strickland	Department of Revenue
Connie Pixley	DENR
Linda Wilkins	DENR
Nancy Pate	DENR
Roberta Ouellette	Appraisal Board
Cindy Kornegay	Division of Mental Health
Starleen Scott-Robbins	Division of Mental Health
Sandra Alley	Real Estate Commission
Tom Miller	Attorney General's Office
Mark Selph	General Contractors Board
Joe Moore	NC General Assembly
Karen Cochrane-Brown	NC General Assembly
Felicia Williams	OAH
Julie Edwards	OAH
Jeff Horton	DHHS/Division of Facility Services
Ellie Sprenkel	Department of Insurance
Frank Folger	Department of Insurance
Denise Stanford	Pharmacy Board/General Contractors Board

Dedra Alston	Child Care Commission
Lisa Pokoluk	Child Care Commission
Heather Laffer	Child Care Commission
Steve Dirksen	Board of Funeral Service
Andy Ellen	NC Realtors Merchants Association

APPROVAL OF MINUTES

The meeting was called to order at 10:06 a.m. with Chairman Hayman presiding.

Chairman Hayman asked for any discussion, comments, or corrections concerning the minutes of the February 16, 2006 meeting. The minutes were approved as written.

FOLLOW-UP MATTERS

12 NCAC 7D .0405: Private Protective Services Board – The attorney for the Board anticipates that this rule will be withdrawn by the agency. On March 20, staff did receive an email from the attorney withdrawing the rule from further consideration by the RRC.

21 NCAC 16B .0406: Board of Dental Examiners – The Commission approved the rewritten rule submitted by the agency.

21 NCAC 16M .0101: Board of Dental Examiners – The Commission approved the rewritten rule submitted by the agency.

21 NCAC 26 .0207: Board of Landscape Architects – The attorney for the Board anticipates that this rule will be withdrawn by the agency. On March 20, staff did receive an email from the attorney withdrawing the rule from further consideration by the RRC.

21 NCAC 57A .0201; .0301: Appraisal Board – The Commission approved the rewritten rules submitted by the agency.

21 NCAC 58A .0902; .1902: Real Estate Commission – The Commission approved the rewritten rules submitted by the agency.

21 NCAC 58C .0103; .0302: Real Estate Commission – The Commission approved the rewritten rules submitted by the agency.

21 NCAC 58F .0102: Real Estate Commission – The Commission approved the rewritten rule submitted by the agency.

21 NCAC 61 .0202: Respiratory Care Board – No response has been received, so no action was taken.

041214 Item B-2, B-1, B-2D1 903.2.7: Building Code Council – No response has been received, so no action was taken.

051213 Item D-3 10.10; Article 100: Building Code Council – No response has been received, so no action was taken.

21 NCAC 46 .2502: Board of Pharmacy – This rule was initially before the Commission for review at the January meeting. At that meeting the rule was referred to the Office of State Budget and Management for a determination of whether the rule had a substantial economic impact. This was done based on a request from Andy Ellen, General Counsel to the N.C. Retail Merchants Association. The following month Mr. Ellen asked to withdraw his request. He was joined in this request by Denise Stanford, counsel to the Pharmacy Board. They both made this request in anticipation that the Board would consider further changes in the rule based on avoiding a substantial economic impact and RRC staff concerns. A rewritten rule was submitted to the RRC for review at this meeting. After some discussion concerning the process this rule followed, as well as discussion of the substantive nature of the original submission and the way it was changed prior to this submission, the rule was approved. Commissioner Saunders voiced his concern over the precedent this might establish concerning the procedure this rule followed. He wanted to establish that the procedure in this case was taken as an individual case by the RRC, that the action is an independent action by the RRC and not required because of the request by the parties, and that it is not a binding precedent for future RRC action. After further discussion it was the consensus of the Commission that this rule has followed the requirements of the Administrative Procedure Act, but specific questions concerning the internal procedure followed have been answered on a case-by-case basis and do not establish a future precedent binding on the RRC. Those specific facts that resulted in the RRC's requesting OSBM to allow the rule to be returned to RRC without further review include a mutual request by the original requester and the rulemaking agency; the agreement of OSBM based, at least in part, on the fact that it had expended little work or time on its review; the indication that this rule might have a significant economic impact; and that the rulemaking agency indicated that it would be willing to rewrite the rule to alter or remove the provisions making the substantial economic impact.

LOG OF FILINGS

Chairman Hayman presided over the review of the log of permanent rules. All rules were approved unanimously with the following exceptions:

10A NCAC 09 .2802: Child Care Commission – The Commission objected to the rule based on ambiguity. In (f)(2) and (g) the rule is unclear what is to happen if the applicant does not meet the requirements for the specific voluntary star rating requested. Paragraph (g) gives three alternatives that may apply, all within the control and choice of the applicant. The applicant may accept whatever star rating is attained, whether higher or lower than the one applied for; may withdraw the request and reapply later; or may appeal the denial of the requested rating. However, in (f)(2), the rule provides that the Division “may issue the ... rating for which the operator is eligible”. If the choice is up to the operator, then this provision is unnecessary. If the choice of whether or not to grant the eligible rating is up to the Division, then this seems to conflict with (g), especially (g)(1).

10A NCAC 09 .2825: Child Care Commission - The Commission objected to the rule based on ambiguity. In (b), lines 13 and 14, it is unclear what the standards are that the Division will use in approving individuals who perform the rating scale assessments for star ratings points.

10A NCAC 13B .5502: Medical Care Commission – The Commission objected to the rule based on ambiguity. In (b), lines 14 and 15, it is unclear what is meant by “medically knowledgeable in transplantation and organ disease,” especially as it applies to the social worker or qualified mental health professional member of the team. It is unclear what standards the facility should use to make the determination and what standards the department would use in auditing or reviewing the team or facility for compliance with this requirement. In (b), lines 16 and 17, reference is made to a donor “deemed unsuitable for donation.” It is unclear who would make this determination and what the standards would be for that. It may be that it is simply a donor who is unsuitable based on all the rules, but that is not specified. In (c)(8) it is unclear what “consensus” the IDAT is supposed to reach. Is it, for example, the likelihood of success for the transplant itself or the likelihood of the donor’s safe recovery from the surgery, or could it be something else entirely. It is not clear whether the IDAT must be in “consensus” within itself as to the recommendation it is going to make to the transplant team. In the next rule there is the requirement that the “benefits to the potential donor must outweigh the risks.” This paragraph (c)(8) seems to imply that there might be some who would not agree that the benefits outweigh the risks, yet the transplant can proceed as long as whatever “reasons for proceeding” with the transplant and the “concerns” resulting in a lack of consensus are documented by the IDAT.

10A NCAC 13B .5503: Medical Care Commission – The Commission objected to the rule based on ambiguity. In (c) it is unclear who makes the determination that the “benefits to the potential donor must outweigh the risks associated with the donation and transplantation.” It is also unclear what these rules require if the determination is made that the benefits do not outweigh the risks, i.e. and especially whether the transplant can proceed. This paragraph (c) may also conflict with the requirement in the previous rule .5502(c)(8) that if consensus among the IDAT, the surgical team, and the transplant team cannot be achieved, that concerns must be documented before proceeding. That requirement seems to raise the possibility that some persons, including members of the surgical team, might not agree that the “benefits ... outweigh the risks.” And it again raises the question of what is required by this rule and whether the transplant can proceed. In (i) the rule specifies that it is the surgical team who makes the “final review and decision whether or not to proceed with the donation.” Unless it is the surgical team who makes the determination whether the benefits outweigh the risks, then someone else, e.g. the IDAT, may determine the benefits do not outweigh the risks but the transplant could proceed. It is not stated, and therefore in this context it is unclear whether the surgical team could make a determination that the benefits do not outweigh the risks yet proceed with the surgery.

10A NCAC 13B .5504: Medical Care Commission – The Commission objected to the rule based on ambiguity. In (9), the same issue concerning the term and requirement for “consensus” as raised in rule .5502(c) are presented here. It is unclear what “consensus” the IDAT is supposed to reach. Is it, for example, the likelihood of success for the transplant itself or the likelihood of the donor’s safe recovery from the surgery, or could it be something else entirely. It is not clear whether the IDAT must be in “consensus” within itself as to the recommendation it is going to make to the transplant team. It is also not clear in this rule among whom the consensus is sought. Is it only within the IDAT team, the IDAT and the transplant team, or all three teams? It is also unclear whether there should or would be any further consequences, such as going forward with the transplant, other than that the “concerns must be documented by the IDAT.”

Commissioner Twiddy did not participate in either the discussion or vote concerning rules from the Commission of Mental Health.

Commissioner Gray did not participate in either the discussion or vote concerning rules from the Department of Revenue.

21 NCAC 12 .0302: Licensing Board for General Contractors – The Commission objected to the rule due ambiguity. The last two sentences in this rule are inconsistent. One says that the Board will not charge more than the cost of publication and mailing, while the next says the Board will adjust the fees if the total cost is less than nine dollars. It is not clear what the charge is if the cost to the Board is more than nine dollars but less than \$13.00 or \$15.00 as appropriate.

21 NCAC 12 .0506: Licensing Board for General Contractors – The Commission objected to the rule due to lack of statutory authority and ambiguity. The authority cited for this rule, G.S. 150B-19(5), is general authority to charge a fee for certain services. Presumably this particular fee would be for either “b. a copy of part or all of a State ... document, the cost of mailing a document, or both ... [or] ... e. data processing services” in order to be covered by this general fee authority. This does not seem to be either one of these generally permitted fees. This is not an existing document, but rather an affidavit, a specific and unique one that is created for a particular need to meet a particular request. It is not the same as mailing out a copy of the license in question that might fall within the

exception found in 150B-19(5). It also would not constitute a “data processing service,” the exception found in 150B-19(5)e. It is “data processing” only in the most generic of senses that almost anything a Board does in regards to the paperwork or other work concerning licensees or permittees is “processing” that specific “data.” This does not seem to be the exception envisioned by the APA. This does not appear to be the same document as the roster required to be prepared by G.S. 87-8. In addition the rule is unclear in what standards are to be applied in determining whether to “furnish such affidavits free of charge to governmental entities” as set out in the last sentence, lines 6 and 7. Since this could be considered a waiver of the fee provision, those standards must be set out as specific guidelines within the rule (G.S. 150B-19(6). In addition there is no authority to set any standards for the Board’s decisions, whether as a waiver or otherwise, outside rulemaking. This objection applies to existing language in the rule.

21 NCAC 32S .0101: Medical Board – The Commission objected to the rule due to ambiguity. In (9), it is not clear what other examinations if any have been approved by the Board. It is also not clear what standards the Board will use in approving another examination.. This objection applies to existing language in the rule.

21 NCAC 32S .0102: Medical Board – The Commission objected to the rule due to ambiguity. In (3), it is not clear if any examinations other than the Physician Assistant National Certifying Examination has been approved by the Board, or what standards the Board will use in approving other examinations. This objection applies to existing language in the rule.

21 NCAC 32S .0104: Medical Board – The Commission objected to the rule due to ambiguity. In (b), it is not clear if any examinations other than the Physicians Assistant National Certifying Examination has been approved by the Board, or what standards the Board will use in approving other examinations.

21 NCAC 36 .0120: Board of Nursing – The Commission objected to the rule due to ambiguity. In (2), it is not clear what is meant by “a systemized body of nursing knowledge.” The rule says the term is defined in G. S. 90-171.20, but it is not.

21 NCAC 36 .0232: Board of Nursing – The Commission objected to the rule due to ambiguity. It is not clear what is required by Subparagraph (a) (3). While Subparagraphs (1) and (2) are vague, a licensee could probably provide a general statement that satisfied them. It is unlikely that a licensee reading (a) (3) would have any idea what he is to provide.

TEMPORARY RULES

Chairman Hayman presided over the review of the log of temporary rules. All rules were approved unanimously with the following additions and exceptions:

10A NCAC 43G .0101-.0111; .0201-.0206; .0301-.0305; .0401-.0410; .0502-.0512 – The Commission granted the agency’s request for a waiver of the requirement that temporary rules based upon a recent act of the General Assembly be submitted to the Commission within 210 days of the effective date of the act.

10A NCAC 43G .0112: Commission for Health Services – This rule was withdrawn by the agency.

15A NCAC 10 .0101; .0105: DENR – The Commission granted the agency’s request for a waiver of the requirement that temporary rules based upon a recent act of the General Assembly be submitted to the Commission within 210 days of the effective date of the act.

21 NCAC 50 .0301: Board of Examiners for Plumbing, Heating and Fire Sprinkler Contractors – This rule was withdrawn by the agency.

COMMISSION PROCEDURES AND OTHER BUSINESS

Mr. DeLuca asked the Commission if they would like to change the April meeting date to allow any rules approved at the April RRC meeting and that become subject to legislative review, to be delivered to the Legislature before the statutory deadline for the rule submitted to be reviewed by the General Assembly during this legislative session. No letters have been received to date and Commissioner Bell made a motion to keep the meeting as scheduled on April 20, 2006.

Mr. DeLuca also updated the Commission on the APO Meeting on March 9, 2006.

The meeting adjourned at 11:31 a.m.

The next scheduled meeting of the Commission is Thursday, April 20, 2006 at 10:00 a.m.

Respectfully submitted,
Lisa Johnson

LIST OF APPROVED TEMPORARY RULES March 16, 2006 Meeting

MEDICAL CARE COMMISSION

<u>Application for and Issuance of License</u>	10A NCAC 13J .0903
<u>Personnel</u>	10A NCAC 13J .1003
<u>Supervision and Competency of In-Home Aides or Other In-H...</u>	10A NCAC 13J .1110

HEALTH SERVICES, COMMISSION FOR

<u>General Policies</u>	10A NCAC 43G .0101
<u>Definitions</u>	10A NCAC 43G .0102
<u>Location of Services</u>	10A NCAC 43G .0103
<u>Types of Services Provided</u>	10A NCAC 43G .0104
<u>Eligibility for Direct Services</u>	10A NCAC 43G .0105
<u>Fees</u>	10A NCAC 43G .0107
<u>Administration</u>	10A NCAC 43G .0108
<u>Children's Developmental Services Agencies</u>	10A NCAC 43G .0109
<u>Eligibility</u>	10A NCAC 43G .0110
<u>Service Plan -Service Delivery</u>	10A NCAC 43G .0111
<u>Center-Program Operations Manual</u>	10A NCAC 43G .0201
<u>Personnel Management</u>	10A NCAC 43G .0202
<u>Safety</u>	10A NCAC 43G .0203
	10A NCAC 43G .0204
<u>Integration of Services with Local Communities</u>	10A NCAC 43G .0205
<u>Forms</u>	10A NCAC 43G .0206
<u>Clinical Assessment Services</u>	10A NCAC 43G .0301
<u>Treatment and Client/Family Instruction Services</u>	10A NCAC 43G .0302
<u>Case Management Services</u>	10A NCAC 43G .0303
<u>Screening Services</u>	10A NCAC 43G .0304
<u>Case-Specific Technical Assistance Services</u>	10A NCAC 43G .0305
<u>Confidentiality</u>	10A NCAC 43G .0401
<u>Information from Other Agencies</u>	10A NCAC 43G .0402
<u>Ownership of Records</u>	10A NCAC 43G .0403
<u>Security of Records</u>	10A NCAC 43G .0404
<u>Right of Access</u>	10A NCAC 43G .0405
<u>Withholding Information from the Client</u>	10A NCAC 43G .0406
<u>Contested Information</u>	10A NCAC 43G .0407
<u>Procedure Obtaining Permission for Release of Information</u>	10A NCAC 43G .0408
<u>Disclosure for the purpose of Research</u>	10A NCAC 43G .0409
<u>Disclosure Pursuant to a Court Order</u>	10A NCAC 43G .0410
<u>Definitions</u>	10A NCAC 43G .0502
<u>Provider Eligibility</u>	10A NCAC 43G .0503
<u>Client Eligibility</u>	10A NCAC 43G .0504
<u>Allocation of Funds</u>	10A NCAC 43G .0505
<u>Allocation of Funds</u>	10A NCAC 43G .0506
<u>Reporting Requirements</u>	10A NCAC 43G .0507
<u>Client and Third Party Fees</u>	10A NCAC 43G .0508
<u>Application for Funds</u>	10A NCAC 43G .0509

RULES REVIEW COMMISSION

<u>Budgeting of Grant Funds</u>	10A NCAC 43G .0510
<u>Annual Plan</u>	10A NCAC 43G .0511
<u>Renewal of Grant Funds</u>	10A NCAC 43G .0512

ENVIRONMENT AND NATURAL RESOURCES, DEPARTMENT OF

<u>Scope of Delegated Authority</u>	15A NCAC 01O .0101
<u>Agents Serving as Contractors</u>	15A NCAC 01O .0105

PHARMACY, BOARD OF

<u>Registration</u>	21 NCAC 46 .3301
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**LIST OF APPROVED PERMANENT RULES
March 16, 2006 Meeting**

CHILD CARE COMMISSION

<u>Definitions</u>	10A NCAC 09 .0102
<u>On-Going Requirements for a Permit</u>	10A NCAC 09 .0304
<u>Requirements for a One Star Rated License for a Child Car...</u>	10A NCAC 09 .0305
<u>Administrative Policies Required</u>	10A NCAC 09 .1601
<u>Operational and Personnel Policies</u>	10A NCAC 09 .1602
<u>Space Requirements</u>	10A NCAC 09 .1604
<u>Staff/Child Ratios</u>	10A NCAC 09 .1606
<u>Caregiving Activities for Preschool-Aged Children</u>	10A NCAC 09 .1612
<u>Parent Participation</u>	10A NCAC 09 .1613
<u>Night Care</u>	10A NCAC 09 .1615
<u>Scope</u>	10A NCAC 09 .2801
<u>Program Standards for a Three Component Rated License for...</u>	10A NCAC 09 .2803
<u>Administrative Policies</u>	10A NCAC 09 .2804
<u>Operational and Personnel Policies</u>	10A NCAC 09 .2805
<u>Caregiving Activities for Preschool-aged Children</u>	10A NCAC 09 .2806
<u>Parent Participation</u>	10A NCAC 09 .2807
<u>Night Care</u>	10A NCAC 09 .2808
<u>Space Requirements</u>	10A NCAC 09 .2809
<u>Staff/Child Ratios</u>	10A NCAC 09 .2810
<u>Program Standards for a Two Component Rated License for C...</u>	10A NCAC 09 .2817
<u>Staff/Child Ratios for a Two Component Rated License for ...</u>	10A NCAC 09 .2818
<u>Education Standards for a Two Component Rated License for...</u>	10A NCAC 09 .2819
<u>Education Standards for a Two Component Rated License for...</u>	10A NCAC 09 .2820
<u>Program Standards for a Two Component Rated License for F...</u>	10A NCAC 09 .2821
<u>Education Standards for a Two Component Rated License for...</u>	10A NCAC 09 .2822
<u>Quality Point Options</u>	10A NCAC 09 .2823

MEDICAL CARE COMMISSION

<u>Applicability of Rules</u>	10A NCAC 13B .5501
<u>Perioperative Care and Facility Support</u>	10A NCAC 13B .5505

<u>Discharge Planning</u>	10A NCAC 13B .5506
 MENTAL HEALTH, COMMISSION OF	
<u>Scope</u>	10A NCAC 27G .1801
<u>Requirements of Licensed Professionals</u>	10A NCAC 27G .1802
<u>Requirements of Qualified Professionals</u>	10A NCAC 27G .1803
<u>Minimum Staffing Requirements</u>	10A NCAC 27G .1804
<u>Operations</u>	10A NCAC 27G .1805
<u>Transfer or Discharge</u>	10A NCAC 27G .1806
<u>Scope</u>	10A NCAC 27G .4401
<u>Staff</u>	10A NCAC 27G .4402
<u>Operations</u>	10A NCAC 27G .4403
<u>Scope</u>	10A NCAC 27G .4501
<u>Staff</u>	10A NCAC 27G .4502
<u>Operations</u>	10A NCAC 27G .4503
 HEALTH SERVICES, COMMISSION FOR	
<u>Application Process</u>	10A NCAC 39A .1005
<u>Control Measures Tuberculosis</u>	10A NCAC 41A .0205
<u>General Definitions</u>	10A NCAC 41F .0101
<u>Reporting of Chemical-Related Illness or Injury</u>	10A NCAC 41F .0102
<u>Method of Reporting</u>	10A NCAC 41F .0103
 MANUFACTURED HOUSING BOARD	
<u>Complaints</u>	11 NCAC 08 .1202
 JUSTICE, DEPARTMENT OF	
<u>Location</u>	12 NCAC 02J .0101
<u>Purposes</u>	12 NCAC 02J .0102
<u>Administrative Staff</u>	12 NCAC 02J .0103
<u>Definitions</u>	12 NCAC 02J .0104
<u>Minimum Standards for Campus Police Officers</u>	12 NCAC 02J .0201
<u>Application for Campus Police Agency</u>	12 NCAC 02J .0202
<u>Application for Campus Police</u>	12 NCAC 02J .0203
<u>Background Investigation</u>	12 NCAC 02J .0204
<u>Fee</u>	12 NCAC 02J .0205
<u>Oath</u>	12 NCAC 02J .0206
<u>Liability Insurance</u>	12 NCAC 02J .0207
<u>Suspension, Revocation or Denial of Agency Certification</u>	12 NCAC 02J .0208
<u>Suspension, Revocation or Denial of Officer</u>	12 NCAC 02J .0209
<u>Period of Suspension, Revocation or Denial</u>	12 NCAC 02J .0210
<u>Summary Suspensions</u>	12 NCAC 02J .0211
<u>Tenure</u>	12 NCAC 02J .0301
<u>Prohibited Acts</u>	12 NCAC 02J .0302
<u>Transfers</u>	12 NCAC 02J .0303

<u>Badges, Uniforms, Vehicles and Officer Identification</u>	12	NCAC	02J	.0304
 ENVIRONMENT AND NATURAL RESOURCES, DEPARTMENT OF				
<u>The Aquatic Weed Control Act</u>	15A	NCAC	02G	.0601
<u>Noxious Aquatic Weed List</u>	15A	NCAC	02G	.0602
 HEALTH SERVICES, COMMISSION FOR				
<u>Stds for the Mgmt of Specific HW/Types</u>	15A	NCAC	13A	.0111
<u>The Hazardous Wast Permit Program-Part 270</u>	15A	NCAC	13A	.0113
 REVENUE, DEPARTMENT OF				
<u>Returns</u>	17	NCAC	07B	.0104
<u>Certificates of Exemption Sales for Resale</u>	17	NCAC	07B	.0106
<u>Application of Tax to Fish Bait</u>	17	NCAC	07B	.0109
<u>Stamps, Coins, Etc.</u>	17	NCAC	07B	.0111
<u>Auctioneers and Auction Sales</u>	17	NCAC	07B	.0113
<u>REsearch Services</u>	17	NCAC	07B	.0115
<u>Commercial Fishermen Certificate of Exemption</u>	17	NCAC	07B	.0123
<u>Adjustments and Replacements</u>	17	NCAC	07B	.0801
<u>Cabinetmakers</u>	17	NCAC	07B	.0803
<u>Sign Fabricating and Painting</u>	17	NCAC	07B	.0805
<u>Repairs and Alterations Generally</u>	17	NCAC	07B	.0806
<u>Fire Extinguishers Recharging</u>	17	NCAC	07B	.0811
<u>Advertising and Advertising Agencies</u>	17	NCAC	07B	.0901
<u>Advertising Artists</u>	17	NCAC	07B	.0902
<u>Public Relations Firms</u>	17	NCAC	07B	.0904
<u>Barber and Beautician Supplies</u>	17	NCAC	07B	.1001
<u>Shoe Repairmen</u>	17	NCAC	07B	.1002
<u>Watch Clock and Jewelry Repairmen</u>	17	NCAC	07B	.1003
<u>In-State Deliveries</u>	17	NCAC	07B	.1302
<u>Deliveries to Donees</u>	17	NCAC	07B	.1303
<u>Sales to or by Nonprofit Entities</u>	17	NCAC	07B	.1601
<u>Refunds to Nonprofit Entities</u>	17	NCAC	07B	.1602
<u>Sales to Employees</u>	17	NCAC	07B	.2001
<u>Gifts to Employees</u>	17	NCAC	07B	.2002
<u>Interstate Sale</u>	17	NCAC	07B	.2302
<u>Moving and Packing Materials</u>	17	NCAC	07B	.2502
<u>Secondhand Furniture</u>	17	NCAC	07B	.2503
<u>Sales Through Vending Machines</u>	17	NCAC	07B	.2901
<u>Sales of Vending Machines</u>	17	NCAC	07B	.2902
<u>Printing of Containers</u>	17	NCAC	07B	.4702
<u>Printing Surface Supplies</u>	17	NCAC	07B	.4705
<u>Offset Printing Equipment</u>	17	NCAC	07B	.4706
<u>Printing Chemicals</u>	17	NCAC	07B	.4707
<u>Postage Charges by Printers</u>	17	NCAC	07B	.4708
<u>Bookbinders</u>	17	NCAC	07B	.4710

<u>Gas Sold to Printers</u>	17	NCAC	07B	.4711
<u>Metal for Making Type</u>	17	NCAC	07B	.4712
<u>Typewriters Sold to Printers</u>	17	NCAC	07B	.4713
<u>Mounting Tape Sold to Printers</u>	17	NCAC	07B	.4714
<u>Newspaper Publishers Machinery</u>	17	NCAC	07B	.4715
<u>Typesetting</u>	17	NCAC	07B	.4716
<u>Photographs Newspaper</u>	17	NCAC	07B	.4717

GENERAL CONTRACTORS, LICENSING BOARD FOR

<u>Eligibility</u>	21	NCAC	12	.0204
<u>Filing Deadline/App Seeking Qual/Emp/Another</u>	21	NCAC	12	.0205
<u>Person Taking Examination</u>	21	NCAC	12	.0408
<u>Improper Practice</u>	21	NCAC	12	.0701

DENTAL EXAMINERS, BOARD OF

<u>Board Conducted Reexamination</u>	21	NCAC	16B	.0406
<u>Dentists</u>	21	NCAC	16M	.0101

MEDICAL BOARD

<u>Temporary License</u>	21	NCAC	32S	.0103
<u>Scope of Practice</u>	21	NCAC	32S	.0108
<u>Supervision of Physician Assistants</u>	21	NCAC	32S	.0110
<u>Supervising Physicians</u>	21	NCAC	32S	.0111
<u>Notification of Intent to Practice</u>	21	NCAC	32S	.0112
<u>Practice During A Disaster</u>	21	NCAC	32S	.0118

FUNERAL SERVICE, BOARD OF

<u>Election to Crematory Authority</u>	21	NCAC	34C	.0101
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NURSING, BOARD OF

<u>Facilities</u>	21	NCAC	36	.0322
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PHARMACY, BOARD OF

<u>Responsibilities of Pharmacist-Manager</u>	21	NCAC	46	.2502
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APPRAISAL BOARD

<u>Qualifications for Trainee Registration</u>	21	NCAC	57A	.0201
<u>Time and Place</u>	21	NCAC	57A	.0301

REAL ESTATE COMMISSION

<u>Requests for Rulings Disposition of Requests</u>	21	NCAC	58A	.0902
<u>Postlicensing Education Requirement</u>	21	NCAC	58A	.1902
<u>Criteria for Approval</u>	21	NCAC	58C	.0103
<u>Program Structuring</u>	21	NCAC	58C	.0302

AGENDA
RULES REVIEW COMMISSION
April 20, 2006, 10:00 A.M.

- I. Reminder of Governor's Executive Order #1
- II. Review of minutes of last meeting
- III. Follow-Up Matters
 - A. Child Care Commission - 10A NCAC 09 .2802; .2825 (DeLuca)
 - B. Medical Care Commission – 10A NCAC 13B .5502 - .5504 (DeLuca)
 - C. Board for Licensing General Contractors – 21 NCAC 12 .0302; .0506 (Bryan)
 - D. Medical Board – 21 NCAC 32S .0101; .0102; .0104 (Bryan)
 - E. Board of Nursing – 21 NCAC 36 .0120; .0232 (Bryan)
 - F. Respiratory Care Board – 21 NCAC 61 .0202 (DeLuca)
 - G. Building Code Council – 041214 Items B-2, B-1, B-2D1 903.2.7 (Bryan)
 - H. Building Code Council – 051213 Item D-3 10.10 and Article 100 (Bryan)
- IV. Review of Rules (Log Report)
- V. Review of Temporary Rules (If any)
- VI. Commission Business
- VII. Next meeting: May 18, 2006

Commission Review/Permanent Rules
Log of Filings
February 21, 2006 through March 20, 2006

HHS-MEDICAL ASSISTANCE

The rules in Chapter 22 are medical assistance eligibility rules.

The rules in Subchapter 22O establish what medical assistance is provided including rules about general provisions (.0100); dental services (.0200); amount, duration and scope of assistance; and limitation of amount, duration, and scope of assistance (.0400).

Therapeutic Leave
Amend/*

10A NCAC 22O .0409

SOCIAL SERVICES COMMISSION

The rules in Chapter 70 are from the Social Services Commission and deal with children's services.

The rules in Subchapter 70A deal with protective services including general (.0100); and community child protection teams (.0200).

<u>Purpose</u> Amend/*	10A	NCAC	70A	.0101
<u>Confidentiality Central Registry Responsible Individuals ...</u> Amend/*	10A	NCAC	70A	.0102
<u>Definitions</u> Amend/*	10A	NCAC	70A	.0104
<u>When Abuse, Neglect or Dependency is Found</u> Amend/*	10A	NCAC	70A	.0107
<u>Assuming Temporary Custody of a Child</u> Amend/*	10A	NCAC	70A	.0110
<u>Case Records for Protective Services</u> Amend/*	10A	NCAC	70A	.0112
<u>Expunction Process</u> Adopt/*	10A	NCAC	70A	.0114

LABOR, DEPARTMENT OF

The rules in Chapter 15 pertain to elevators and amusement devices and include general provisions (.0100); various industry codes and standards (.0200); elevators and related equipment (.0300); amusement devices (.0400); penalties (.0500); forms (.0600); fees (.0700).

<u>Passenger Tramway Inspection Fee Schedule</u> Adopt/*	13	NCAC	15	.0705
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WILDLIFE RESOURCES COMMISSION

The rules in Chapter 10 are promulgated by the Wildlife Resources Commission and concern wildlife resources and water safety.

The rules in Subchapter 10B are hunting and trapping rules and cover general hunting and wildlife provisions (.0100), hunting specific animals (.0200), trapping (.0300), and tagging furs (.0400).

<u>Dog Training and Field Trials</u> Amend/*	15A	NCAC	10B	.0114
<u>Wild Birds Defined</u> Amend/*	15A	NCAC	10B	.0121
<u>Possession of Certain Species of Wildlife Resources</u> Amend/*	15A	NCAC	10B	.0123
<u>Importation of Animal Parts</u> Adopt/*	15A	NCAC	10B	.0124
<u>Bear</u> Amend/*	15A	NCAC	10B	.0202
<u>Deer</u> Amend/*	15A	NCAC	10B	.0203
<u>Squirrels</u> Amend/*	15A	NCAC	10B	.0206
<u>Wild Turkey</u> Amend/*	15A	NCAC	10B	.0209
<u>Crow</u> Amend/*	15A	NCAC	10B	.0215

RULES REVIEW COMMISSION

<u>Striped Skunk</u> Adopt/*	15A	NCAC	10B	.0221
<u>Open Seasons</u> Amend/*	15A	NCAC	10B	.0302

The rules in Subchapter 10C cover inland fishing including jurisdictional issues involving the Marine Fisheries Commission (.0100), general rules (.0200), game fish (.0300), non-game fish (.0400) and primary nursery areas (.0500).

<u>Public Mountain Trout Waters</u> Amend/*	15A	NCAC	10C	.0205
<u>Open Seasons: Creel and Size Limits</u> Amend/*	15A	NCAC	10C	.0305
<u>Manner of Taking Non-game Fishes</u> Amend/*	15A	NCAC	10C	.0401
<u>Taking Non-game Fishes for Bait</u> Amend/*	15A	NCAC	10C	.0402

The rules in Subchapter 10D are game lands rules.

<u>General Regulations</u> Amend/*	15A	NCAC	10D	.0102
<u>Hunting on Game Lands</u> Amend/*	15A	NCAC	10D	.0103

The rules in Subchapter 10F cover motorboats and water safety including boat registration (.0100); safety equipment and accident reports (.0200); and local water safety regulations covering speed limits, no-wake restrictions, restrictions on swimming and other activities, and placement of markers for designated counties or municipalities (.0300).

<u>Perquimans County</u> Amend/*	15A	NCAC	10F	.0355
<u>Cherokee</u> Amend/*	15A	NCAC	10F	.0359
<u>Hertford</u> Adopt/*	15A	NCAC	10F	.0372

The rules in Subchapter 10J cover wildlife conservation areas.

<u>General Regulations Regarding Use of Conservation Areas</u> Amend/*	15A	NCAC	10J	.0102
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RADIATION PROTECTION COMMISSION

The rules in Chapter 11 are from the Division of Radiation Protection and cover a broad and diverse range of applications including general provisions (.0100); registration of radiation machines, facilities and services (.0200); licensing of radioactive material (.0300); safety requirements for industrial radiography operations (.0500); use of x-rays in the healing arts (.0600 - .0700); requirements for analytical x-ray (x-ray diffraction or fluorescence analysis) equipment (.0800); requirements for particle accelerators (.0900); requirements for notices, instructions, reports, and inspections (.1000); fees (.1100); land disposal of radioactive waste (.1200); tanning facilities and equipment (.1400); requirements for obtaining licenses authorizing access to low-level radioactive waste disposal facilities (.1500); and standards for protection against radiation resulting from activities regulated by this Chapter (.1600).

<u>Definitions</u> Amend/*	15A	NCAC	11	.0104
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<u>Financial Assurance and Recordkeeping for Decommissioning</u> Amend/*	15A NCAC 11 .0353
<u>Occupational Dose Limits for Adults</u> Amend/*	15A NCAC 11 .1604

WATER TREATMENT FACILITY OPERATORS CERTIFICATION BOARD

The rules in Chapter 18 deal with environmental health.

The rules in Subchapter 18D concern water treatment facility operators including general policies (.0100); qualification of applicants and classification of facilities (.0200); applications and fees (.0300); issuance of certificate (.0400); rule-making procedures (.0500); contested cases (.0600) and operation and management (.0700).

<u>Definitions</u> Amend/*	15A NCAC 18D .0105
<u>Grades of Certification</u> Amend/*	15A NCAC 18D .0201
<u>Examinations</u> Amend/*	15A NCAC 18D .0202
<u>Application for Exam</u> Amend/*	15A NCAC 18D .0301
<u>Application for Reciprocity</u> Repeal/*	15A NCAC 18D .0302
<u>Certification Reinstatement</u> Amend/*	15A NCAC 18D .0309
<u>Reciprocal Certificates</u> Repeal/*	15A NCAC 18D .0405
<u>Operator in Responsible Charge</u> Amend/*	15A NCAC 18D .0701

REVENUE, DEPARTMENT OF

The rules in Chapter 3 deal with individual income, inheritance, and gift taxes.

The rules in Subchapter 3C concern gift taxes.

<u>Extensions</u> Amend/*	17 NCAC 03C .0108
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The rules in Chapter 6 deal with individual income taxes.

The rules in Subchapter 6B concern individual income tax including filing rules (.0100); personal exemptions (.0300); annuities and pensions (.0400); general (.0500); other tax credits (.0600); active and reserve duty military pay (.0700); installment sales (.0800); sale of principal residence (.0900); private annuity transactions (.1000); involuntary conversation (.1100); cost basis of property (.1200); tenancy by the entirety (.1300); income and deductions of decedents (.1400); stock dividends and stock rights (.1500); basis of divested stock (.1600); exempt income (.1700); scholarship and fellowship grants (.1800); employee death benefits (.1900); depreciation and depletion (.2000); conservation and land clearing (.2100); travel expenses (.2200); education expenses (.2300); moving expenses (.2400); retirement plans (.2500); carry-over loss (.2600); interest deduction (.2700); taxes paid (.2800); casualty and theft losses (.2900); contributions (.3000); medical expenses (.3100); penalties individual income tax (.3200); accounting periods and methods (.3300); statute of limitations and federal changes (.3400); partnerships (.3500); life estate and remainder interest (.3600); estates and trusts (.3700); miscellaneous rules (.3800); non-residents and part-year residents (.3900) and S corporation (.4000).

<u>Extensions</u> Amend/*	17 NCAC 06B .0107
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<u>Fraud Penalty</u>	17	NCAC	06B	.3206
Amend/*				
<u>Nonresidents</u>	17	NCAC	06B	.3902
Amend/*				

The rules in Subchapter 6D concern estimated tax including filing estimated income tax payments (.0100) and penalties for underpayment of estimated income tax (.0200).

<u>Requirements for Filing</u>	17	NCAC	06D	.0102
Amend/*				
<u>General</u>	17	NCAC	06D	.0201
Amend/*				
<u>Period of Underpayment</u>	17	NCAC	06D	.0210
Amend/*				

AUCTIONEER LICENSING BOARD

The rules in Chapter 4 concern the Commission for Auctioneers.

The rules in Subchapter 4B are from the Auctioneer Licensing Board including organization and general provisions (.0100); application for license (.0200); examinations (.0300); licensing (.0400); schools of auctioneering (.0500); general auctioneering (.0600); recovery fund (.0700) and continuing education (.0800).

<u>Definitions</u>	21	NCAC	04B	.0103
Amend/*				
<u>Application Forms</u>	21	NCAC	04B	.0201
Amend/*				
<u>Subject Matter</u>	21	NCAC	04B	.0301
Amend/*				
<u>License Number Display of License and Pocket Card</u>	21	NCAC	04B	.0401
Amend/*				
<u>Requirements for Approval Minimum Standards</u>	21	NCAC	04B	.0502
Amend/*				
<u>Advertising</u>	21	NCAC	04B	.0602
Amend/*				
<u>Contracts, Consignment Records, Sales Records, and Bidder...</u>	21	NCAC	04B	.0604
Amend/*				
<u>Bidding</u>	21	NCAC	04B	.0605
Amend/*				
<u>Auction Firms</u>	21	NCAC	04B	.0606
Adopt/*				
<u>Non-Auction Firm Businesses</u>	21	NCAC	04B	.0607
Adopt/*				
<u>Course Completion Reporting</u>	21	NCAC	04B	.0806
Amend/*				
<u>Alternative Compliance</u>	21	NCAC	04B	.0819
Amend/*				

COSMETIC ART EXAMINERS, BOARD OF

The rules in Chapter 14 are from the Cosmetic Art Examiners.

Renewals Expired Licenses Required 21 NCAC 14P .0105
Amend/*

PLUMBING, HEATING AND FIRE SPRINKLER CONTRACTORS, BOARD OF EXAMINERS FOR

The rules in Chapter 50 are from the Plumbing, Heating and Fire Sprinkler Contractors including rules about organization (.0100); forms (.0200); examinations (.0300); general procedures (.0400); policy statements and interpretative rules (.0500); contested cases (.1000); fees (.1100); petitions for rules (.1200); declaratory rulings (.1300); and continuing education (.1400).

Qualifications Determined by Examination 21 NCAC 50 .0301
Amend/*

Issuance of License 21 NCAC 50 .0306
Amend/*

Employees Exempted From Licensure 21 NCAC 50 .0512
Amend/*

Limited Fire Sprinkler Maintenance Technician License 21 NCAC 50 .0515
Amend/*

Continuing Education Requirements 21 NCAC 50 .1401
Amend/*

Exemptions and Credits 21 NCAC 50 .1402
Amend/*

Course Requirements and Limitations 21 NCAC 50 .1404
Amend/*

VETERINARY MEDICAL BOARD

The rules in Chapter 66 are from the Veterinary Medical Board including statutory and administrative provisions (.0100); practice of veterinary medicine (.0200); examination and licensing procedures (.0300); rules petitions hearings (.0400); declaratory rulings (.0500); administrative hearings procedures (.0600); administrative hearings decisions related rights (.0700) and judicial review (.0800).

Application and Examination 21 NCAC 66 .0301
Amend/*

COMMUNITY COLLEGES, BOARD OF

The rules in Chapter 2 concern Community Colleges.

The rules in Subchapter 2C deal with the organization and operation of the colleges including trustees and colleges (.0100); personnel (.0200); students (.0300); libraries and learning resource centers (.0400); equipment (.0500); college evaluation (.0600); and civil rights (.0700).

Donated or Loaned Property 23 NCAC 02C .0503
Amend/*

The rules in Subchapter 2D cover the fiscal affairs of community colleges including salaries (.0100), student fees (.0200) and budgeting, accounting and fiscal management (.0300).

Open-End Design Agreements 23 NCAC 02D .0605
Adopt/*

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

Beryl E. Wade

Melissa Owens Lassiter

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>
<u>ALCOHOL AND BEVERAGE COMMISSION</u>				
Richard S Blazak, Park View Lounge v. ABC	96 ABC 0053	Gray	07/06/05	
ABC Comm. & City of Asheville v. Elijah Ulysses Jones T/A Jones Convenience Store	98 ABC 0962	Gray	07/12/05	
ABC Comm v. Rudean Robinson Harris T/A Rudean's Diner & Lounge 3	03 ABC 1214	Conner	06/28/05	
ABC Comm v. Desperado's Inc T/A Desperado's	04 ABC 1192	Wade	07/20/05	
ABC Commission v. Don Mariachi Ventures, Inc, T/A El Mariachi Gordo	05 ABC 0188	Morrison	02/01/06	
ABC Comm. v Nuntia Ester Davis T/A N and R Grocery 2	05 ABC 0209	Lassiter	09/13/05	
Cameron's One Stop, Sank Cameron v. ALE Agent B Haynes, Ann H. Johnson, Permit Comm Mgr.	05 ABC 0799	Elkins	07/28/05	
ABC Commission v Carlos Salas, T/A Boom Room Night Club	05 ABC 1831	Conner	01/11/06	
ABC Commission v. Loeffler Enterprises, Inc.,	05 ABC 1842	Conner	01/11/06	
ABC Commission v. Partnership, T/A John Boys County Store	05 ABC 1843	Conner	01/11/06	
<u>BOARD OF LICENSING OF GEOLOGISTS</u>				
James W King, PG v Board of Licensing of Geologists	05 BOG 0149	Morrison	08/10/05	
<u>BOARD OF MEDICAL EXAMINERS</u>				
Ricky E. Townsend v. Medical Board	05 BME 1435	Morrison	12/12/05	
<u>ACTIONEERS LICENSING BOARD</u>				
Robert H. Rankin, Jr., NCAL #6727 v. Auctioneers Licensing Board	04 CFA 1497	Mann	05/13/05	
<u>COMMERCE, DEPARTMENT OF</u>				
Land-of-Sky Regional Council v. Dept of Commerce, Div of Emp. & Trning	96 COM 1921	Gray	07/05/05	
<u>CRIME VICTIMS COMPENSATION</u>				
Dwight D Hoover Sr. v. Victims Compensation Commission	04 CPS 0988	Conner	07/07/05	
Moreno Edoardo Lovejoy v. Crime Control & Public Safety, Victime Comp. Services Division, Crime Victims Compensation Commission	04 CPS 1176	Wade	09/22/05	
Myrtle Perry v. Crime Victims Compensation Commission	04 CPS 1190	Chess	06/21/05	
Marion A Liles v Dept. of Crime Control & Public Safety, Victims Compensation Service Division	05 CPS 0150	DeLuca	07/29/05	
Cecelia Reid v DCCPS, Div of Vic Comp Svcs, Crime Vic Comp Comm	05 CPS 0220	Lassiter	08/08/05	
Rhonda Lynnette Rhodes v. Crime Victims Compensation Program	05 CPS 0484	Gray	06/23/05	
Brenda Edwards, d/b/a B&H Wrecker Service v. Dept. of Crime Control & Public Safety, Div. of State Highway Patrol	05 CPS 0510	Lassiter	10/19/05	
Terry Ramey, d/b/a Ramey Wrecker Service v. Dept. of Crime Control & Public Safety, Division Of State Highway Patrol	05 CPS 0511	Lassiter	10/18/05	
Curtis Glenn Davis v. Crime Control and Public Safety Crime Victims Compensation Commission	05 CPS 0529	Bryan	10/10/05	
Jamaal O Staten v. Crime Victims Compensation Commission	05 CPS 0711	Elkins	07/28/05	

CONTESTED CASE DECISIONS

Sandra A. Tinsley v. Crime Victims Compensation Services	05 CPS 0850	Lassiter	12/02/05	
Ora Evan v. Crime Control and Public Safety, Division of Victim Compensation Services	05 CPS 1578	Gray	11/18/05	
Robert Eugene Blue, Jr. v. OAH	05 CPS 1678	Chess	02/13/06	
BOARD OF ELECTIONS				
Republican Governors Association & Holly Lynn Koerber v. State Board of Elections	04 BOE 2051	Morrison	06/30/05	20:02 NCR 100
HEALTH AND HUMAN SERVICES				
MedVisit, Inc. v. Div. of Medical Assistance (DHR)	94 DHR 0012	Gray	07/12/05	
Patsy Norris v. Department of Human Resources	94 DHR 0895	Gray	07/06/05	
Small World DC II, Trena McDaniel v DHHS, Div of Child Dev.	00 DHR 2202 ²	Gray	08/08/05	
Michelle and Doug Sanders, DHHS	01 DHR 0002	Gray	01/27/06	
Trena S McDaniel & Small World DC II v. DHHS, Div of Child Dev.	01 DHR 0321 ²	Gray	08/08/05	
Richard McKinley Whited v. DHHS	02 DHR 0024	Gray	08/04/05	
Jeffrey D. Cannon v. DHHS, Walter B Jones ADACT	03 DHR 0488	Conner	06/29/05	
Aundria Shante Edwards v DHHS, Division of Facility Services	03 DHR 0806	Gray	08/10/05	
Jamie Kearney v. DHHS	03 DHR 0924	Gray	10/04/05	
Constance Pierce v. DHHS	03 DHR 1236	Conner	01/11/06	
Thomas Reiter, a minor, by his mother & legal guardian, Kathryn Reiter	03 DHR 1253	Gray	06/27/05	20:03 NCR 144
Teresa South and Michael South v. DHHS, DMA, Third Party Recovery Section	03 DHR 1515	Gray	10/04/05	
Nina Sherean Hughes v. DHHS, Div of Facility Services	03 DHR 1595	Gray	10/03/05	
Louise Li Lai Fong v. DHHS, Division of Facility Services	03 DHR 1714	Wade	06/27/05	
Lenwood E Hargrove, Wilma Hargrove v. Div. of Medical Assistance	03 DHR 1737	Conner	07/27/05	
Geana E. Anderson v. DHHS, Division of Facility Services	03 DHR 2063	Gray	06/24/05	
Friendly Elm Rest Home (60)	03 DHR 2402	Conner	01/04/06	20:16 NCR
Gaile Thomas v. DHHS, Division of Facility Services	04 DHR 0110	Lassiter	06/21/05	
Mecca L Stewart v DHHS, Division of Facility Services	04 DHR 0213	Elkins	08/15/05	
Fatmata Gbondo v. DHHS, DFS	04 DHR 0241	Elkins	10/05/05	
Otis D. Wyche, Jr., v. DHHS, Div. of Facility Services	04 DHR 0294	Chess	05/16/05	
North Brook Rest Home, Inc v. DHHS, Adult Licensure Section	04 DHR 0407	Conner	07/26/05	
Priscilla Thomas d/b/a Thomas, Priscilla Small Day Care Home-ID#4605036 v. DHHS, Division of Child Development	04 DHR 0539 ¹	Mann	06/03/05	
Patricia Lowe Tiller v. DFS, Health Care Personnel Registry Section, DHHS	04 DHR 0598	Gray	02/16/06	
Onslow County Behavioral Healthcare Services, Daniel M. Jones, Area Director v. DFS, Stephanie Alexander, Chief	04 DHR 0768	Conner	11/29/05	
Jamie Lynn Hensley v. DHHS, Div. of Facility Services	04 DHR 0917	Wade	05/16/05	
Aaron Anderson v. DHHS, Div. of Medical Assistance (DMA)	04 DHR 0929	Gray	08/10/05	
Carla Jean Summers v. DHHS, DFS	04 DHR 1020	Lassiter	09/21/05	
Bernice Haddock v. DHHS	04 DHR 1058	Gray	12/29/06	
Patricia A. Reece v. DHHS, Division of Facility Services	04 DHR 1062	Mann	07/27/05	20:05 NCR 266
Mario Flores v. DHHS, Division of Facility Services	04 DHR 1110	Mann	08/01/05	
Kid's Day Out Child Care and Learning Cneter, Inc, ID #76000079 v. DHHS, Division of Child Development	04 DHR 1119	Conner	10/27/05	
Sarah Ada Keller and John George Keller, Jr., for Justin Dean Keller v DHHS Division of Medical Assistance	04 DHR 1158	Wade	11/18/05	
Charleese K Garrison, mother of Jasmine C Garrison v. DHHS, Division of Medical Assistance	04 DHR 1168	Gray	08/03/05	
Carla Jean Summers v. DHHS, DFS	04 DHR 1222	Lassiter	09/19/05	
Betty Louise Bridges v. DHHS, DFS	04 DHR 1300	Conner	09/22/05	20:09 NCR
Starr Meadows v. DHHS, Div. of Medical Assistance	04 DHR 1334	Wade	10/18/05	
Priscilla Thomas d/b/a Thomas, Priscilla Small Day Care Home-ID#4605036 v. DHHS, Division of Child Development	04 DHR 1413 ¹	Mann	06/03/05	
Wake Forest University Health Sciences (Lessor) and Huntersville Dialysis Center of Wake Forest University d/b/a Huntersville Dialysis Center (Lessee) v. DHHS, Div. of Facility Services, CON Section and Bio-Medical Applications of NC, Inc. and Total Renal Care of North Carolina, LLC	04 DHR 1406	Conner	05/18/05	
Dawn Allison v. Div. of Medical Assistance	04 DHR 1444	Mann	05/27/05	
Stanlina Williams v. DHHS, DFS	04 DHR 1473	Conner	10/31/05	
Julia Carver Thompson v DHHS	04 DHR 1498	Conner	09/13/05	
Rosa E. Arias v. Patricia M. Epps – HCPR Nurse Investigator, Health Care Personnel Registry	04 DHR 1505	DeLuca	10/07/05	
Autumn Green Adult Care Home, Patricia L. Tiller v. DHHS, DFS	04 DHR 1526	Gray	10/03/05	
Filippo Porco v. DHHS, Health Care Personnel Registry Investigations	04 DHR 1647	Elkins	09/29/05	
Graves Center for Community Development and Social Change v. DHHS, DFS	04 DHR 2137	Chess	02/08/06	
Dorothy S Coleman v DHHS	04 DHR 2247	Elkins	07/28/05	
Maxine L Froneyberger v DHHS, Division of Facility Services, Health Care Personnel Registry Section	04 DHR 2286	Chess	08/25/05	
Gloria Keller v. Health Care Personnel Registry Investigation	05 DHR 0096	DeLuca	10/05/05	

CONTESTED CASE DECISIONS

LaKenya S. Perry v Division of Child Development	05 DHR 0112	Gray	08/24/05
Katherine Lewis (guardian) in lieu of Francis Curran Lewis (son) v. Wilson-Greene Mental Health Center, CAP Program	05 DHR 0117	Wade	10/06/05
Keith's Kids, Inc, Keith Richardson v DHHS, Div. of Facility Services	05 DHR 0196	Wade	08/31/05
Lakisha Sessoms v. DHHS, DFS	05 DHR 0227	Wade	01/10/06
Tara Sue Clark-Grubb v. Guilford County Dept. of Social Services, Laura Blackwell, Tonya Dupree Freeman, Stacy Taylor-Greene	05 DHR 0243	Conner	06/10/05
Vicky Richardson v DHHS	05 DHR 0262	Wade	08/10/05
Teresa Sharon Pyles v. Mecklenburg Co. DSS, Kuralt Centre	05 DHR 0264	Wade	06/20/05
Belinda Darnell Hawkins v. DHHS, Div of Facility Services	05 DHR 0265	Elkins	06/09/05
LaQuasha K Massey v. DHHS, Division of Social Services	05 DHR 0294	Lassiter	07/11/05
Wade R Kearney II v. DHHS, Office of Emer Medical Services	05 DHR 0325	Lassiter	07/25/05
Agnes Williams v. DHHS, DFS	05 DHR 0366	Lassiter	10/24/05
Cherry Bruce Kearney, Operator 7 th Heaven Day Care v. DHHS, Division of Facility Services	05 DHR 0382	Wade	06/20/05
DSS, Deloise Bryant v Halifax County Adoption Agency	05 DHR 0388	Lassiter	07/14/05
Janet Stovall v DHHS	05 DHR 0403	Chess	08/08/05
Sabrina R. Betts, d//b/a Service First – The Alpha House v. DHHS, DFS Mental Health Licensure and Certification Section	05 DHR 0409	Chess	12/20/05
Tammy Trejo v. Office of Administrative Hearings	05 DHR 0452	Gray	06/15/05
Maria Shante Holley v DHHS, DFS	05 DHR 0461	Wade	07/18/05
Albert Ansah Amoatey v. DHHS	05 DHR 0459	Mann	07/20/05
Erdem Narter v. DHHS, Division of Facility Services	05 DHR 0463	Mann	06/16/05
Eric & Carolyn Blue v DHHS	05 DHR 0476	Chess	08/23/05
Jerry Lemar Pettus v Off. Of Emergency Medical Services	05 DHR 0496	Mann	07/19/05
Reginald Lamar Brown v. DSS, Wilson, NC	05 DHR 0527	Mann	11/15/05
Veronica M Black v. DHHS, Division of Facility Services	05 DHR 0533	Gray	08/10/05
Valerie R McGahee ID #26001205 Elite Land Child Care & Learning Center v. DHHS, Division of Child Development	05 DHR 0534	Lassiter	09/12/05
D'Jetta D Miley for Jordana Correa v. Wake Co. Dept. of Human Services	05 DHR 0570	Lassiter	06/02/05
William Henry Lane v. DHHS, Div. of Medical Assistance	05 DHR 0571	Chess	05/31/05
Bennie Frederick, Jr., v. DHHS, Div of Social Services	05 DHR 0572	Wade	09/22/05
Stephanie Marie Mabe v DHHS	05 DHR 0590	Elkins	08/11/05
Dinah Ann Lumpkin v. DHHS	05 DHR 0613	Conner	01/04/06
Estate of Alma M Merrill, Kelly Merrill Dozier-heir v. Medicaid, Third Party Recovery Section	05 DHR 0628	Wade	10/17/05
Denise Warren v Cumberland Co. Department of Social Services	05 DHR 0630	Morrison	08/19/05
PJ's Child Care Learning Center #2 v DHHS, Div of Child Development	05 DHR 0633	Lassiter	08/10/05
Candace L Wood on behalf of Caitlyn A Wood v. OPC Men Hlth Area Prog	05 DHR 0649	Conner	08/01/05
Candace L Wood on behalf of Waylon S Keeter v. OPC Men Hlth Area Prog	05 DHR 0650	Conner	08/01/05
Candace L Wood on behalf of Caitlyn A Wood v Alamance Caswell MHDDSA	05 DHR 0651	Conner	07/12/05
Candace L Wood on behalf of Caitlyn A Wood v Alamance Caswell MHDDSA	05 DHR 0652	Conner	07/12/05
Peachstate Nutrition Services, Inc., Karen Riner v. DHHS, Div. of Public Health, Child and Adult Care Food Program	05 DHR 0653	Morrison	12/28/05
Rose McRae v. DHHS, Division of Health Services	05 DHR 0662	Elkins	07/18/05
Charles Edward Shaw, Jr v Dorothea Dix Hospital	05 DHR 0675	Elkins	09/15/05
Walter G Dunston v. DHHS, Division of Facility Services	05 DHR 0688	Elkins	07/11/05
Pinebrook Residential Facility #1 v DHHS, DFS, Adult Care Licensure Sec	05 DHR 0704	Conner	07/26/05
Cheryl Delk v John Umstead Hospital	05 DHR 0716	Elkins	08/11/05
Felicia Boykin, RHIA, Moses Cone Hospital v. DHHS, DMA	05 DHR 0719	Elkins	12/20/05
Barbara Munch v. DHHS	05 DHR 0725	Morrison	07/22/05
Gwendolyn Bain v. Hoke Co Dept of Social Svcs, Ms Christin Basil	05 DHR 0749	Lassiter	07/22/05
Victor Jones, SCW Residential Care, Inc v. DHHS, DMH, DD & SAS	05 DHR 0755	Lassiter	12/16/05
Princess Watson v. DMA, Third Party Recovery Section	05 DHR 0759	Mann	01/25/06
Amy Hallisey, Pharmacist, Target Pharmacy-Lawndale, Greensboro v. DHHS Accounts Receivable, Division of Medical Assistance	05 DHR 0762	Elkins	08/11/05
Lindsey L Shumacher v DHHS, John Umstead Hospital	05 DHR 0772	Elkins	08/11/05
Amanda M Walters v. DHHS	05 DHR 0779	Elkins	07/28/05
Lisa Shull v. DHHS	05 DHR 0782	Mann	09/14/05
Vernie Ross v. DHHS	05 DHR 0814	Mann	09/14/05
Aralyn F Pressley v DHHS, Div. of Facility Services	05 DHR 0800	Morrison	08/17/05
A Child's Creation DC, Inc., Betty G. Sturgess, v. DHHS, Div. of Child Development, Regulatory Service Section	05 DHR 0826	Gray	01/09/06
Julie Torain v. DHHS	05 DHR 0831	Chess	11/07/05
Tamesha Taft v. DHHS	05 DHR 0836	Gray	08/04/05
Linda M Currie v. Medicaid	05 DHR 0854	Gray	07/07/05
Geneva Walton v DHHS, Division of Facility Services	05 DHR 0861	Chess	07/21/05
James E. Taylor v. DHHS	05 DHR 0887	Wade	12/07/05
Claire Diggs v. Moore County, Program Integrity Unit	05 DHR 0915	Gray	08/10/05
Robert S. Moser Jr., v. DHHS, DMA, 3 rd Part Recovery	05 DHR 0916	Lassiter	12/05/05
Franchesca L Camp v Nurse Aide 1 & Health Care Registry	05 DHR 0919	Lassiter	07/27/05
Damien Godette v. DHHS	05 DHR 0923	Wade	12/07/05
Benny Brown v. DHHS, Division of Facility Services	05 DHR 0949	Elkins	07/28/05
Clarissa Bailey v DHHS	05 DHR 0961	Conner	08/30/05
Frank Haley v. DHHS, DFS, Health Care Personnel Registry Section	05 DHR 0991	Gray	12/28/05
Samuel E. Harrison, Jr. v. Forsyth County Department of Social Services,	05 DHR 0992	Gray	03/10/06

CONTESTED CASE DECISIONS

Winston-Salem Children's Medicaid Office			
LaVyonne Diaz Evans v DHHS, Division of Facility Services	05 DHR 0994	Lassiter	08/16/05
Charles P. Robinson v. Ms. Santana T. Deberry v. DHHS	05 DHR 1005	Elkins	01/19/06
Narell C. Joyner Scholars, Inc v. DHHS	05 DHR 1013	Gray	10/20/05
Michelle A. Galloway v. DHHS, DFS	05 DHR 1042	Gray	10/03/05
Sandra Gregory v. DHHS, Div. of Child Development	05 DHR 1043	Lassiter	10/26/05
Wakilat Oloko v. DHHS, DFS	05 DHR 1058	Elkins	09/29/05
John & Mitzi Wolf v. DHHS	05 DHR 1059	Morrison	12/12/05
Priscilla Vann v. Laura Peterson and Dept. of Social Services	05 DHR 1063	Conner	10/26/05
Amanda Davis Mitchell v. DHHS, DFS	05 DHR 1078	Mann	12/12/05
Tracy Anderson v DHHS, Division of Facility Services	05 DHR 1095	Elkins	09/09/05
Roy L. Simpson Jr v. DHHS, DFS, Health Care Personnel Registry Section	05 DHR 1102	Gray	10/25/05
Tiffany Charles v Office of Administrative Hearings	05 DHR 1105	Gray	09/07/05
Brookside Montessori School v. DHHS, Div of Child Development	05 DHR 1119	Wade	10/12/05
Esther Thompson v. Vance County Dept. of Social Services, Marchita Vann, DHHS, Santana Deberry	05 DHR 1132	Chess	10/03/05
Tammy R. Sykes v. Dare County Social Services, Margaret Scott	05 DHR 1139	Elkins	09/22/05
Hospice & Palliate Care Charlotte Region v. DHHS, DFS, Con Section And Liberty Home Care II, LLC	05 DHR 1142	Elkins	12/14/05
Patricia Collins v. OAH	05 DHR 1174	Elkins	11/01/05
The Learning Tree Enrichment Center, Inc. Joyce W. Cunningham v. The Division of Child Development, DHHS	05 DHR 1184	Elkins	12/13/05
Juanita Williamson, Wee Ones Child Care 67000753 v. Satana T.Deberry DHHS	05 DHR 1218	Lassiter	10/24/05
Shirley Michelle Reinhardt v. DHHS, DFS	05 DHR 1224	Lassiter	09/29/05
Rosetta Starks v. DHHS, DFS, Health Care Personnel Registry Section	05 DHR 1232	Elkins	10/31/05
Janice Arnette, Id# 63000117 v. Div. of Child Development	05 DHR 1257	Lassiter	11/21/05
Steven R. Hudspeth v. DMA	05 DHR 1261	Elkins	12/14/05
Peggy McLendon v. DHHS	05 DHR 1265	Elkins	01/19/06
Unity Tabernacle Christian Day Care v. Division of Child Development	05 DHR 1269	Gray	12/08/05
Vince Horhorouny v. DHHS, Dept. of the Controllor	05 DHR 1325	Conner	11/17/05
Earnie B. Walker v. DHHS, DMA	05 DHR 1332	Elkins	11/01/05
Romie McCarty, Jr., v. DHHS, DMA	05 DHR 1361	Gray	12/29/05
Joseph Lawrence James, Health Care Registry	05 DHR 1373	Chess	12/19/05
Marianne Stephenson v. DHHS	05 DHR 1414	Gray	12/05/05
Top Flow Family Care Services d/b/a Tara Cottage v. DMA	05 DHR 1416	Chess	12/09/05
Diversicare Assisted Living of New Port HAL-016-004 v. DFS, DHHS Carteret County DSS	05 DHR 1422	Lassiter	11/02/05
Angel Chandler v. DHHS	05 DHR 1446	Conner	11/03/05
Virginia L. Richmond v. John Umstead Hospital	05 DHR 1454	Morrison	11/02/05
Mumbanga Charlotte Mozobo v. DHHS, DFS	05 DHR 1471	Wade	12/14/05
Georgia A. Powell v. Health Care Personnel Registry Section, DHHS, DFS	05 DHR 1565	Elkins	01/27/06
Lori C. Spence for Julia Spence v. Division of Medical Assistance	05 DHR 1617	Wade	12/07/05
Susan K. Hainey v. ACS/Div of Medical Assistance	05 DHR 1680	Lassiter	11/21/05
Richelle Joyner v. DHHS, DFS	05 DHR 1683	Morrison	02/15/06
David Travis DeBerry v. DHHS, DMA, Third Party Recovery	05 DHR 1687	Conner	01/04/06
Charlesse K. Garrison, as mother of Jasmine C. Garrison, a minor v. N.C. Department of Health and Human Services, Division of Medical Assistance, and the State Board of Nursing	05 DHR 1732	Chess	02/24/06
My Brother's Keeper, Jamie Kearney v. DMA	05 DHR 1769	Morrison	02/15/06
Dr. Vallie Guthrie, NC A&T University, NC Mathematics and Science Education Network	05 DHR 1864	Morrison	01/31/06
Nicole Phillips v. DHHS	05 DHR 1877	Wade	02/21/06
Shelinda Sutton v. Div. of Child Development	05 DHR 1984	Lassiter	02/23/06
Liggins Family Care – Woodmere Center, Glenda Liggins	05 DHR 2011	Gray	02/03/06
Choice Health Management Services v. DHHS, DFS, CON Section	05 DHR 2043	Gray	02/03/06
Choice Health Management Services, Facility 920763, v. DHHS, DFS CON Section	05 DHR 2072	Gray	01/27/06
Alisa Faulkner v. Health and Human Services	05 DHR 2202	Lassiter	03/13/06
Sheena Monalisa Connelly v. DHHS	06 DHR 0032	Lassiter	03/02/06
William Henry Lane v. Carolina Access Enrolle, NC Medicaid	06 DHR 0035	Wade	02/21/06
Ann Margaret Garner v. N.C. Department of Health and Human Services, Division of Facility Services, Health Care Personnel Registry Section	06 DHR 0079	Gray	03/08/06
Crystal Goldston v. N.C. Department of Health and Human Services	06 DHR 0117	Gray	03/14/06
Kiddie Kingdom Samantha Hawkins v. North Carolina Department of Health and Human Services, Division of Public Health, Child and Adult Care Food Program	06 DHR 0158	Chess	02/28/06

A list of Child Support Decisions may be obtained by accessing the OAH Website: www.ncoah.com/decisions.

DEPARTMENT OF JUSTICE

Andrew Arnold Powell, Jr. v. Crim Just Educ & Trng Stds Comm.	01 DOJ 1771	Chess	07/19/05
Carlos Orellana v. Private Protective Services Board	04 DOJ 0813	Conner	08/01/05
David Upchurch v. Criminal Justice Education and Training Stds. Comm.	04 DOJ 1157	Lassiter	05/13/05
Phillip William Engle v Sheriffs' Education and Training Stds. Comm.	04 DOJ 1283	Mann	06/28/05

20:03 NCR 148

CONTESTED CASE DECISIONS

Edward Keith Royal v. Criminal Justice Education & Training Stds. Comm.	04 DOJ 2194	Gray	06/28/05
Richard Michael Ashley v. Criminal Justice Education & Stds. Comm	04 DOJ 2256	Wade	10/17/05
Tabitha Ann Boyland v. Sheriffs' Educ. & Training Standards Comm.	05 DOJ 0156	Elkins	07/08/05
Shuntaneka Brooks v State Bureau of Investigation	05 DOJ 0296	Lassiter	09/07/05
Ralph Robert Hines, II v. Criminal Justice Educ. & Training Standards Comm.	05 DOS 0482	Elkins	08/24/05
George Augustus Pyecha v. Criminal Justice Education & Training Stds Commission	05 DOJ 0483	Chess	09/09/05
Teddy Lynn Warren v. Criminal Justice Education & Training Stds. Comm.	05 DOJ 0505	Conner	06/23/05
Mark Dana Wilson v. Criminal Justice Education and Training Standards Commission	05 DOJ 0530	Gray	11/29/05
Amanda Gayle Talbert v. Criminal Justice Educ. and Training Stds. Comm.	05 DOJ 0648	Lassiter	06/15/05
Amanda Gale Hughes v Sheriffs' Educ Trng Stds. Comm.	05 DOJ 0666	Wade	07/18/05
Jeremy Westbrook v. Alarm Systems Licensing Board	05 DOJ 0693	Lassiter	07/19/05
Gary Lee King v Private Protective Services Board	05 DOJ 0830	Lassiter	09/12/05
Phillip Ray Cox v. Company Police Program	05 DOJ 0895	Elkins	11/30/05
Kevin Jon Kern v. Criminal Justice Education & Training Stds. Comm.	05 DOJ 0928	Lassiter	10/10/05
Donald Lee Newton v Criminal Justice Educ. & Training Standards Comm.	05 DOJ 0929	Gray	09/12/05
Glenn Eric Nealy v. Criminal Justice Education and Training Standards Comm.	05 DOJ 0995	Morrison	12/15/05
John Thomas Suttle v. Company Police Program	05 DOJ 1026	Gray	11/22/05
Robert Baxter Wilkerson III v Private Protective Services Board	05 DOJ 1074	Bryan	08/22/05
Charles Michael Campbell v. Criminal Justice Education & Training Standards Commission	05 DOJ 1149	Gray	12/29/05
Steven William Neu v Sheriffs' Education & Training Standards Comm.	05 DOJ 1169	Lassiter	09/08/05
Timothy Robert Parker v. Sheriffs' Education and Training Standards Comm.	05 DOJ 1187	Gray	12/28/05
Sybil Yvonne Murrill v. Sheriffs' Education & Training Stds. Comm.	05 DOJ 1188	Lassiter	09/19/05
Erin Gerome Bryant v. Sheriffs' Education & Training Standards Comm	05 DOJ 1239	Chess	01/10/06
Rodney Thomas Edens v. Sheriffs' Education and Training Standards Comm.	05 DOJ 1247	Morrison	12/22/05
Todd Austin Cahoon v. Criminal Justice Education and Training Stds Commission	05 DOJ 1519	Lassiter	12/02/05
Debbie Denise Outlaw v. N.C. Sheriffs' Education and Training Standards Commission	05 DOJ 1585	Lassiter	03/08/06
Robert Matthew King v. Sheriffs' Education and Training Stds. Comm.	05 DOJ 1605	Morrison	03/01/06
Jodi Claudette Stewart v. Criminal Justice Education and Training Stds. Comm	05 DOJ 1968	Lassiter	03/02/06
Robert G. Prince, Jr., v. Alarm Systems Licensing Board	05 DOJ 2035	Wade	12/30/05
Nicholas Scott Bowlin v. Alarm Systems Licensing Board	05 DOJ 2036	Wade	12/30/05
Mary Frances Poole v. Private Protective Services Board	05 DOJ 2228	Morrison	03/01/06

DEPARTMENT OF TRANSPORTATION

Vernon Park Exxon, Inc., Station No. 14184, and Danny Spence v. DOT, DMV	05 DOT 1054	Chess	09/06/05
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DEPARTMENT OF STATE TREASURER

Roy Kevin Tripp v. Dept of St Treasurer, St Retirement Agency	04 DST 1422	Conner	07/27/05
George L. Brown v Dept of St. Treasurer, Retirement Systems Division	05 DST 0147	Morrison	07/22/05
Tony M Martin v Dept. of State Treasurer, Retirement Systems Division	05 DST 0253	Lassiter	08/31/05
Robert A. Gabriel, Sr., v. Dept. of State Treasurer	05 DST 0586	Gray	10/21/05
Cynthia Lee Williams v. DST, Retirement Systems Division	05 DST 0964	Lassiter	11/10/05
Robert A. Gabriel v. Dept. of State Treasurer	05 DST 1358	Gray	09/23/05
Queen Thompson v. State Treasurer's Office	05 DST 2187	Lassiter	03/03/06

EDUCATION, STATE BOARD OF

East Winston Primary School Corporation v. State Board of Education	03 EDC 0029	Chess	09/02/05
Harry Talmadge Englebert v. State Board of Education	03 EDC 1548	Gray	01/06/06
Susan Hebach v. Dept. of Public Instruction	05 EDC 0140	Lassiter	09/27/05
James H. Ballard v State Board of Education	05 EDC 0948	Conner	09/15/05
Michael L. McIntosh v. DPI	05 EDC 1097	Elkins	11/07/05

ENVIRONMENT AND NATURAL RESOURCES

Webster Environmental, Inc v. DENR, Asbestos Hazard Mgmt Branch	94 EHR 0225	Gray	07/06/05
Webster Environmental, Inc v. DENR, Asbestos Hazard Mgmt Branch	94 EHR 0774	Gray	07/06/05
JFG, Inc, Mr. Wayne Pierce, Pres. v. Onslow Co Health Dept & DEH&NR, Division of Environmental Health	95 EHR 0110	Gray	07/06/05
Southwinds Homeowners Association v. DEHNR, Div. of Env. Health	95 EHR 0271	Gray	07/06/05
Sandy Mitchell & E Ward Norris v. Mecklenburg Co Health Dept and DEHNR	95 EHR 0306	Gray	07/06/05
Ralph K & Carolyn Emery v. Montgomery Co Health & Env. Section	95 EHR 0317	Gray	07/06/05
Deerfield Shores Utility Co v. Carteret Co Environmental Health Dept.	95 EHR 0354	Gray	07/05/05
Ron Launder v. Vance Co. Health Department	95 EHR 0515	Gray	07/05/05
Bardusch Corporation v. DENR	97 EHR 1265	Gray	01/10/06
Tall Pines Plantation Property Owners Assoc. Inc. v. DENR	01 EHR 1638	Gray	08/17/05

CONTESTED CASE DECISIONS

Heater Utilities, Inc v. NCDENR, Division of Water Quality	02 EHR 0009	Gray	07/06/05	
Tera B Slaughter v DENR	02 EHR 1286	Conner	08/01/05	
Charles C. Barker, Kenneth W. Frazier v. DENR	02 EHR 1714	Wade	11/01/05	
John & Elizabeth Kaylor v. DENR	03 EHR 0046	Conner	06/29/05	
Colonial Pipeline Co. v DENR, Division of Water Quality	03 EHR 0112 ³	Connor	09/12/05	
Colonial Pipeline Co. v DENR, Division of Water Quality	03 EHR 0815 ³	Connor	09/12/05	
Federal Land & Timer Corp v. DENR	03 EHR 1718	Gray	07/28/05	
Terry D. Gregory and wife, Pennie Gregory v. DENR, Div. of Coastal Management and Michael D. Swearingen, Jr.	03 EHR 2201	Gray	09/30/05	20:10 NCR
Cynthia Williamson Putnam v DENR	03 EHR 2383	Conner	09/12/05	
Brenda Severt, David and Nancie Wilson v. DENR	04 EHR 0383	Gray	10/25/05	
Rebecca Page v. DENR	04 EHR 0458	Bryan	09/20/05	
Milton T. Gibson v. Cumberland County Health Dept., Environmental Health	04 EHR 0990	Lassiter	10/11/05	
Robert L. Grissett v. DENR	04 EHR 1237	Chess	05/16/05	
Ellen Darrigrand & husband Charles Darrigrand v. DENR, Div/Coastal Mgmt	04 EHR 1469	Mann	06/30/05	20:05 NCR 270
Yvonne D. Bledsoe, Bledsoe Construction Co., v. DENR, Div. of Land Quality	04 EHR 1562	Creech	01/04/06	20:16 NCR
Glenda Daniel v. Halifax Co Health Dept, Env Health Division	04 EHR 1583	Conner	07/27/05	
Matthew and Kathy Johnson v. DENR	04 EHR 2163	Conner	06/01/05	
Affordable Appliance, Jack Steale v. DENR	04 EHR 2164	Conner	05/31/05	
William Nelms v. DENR, Div. of Air Quality	04 EHR 2264	Conner	10/13/05	
Cathy Epps v. DENR, Div. of Air Quality	05 EHR 0130	Wade	12/07/05	
Clegg's Termite and Pest Control., Inc., v. DENR, Div Waste Management	05 EHR 0328	Lassiter	12/13/05	
Rebecca Page v. DENR	05 EHR 0458	Bryan	09/20/05	
Don R McGee, McGee's Brother's Co. v. DENR, Div. of Air Quality	05 EHR 0509	Mann	09/07/05	
Lynn E. Graham v. Co. of Durham, Engineering Dept.	05 EHR 0878	Gray	10/06/05	
Ronald G. Overcash v. DENR, Div. of Waste Management, UST Section	05 EHR 0883	Elkins	01/31/06	
Robert W Hudson v. Division of Marine Fisheries	05 EHR 0886	Morrison	07/05/05	
Freedman Farms v. Fayetteville, Div of Water Quality Office	05 EHR 0905	Conner	11/21/05	
Daniel J Smith v State of NC Environmental Health	05 EHR 0925	Lassiter	08/08/05	
John C Gallop, Jane Gallop Newbern v. DENR/Div of Coastal Mgmt	05 EHR 0941	Gray	07/29/05	
Robert B. Montouri GC v. New Hanover Co. Health Dept.	05 EHR 1001	Morrison	10/03/05	
Rosalind Nixon, All Good Detail Inc, v. DENR	05 EHR 1215	Lassiter	10/13/05	
George R. Gelsinger Jr. v. DENR, Land Quality Section	05 EHR 1253	Elkins	10/31/05	
Keith Spain, Rosewood Farms, LLC v. DENR	05 EHR 1442	Wade	12/07/05	
Betty C. Penuel v. Duplin Co. Environmental Health	05 EHR 1476	Conner	12/21/05	
Wood Lake Utilities, Jeffrey B House, MV-2005-0010 v. DENR, Mr. Dan Oakley, General Counsel	05 EHR 1629	Morrison	02/10/06	

DEPARTMENT OF INSURANCE

Anne B. Hooper v. Teachers' and State Employees' Comprehensive Major Medical Plan	93 INS 0989	Gray	01/09/06	
Pentech Infusions, Inc., AS/Assignee of Betty W. Green and Ava Cathey v. Teachers' and State Employees' Comprehensive Major Medical Plan	03 INS 1518	Elkins	10/07/05	
Rachael Elizabeth Ragin v. Teachers' and State Employees' Comprehensive Major Medical Plan	04 INS 1299	Conner	09/26/05	

MISCELLANEOUS

Aaron Lewis v. General Court of Justice, District Court, Div-Small Claims Chris Hardison, Magistrate	06 MIS 0037	Morrison	03/02/06	
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OFFICE OF STATE PERSONNEL

Charles D Bailey v Department of Cultural Resources	02 OSP 0002 ⁴	Conner	09/12/05	
Leavander J. Cheeks v Department of Cultural Resources	02 OSP 0002 ⁴	Conner	09/12/05	
Vicki B Tamer v. Department of Public Instruction	03 OSP 0243	Gray	08/15/05	
Brenda Haug v. Employment Security Commission of North Carolina, Harry Payne, Commissioner, Sharon Morris, Director of Human Resources, Rick Elingburg, Office Manager	03 OSP 0589	Gray	03/08/06	
Arlene R Burwell v Department of Corrections	03 OSP 0621	Conner	09/12/05	
Eddie Ray Creech v. Department of Corrections	03 OSP 0831	Wade	05/17/05	
Arlene Burwell v. DOC, Division of Prisons, Polk Youth Institution	03 OSP 0851 ⁵	Conner	11/07/05	
Kathy Sledge v. Department of Corrections	03 OSP 1092	Conner	06/27/05	
Arlene Burwell v. DOC, Division of Prisons, Polk Youth Institution	03 OSP 1141 ⁵	Conner	11/07/05	
Michael B. Carraway v. Wildlife Resources Commission, Div. of Wildlife Management	03 OSP 1545	Gray	09/07/05	
Jack Mason v. Wildlife Resources Commission, Div. of Wildlife Mgt.	03 OSP 1555	Gray	09/07/05	
David Thomas Sawyer v. Wildlife Resources Commission, Div. of Wildlife Mgt.	03 OSP 1556	Gray	09/07/05	
Arlene Burwell v. DOC, Division of Prisons, Polk Youth Institution	03 OSP 1743 ⁵	Conner	11/07/05	
Robert Earl Regan, Jr v DCCPS, State Highway Patrol	03 OSP 2321	Conner	09/12/05	

CONTESTED CASE DECISIONS

Wanda Thompson v. Pitt Public Health Center	04 OSP 0116	Gray	11/23/05	
Edward Todd Suttles v. Crime Control and Public Safety State Highway Patrol	04 OSP 0711	Wade	01/03/06	
James A Ray v. UNC at Greensboro, Facility Services	04 OSP 0751	Elkins	06/28/05	
Willie Steve Tellado v Dept. of Transportation	04 OSP 0858	Wade	07/18/05	
Donald E. Cline, PH.D v. J.H. Lyall, PH.D, O'Berry Center	04 OSP 1091	DeLuca	10/05/05	
Mona Dale Batten v Columbus Co Department of Social Services	04 OSP 1194	Gray	09/07/05	
Donald E. Cline, PH.D v. J.H. Lyall, PH.D, O'Berry Center	04 OSP 1247	DeLuca	10/05/05	
Loretta G Hooks v. Department of Corrections	04 OSP 1266	Wade	07/11/05	
Demeatress Gholston v. NCSU, Computer Science Department	04 OSP 1279	Mann	02/01/06	
Clayton R. Richardson v. Winston-Salem State University	05 OSP 1343	Lassiter	01/18/06	
Melvin G. Cline., Jr., v. J. Iverson Riddle Development Center and the NC Department of Health and Human Services	04 OSP 1360	Wade	12/15/05	
Wayne Pettit v Department of Correction	04 OSP 1458	Gray	08/04/05	
Carroll (ED) Swain v. UNC-Chapel Hill	04 OSP 1476	Gray	09/20/05	
Daisy L. Smith v. Cumberland Co Mental Health Center	04 OSP 1558	Elkins	07/28/05	20:05 NCR 291
Jacqueline Hightower v Wayne Co Dept of Social Services	04 OSP 1563	Lassiter	09/09/05	
Michael A. Kelly v. DENR	04 OSP 1572	Gray	12/28/05	
Steven Wayne Mobley v. DENR	04 OSP 1573	Gray	12/28/05	
Shelli Henderson Rice v. ESC of NC	04 OSP 1574	Gray	06/27/05	
James O. Mitchell v. DOT	04 OSP 1639	Elkins	11/28/05	
V Wayne Johnson v Department of Transportation	04 OSP 1716	Elkins	07/06/05	
Mimi Jakelsky v. DHHS	05 OSP 1731	Chess	01/13/06	
Beverly R Lee v. Employment Security Commission of NC	04 OSP 1742	Conner	08/03/05	
David J. Savage v. DOI	04 OSP 1773	Lassiter	01/18/06	
Robert D Jones v Hendsen County Dept. of Public Health	04 OSP 2081	Gray	08/01/05	
Mary Cogdell v. Wayne Co. Dept. of Social Services, Judy Pelt, Director	04 OSP 2117	Wade	10/11/05	
Regina C Gaither v. Forsyth Co Department of Social Services	05 OSP 0047	Conner	06/27/05	
Thomas Freeman, Jr. v. DHHS/Murdoch Center	05 OSP 0071	Wade	08/15/05	
Tracy L. Phillips v. North Carolina A & T State University	05 OSP 0183	Mann	03/03/06	
Percy L. Edwards v. Dept. of Juvenile Justice & Delinquency Prevention	05 OSP 0252	Lassiter	11/30/05	
Thomas A Horton v. Dept. of Crime Control and Public Safety	05 OSP 0389	Lassiter	06/02/05	
Anthony Bruce Allen v Department of Transportation	05 OSP 0418	Chess	06/09/05	
Peggy Anderson v. Whitaker School, NC DHHS	05 OSP 0427	Gray	10/25/05	
Angela Twitty v DOC, Marion Correctional Institution	05 OSP 0491	Wade	08/31/05	
Alan Bradford v. Avery Co.	05 OSP 0493	Wade	10/06/05	
Derek H. Babson v. Department of Transportation	05 OSP 0515	Chess	05/31/05	
James Albert Keyes v. DOT	05 OSP 0553	Gray	12/15/06	
Mary K French Fornes v DOC Eastern Correctional Institution	05 OSP 0584	Gray	07/08/05	
James R Campbell v Forsyth Co Department of Social Services	05 OSP 0587	Elkins	08/26/05	
Gloria Woodard v. Lyndo Tippet, Secretary, NC DOT	05 OSP 0588	Lassiter	06/24/05	
William Rhodney Reep v. DOT, DMV	05 OSP 0717	Lassiter	11/08/05	
Glendora Key v. UNC at Chapel Hill	05 OSP 0784	Gray	09/23/05	
Deborah Faye Murray v NW Peidmont Council of Governments	05 OSP 0802	Chess	07/13/05	
Milton W. Nobles v. DHHS/Dorothea Dix Hospital	05 OSP 0815	Gray	06/15/05	
Sandra Thomas v Department of Correction	05 OSP 0824	Wade	07/21/05	
Stacy D Bazemore v NCSU CVM-VTH	05 OSP 0874	Gray	08/01/05	
Donna P. Minelli v. DOC, Div. of Community Corrections	05 OSP 0889	Conner	10/21/05	
Willie Gadden v. Winston-Salem State University	05 OSP 0904	Chess	10/10/05	
Susan Hilbourn v. Cumberland County Department of Social Services	05 OSP 0970	Gray	12/07/05	
Albert Ridley v. Odom Correctional Institution, Lawrence Solomon	05 OSP 0989	Gray	10/25/05	
Mark P. Gibbons v. Derrick Lee, DOT Plymouth, NC, Robby Taylor, DOT, Creswell, NC	05 OSP 1080	Elkins	10/12/05	
Cindy Owens v Justice Academy	05 OSP 1038	Conner	09/19/05	
Melanie Caudle Pitrolo v. Western NC Regional Air Quality Agency	05 OSP 1075	Conner	12/21/05	
Thomas M. Chamberlin v. Vance-Granville Community College	05 OSP 1170	Chess	09/30/05	
Joe L. Harris, MSW, LCSW v. Alamance Caswell MHDDSA/LME	05 OSP 1221	Chess	10/11/05	
Lolita B. Keel v. Dept. of Revenue	05 OSP 1228	Elkins	10/12/05	
David N. Smith v. NC School of Science and Math	05 OSP 1236	Chess	10/04/05	
Gerald R. Tripp v. NC School of Science and Math	05 OSP 1242	Chess	09/22/05	
Tommy Frank Sykes v. Nash County Government	05 OSP 1334	Chess	12/15/05	
Debra D Moore v. Irene Wortham Center	05 OSP 1445	Gray	11/02/05	
Samuel Faminiba v. DOT	05 OSP 1468	Morrison	12/13/05	
Natalynn P (Para) Tollison v. NCSU Human Resources, Diane Sortini, Director and Galen Jones, Assistant Director	05 OSP 1501	Morrison	12/14/05	
Frank G. Bermel v. UNC	05 OSP 1563	Lassiter	12/05/05	
Athena Prevatte v. UNC-Pembroke, Police Department	05 OSP 1604	Chess	02/28/06	
William J. Pendleton v. Butner Public Safety MW Hobgood	05 OSP 1720	Lassiter	01/09/06	
Michael D. Beal v. Butner Public Safety MW Hobgood	05 OSP 1722	Lassiter	01/09/06	
Walter B. Williams v. Butner Public Safety MW Hobgood	05 OSP 1723	Lassiter	01/09/06	
Mary F. Parker v. Wilson Technical Community College	05 OSP 1905	Lassiter	01/04/06	
Clifton Eugene Middleton II v. Cherry Hospital (Department of Health And Human Services)	05 OSP 2044	Elkins	03/13/06	
Aboubiehi G. Kablan v. UNC Charlotte	05 OSP 2115	Lassiter	03/13/06	
Terry Michael Williams v. East Carolina University	05 OSP 2116	Lassiter	02/06/06	
Clifton Eugene Middleton II v. Cherry Hospital (Department of Health	06 OSP 0028	Elkins	03/13/06	

CONTESTED CASE DECISIONS

SECRETARY OF STATE

Monica A Chitwood v. Dept. of Secretary of State	05 SOS 0237	Conner	06/17/05
Janice W. Craver v. Dept. of Secretary of State	05 SOS 0286	Conner	06/06/05
Barbara Jane Kelly v Secretary of State	05 SOS 0310	Elkins	08/22/05
Richard C Capps v. Dept of Secretary of State	05 SOS 0560	Gray	07/14/05
Silvia Rodriguez v Department of Secretary of State	05 SOS 0926	Lassiter	09/09/05
Curtis Eugene Haynes v. Department of Secretary of State	05 SOS 1031	Wade	10/28/05
Curtis C. Lyons v. Dept. of Secretary of State	05 SOS 1129	Chess	12/12/05
Harvey White v. Dept. of Secretary of State	05 SOS 2130	Lassiter	02/23/06

UNC HOSPITALS

Bhimjibhai Lanani v UNC Hospitals	04 UNC 0008	Conner	09/12/05
Amanda Mathis Miller v. UNC Hospitals	05 UNC 0247	Lassiter	06/02/05
Darian C. Jones Ph.D v. UNC Hospitals	05 UNC 0315	Lassiter	06/02/05
Tereasa King v. UNC Hospitals	05 UNC 0376	Lassiter	06/02/05
Lenora White v. UNC Hospitals	05 UNC 0574	Bryan	09/13/05
Ellen Griffith v. UNC Hospitals	05 UNC 0585	Conner	07/26/05
Dawn B & John A Gladden v. UNC Hospitals via Dept. of Revenue	05 UNC 0608	Conner	07/26/05
Joyce Porter v UNC Hospitals	05 UNC 0623	Elkins	08/11/05
Martin T Myers v UNC Hospitals	05 UNC 0632	Elkins	08/11/05
Bettie Brame v UNC Hospitals	05 UNC 0638	Conner	08/01/05
Joyce Daugherty v. UNC Hospitals	05 UNC 0663	Elkins	08/11/05
Margarida Goulart v UNC Hospitals	05 UNC 0683	Conner	07/26/05
Tashuia Williams v UNC Hospitals	05 UNC 0684	Conner	07/26/05
Robert C. Green v. UNC Hospitals	05 UNC 0751	Wade	01/06/06
Audrey Ghia v UNC Hospitals	05 UNC 0856	Gray	09/14/05
De'Juana Middleton v UNC Chapel Hill Hospital	05 UNC 0701	Conner	07/26/05
Marjorie Hindsdale-Shouse v UNC Hospitals	05 UNC 1002	Elkins	09/15/05
Dawn R Dickerson v UNC Hospitals	05 UNC 1028	Elkins	08/11/05

WILDLIFE RESOURCES COMMISSION

Josephine Perdue v. WRC	05 WRC 1440	Gray	11/18/05
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- 1 – Combined Cases
- 2 – Combined Cases
- 3 – Combined Cases
- 4 – Combined Cases
- 5 – Combined Cases