

NORTH CAROLINA REGISTER

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November 15, 2007

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For questions or concerns regarding the Administrative Procedure Act or any of its components, consult with the agencies below. The bolded headings are typical issues which the given agency can address, but are not inclusive.

Rule Notices, Filings, Register, Deadlines, Copies of Proposed Rules, etc.

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Joint Legislative Administrative Procedure Oversight Committee

545 Legislative Office Building

300 North Salisbury Street

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Raleigh, North Carolina 27611

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NORTH CAROLINA REGISTER
 Publication Schedule for January 2007 – December 2007

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
21:13	01/02/07	12/07/06	01/17/07	03/05/07	03/20/07	05/01/07	05/08	09/29/07
21:14	01/16/07	12/20/06	01/31/07	03/19/07	03/20/07	05/01/07	05/08	10/13/07
21:15	02/01/07	01/10/07	02/16/07	04/02/07	04/20/07	06/01/07	05/08	10/29/07
21:16	02/15/07	01/25/07	03/02/07	04/16/07	04/20/07	06/01/07	05/08	11/12/07
21:17	03/01/07	02/08/07	03/16/07	04/30/07	05/21/07	07/01/07	05/08	11/26/07
21:18	03/15/07	02/22/07	03/30/07	05/14/07	05/21/07	07/01/07	05/08	12/10/07
21:19	04/02/07	03/12/07	04/17/07	06/01/07	06/20/07	08/01/07	05/08	12/28/07
21:20	04/16/07	03/23/07	05/01/07	06/15/07	06/20/07	08/01/07	05/08	01/11/08
21:21	05/01/07	04/10/07	05/16/07	07/02/07	07/20/07	09/01/07	05/08	01/26/08
21:22	05/15/07	04/24/07	05/30/07	07/16/07	07/20/07	09/01/07	05/08	02/09/08
21:23	06/01/07	05/10/07	06/16/07	07/31/07	08/20/07	10/01/07	05/08	02/26/08
21:24	06/15/07	05/24/07	06/30/07	08/14/07	08/20/07	10/01/07	05/08	03/11/08
22:01	07/02/07	06/11/07	07/17/07	08/31/07	09/20/07	11/01/07	05/08	03/28/08
22:02	07/16/07	06/22/07	07/31/07	09/14/07	09/20/07	11/01/07	05/08	04/11/08
22:03	08/01/07	07/11/07	08/16/07	10/01/07	10/22/07	12/01/07	05/08	04/27/08
22:04	08/15/07	07/25/07	08/30/07	10/15/07	10/22/07	12/01/07	05/08	05/11/08
22:05	09/04/07	08/13/07	09/19/07	11/05/07	11/20/07	01/01/08	05/08	05/31/08
22:06	09/17/07	08/24/07	10/02/07	11/16/07	11/20/07	01/01/08	05/08	06/13/08
22:07	10/01/07	09/10/07	10/16/07	11/30/07	12/20/07	02/01/08	05/08	06/27/08
22:08	10/15/07	09/24/07	10/30/07	12/14/07	12/20/07	02/01/08	05/08	07/11/08
22:09	11/01/07	10/11/07	11/16/07	12/31/07	01/21/08	03/01/08	05/08	07/28/08
22:10	11/15/07	10/25/07	11/30/07	01/14/08	01/21/08	03/01/08	05/08	08/11/08
22:11	12/03/07	11/08/07	12/18/07	02/01/08	02/20/08	04/01/08	05/08	08/29/08
22:12	12/17/07	11/26/07	01/01/08	02/15/08	02/20/08	04/01/08	05/08	09/12/08

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.



STATE BOARD OF ELECTIONS
6400 Mail Service Center • Raleigh, North Carolina 27699-6400

GARY O. BARTLETT
Executive Director

MAILING ADDRESS:
P.O. BOX 27255
RALEIGH, NC 27611-7255

October 19, 2007

Mr. Jay Reiff
The Richard Moore Committee
Post Office Box 749
Raleigh, NC 27602

Re: Request of The Richard Moore Committee
Pursuant to N.C.G.S. § 163-278.23

Dear Mr. Reiff:

I am in receipt of your letter dated October 1, 2007, in which you request an advisory opinion pursuant to N.C.G.S. § 163-278.23 as to whether the hourly reimbursement rates you have submitted for the future use of aircraft by The Richard Moore Committee are acceptable.

Based on the information provided in your letter as to the type, make, model and year of each of the aircraft you may use for campaign travel, we find the proposed hourly rates to be acceptable. In arriving at this conclusion, our staff researched the information provided and compared operating costs for similar aircraft.

This opinion is based upon the information provided in your letter of October 1, 2007. If the information should change, you should evaluate whether this opinion is still applicable and binding. Finally, this opinion will be filed with the Codifier of Rules to be published unedited in the North Carolina Register and the North Carolina Administrative Code.

Sincerely,

A handwritten signature in cursive script that reads "Gary O. Bartlett".

Gary O. Bartlett

cc: Julian Mann, III, Codifier of Rules

LOCATION: 506 NORTH HARRINGTON STREET • RALEIGH, NORTH CAROLINA 27603 • (919) 733-7173

**SUMMARY OF NOTICE OF
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY
Clanton Partners I, LLC**

Pursuant to N.C.G.S. § 130A-310.34, Clanton Partners I, LLC has filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Property") in Charlotte, Mecklenburg County, North Carolina. The Property, which is the site of a former Pelton & Crane Company facility that manufactured products for the dental industry, consists of approximately 6 acres and is located at 200 Clanton Road. Environmental contamination exists on the Property in groundwater, soil and surface water. Clanton Partners I, LLC has committed itself to redevelopment of the Property for no uses other than and warehouse and, with prior written DENR approval, other commercial space. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and Clanton Partners I, LLC, which in turn includes (a) a map showing the location of the Property, (b) a description of the contaminants involved and their concentrations in the media of the Property, (c) the above-stated description of the intended future use of the Property, and (d) proposed investigation and remediation; and (2) a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35.

The full Notice of Intent to Redevelop a Brownfields Property may be reviewed at the Public Library of Charlotte & Mecklenburg County, 310 N. Tryon St., Charlotte, NC 28202 by contacting Allison Aiken at that address or at (704) 336-2725; or at the offices of the N.C. Brownfields Program, 401 Oberlin Rd., Suite 150, Raleigh, NC 27605 (where DENR will provide auxiliary aids and services for persons with disabilities who wish to review the documents) by contacting Shirley Liggins at that address, at shirley.liggins@ncmail.net , or at (919) 508-8411.

Written public comments, may be submitted to DENR within 30 days after the date this Notice is published in a newspaper of general circulation serving the area in which the brownfields property is located, or in the North Carolina Register, whichever is later. Written requests for a public meeting may be submitted to DENR within 21 days after the period for written public comments begins. Thus, if Clanton Partners I, LLC, as it plans, publishes this Summary in the North Carolina Register after it publishes the Summary in a newspaper of general circulation serving the area in which the brownfields property is located, and if it effects publication of this Summary in the North Carolina Register on the date it expects to do so, the periods for submitting written requests for a public meeting regarding this project and for submitting written public comments will commence on November 16, 2007. All such comments and requests should be addressed as follows:

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

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

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

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for MH/DD/SAS intends to adopt the rule cited as 10A NCAC 27G .0406.

Proposed Effective Date: August 1, 2008

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): A person may demand a public hearing on the proposed rules by submitting a request in writing to W. Denise Baker, 3018 Mail Service Center, Raleigh, NC 27699-3018.

Reason for Proposed Action: The proposed rule is necessary to ensure that residential treatment facility beds are available where needed, unnecessary costs to the State do not result from excess facilities that result in duplication, high vacancy rates, and under utilization, and that individuals who need care in residential treatment facilities may have access to quality care.

Procedure by which a person can object to the agency on a proposed rule: The objection, reasons for the objection and the clearly identified portion of the rule to which the objection pertains, may be submitted in writing to W. Denise Baker, 3018 Mail Service Center, Raleigh, NC 27699-3018.

Comments may be submitted to: W. Denise Baker, 3018 Mail Service Center, Raleigh, NC 27699-3018, phone (919) 715-2780, fax (919) 733-1221, email denise.w.baker@ncmail.net

Comment period ends: January 14, 2008

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 27 – MENTAL HEALTH: COMMUNITY FACILITIES AND SERVICES

SUBCHAPTER 27G - RULES FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE FACILITIES AND SERVICES

SECTION .0400 - LICENSING PROCEDURES

10A NCAC 27G .0406 LETTER OF SUPPORT REQUIRED FOR LICENSURE OF RESIDENTIAL FACILITIES

(a) An applicant for licensure of a residential facility shall submit with the application a letter of support obtained from the local management entity (LME) in the catchment area where the residential facility is located. For purposes of this Rule, residential facility shall mean the same as defined in G.S. 122C-3(14)e, but not subject to Certificate of Need requirements under Article 9 of Chapter 131E.

(b) An applicant shall submit a request for a letter of support in writing to the LME using a format provided by the Secretary. The request shall include the following information:

- (1) type of license requested;
- (2) the capacity of the facility;
- (3) the service(s) to be provided;
- (4) the location of the facility;
- (5) a description of the program;
- (6) the population to be served, indicating if this is a specialized or underserved population for the catchment area; and
- (7) a designated point of contact including:
 - (A) name;
 - (B) position title;
 - (C) phone number;
 - (D) email address; and
 - (E) fax number.

(c) The LME shall determine the need for additional intensive residential treatment, psychiatric residential treatment facility (PRTF) and supervised living beds licensed pursuant to 10A NCAC 27G .1800; .1900 and .5600 by identifying whether there is a local need. If no local need is identified, the LME shall consult with the DMH/DD/SAS to determine whether there is a regional or statewide need for additional beds. The decision to

issue a letter of support shall be based on whether a local, regional or statewide need is identified.

(d) The LME shall determine the need for additional residential treatment beds licensed pursuant to 10A NCAC 27G .1300 and 1700 in their catchment area prior to making a decision regarding support for these facilities. The decision to issue a letter of support shall be made by using the process stated as follows:

- (1) the LME shall identify the current number of facilities in the catchment area licensed for the category requested, including the number of beds;
- (2) the LME shall identify the average number of clients from the catchment area served in the previous year for each licensure category, regardless of where the service was delivered and multiply by 110%;
- (3) the LME shall compare Subparagraphs (d)(1) and (d)(2). The difference shall be an indicator of additional beds needed or excess available in the catchment area; and
- (4) if the facility plans to serve a specialized or underserved population, the LME shall identify the local need for the service for that specialized or underserved population.

(e) The LME shall respond to the applicant's request within five business days. The response shall state whether there is a need for additional beds for the residential facility licensure category requested. The LME shall issue a letter of support to an applicant for licensure of a residential facility that meets the requirements as set forth in this Rule. The letter shall be issued by the LME using a format provided by the Secretary.

(f) The format shall contain information including the following:

- (1) identification information for the applicant and facility;
- (2) a statement of the statutory requirement as set forth in G.S. 122C-23.1 regarding issuance of a letter of support for residential facilities;
- (3) the number of existing beds in the catchment area for the category of licensure the applicant is requesting;
- (4) the number of additional beds needed in the catchment area for the licensure category the applicant is requesting; and
- (5) a statement of whether there is a need for additional beds for the licensure category the applicant is requesting.

(g) The request from the applicant and the letter issued by the LME, shall be forwarded to the DMH/DD/SAS and the DFS.

Authority G.S. 122C-23.1; 122C-26(5); 143B-147(a)(2).

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Health and Human Services-DMH/DD/SAS intends to adopt the rules cited as 10A NCAC 27G .7001 - .7004; 271.0201 - .0205; .0401 - .0404; 28F.0214.

Proposed Effective Date: August 1, 2008

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): A person may demand a public hearing on the proposed rules by submitting a request in writing to W. Denise Baker, 3018 Mail Service Center, Raleigh, NC 27699-3018.*

Reason for Proposed Action:

10A NCAC 27G .7001 - .7004 – *The proposed rules are necessary to delineate the procedures regarding the LME responses to complaints received concerning the provision of public service. The proposed rules are also necessary to provide a standardized LME response system when clients or their legal guardians appeal utilization review decisions for Non-Medicaid services.*

10A NCAC 27I .0201 - .0205 – *House Bill 2077 included legislation which requires every area authority or county program to develop a LME business plan for the management and delivery of mental health, developmental disabilities, and substance abuse services. A LME business plan shall provide detailed information regarding how the area authority or county program will meet State standards, laws, and rules for ensuring quality mental health, developmental disabilities, and substance abuse services, including outcome measures for evaluating program effectiveness.*

10A NCAC 27I .0401 - .0404 – *Adoption of the proposed rules establishes in administrative code the process that the Department of Health and Human Services will follow to approve LMEs to directly deliver services, in accordance with the requirement of G.S. 122C-141.*

10A NCAC 28F .0214 – *Adoption of the proposed rule establishes in the administrative code the Hospital Utilization Plan as first identified in the State Mental Health Plan.*

Procedure by which a person can object to the agency on a proposed rule: *The objection, reasons for the objection and the clearly identified portion of the rule to which the objection pertains, may be submitted in writing to W. Denise Baker, 3018 Mail Service Center, Raleigh, NC 27699-3018.*

Comments may be submitted to: *W. Denise Baker, 3018 Mail Service Center, Raleigh, NC 27699-3018, phone (919) 715-2780, fax (919) 733-1221, email denise.w.baker@ncmail.net*

Comment period ends: January 14, 2008

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 27 – MENTAL HEALTH: COMMUNITY FACILITIES AND SERVICES

SUBCHAPTER 27G - RULES FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE FACILITIES AND SERVICES

SECTION .7000 – LOCAL MANAGEMENT ENTITY RESPONSE TO COMPLAINTS

10A NCAC 27G .7001 SCOPE

(a) The rules in this Section govern the Local Management Entity responses to complaints received concerning the provision of public services pertaining to all provider categories in its catchment area.

(b) The rules in this Section also govern the procedures for Local Management Entities when investigating providers according to 10A NCAC 27G .0606.

Authority G.S. 122.C-112.1.

10A NCAC 27G .7002 LOCAL MANAGEMENT ENTITY REQUIREMENTS CONCERNING COMPLAINTS

(a) A Local Management Entity shall respond to complaints received concerning the provision of public services pertaining to all provider categories, as defined in 10A NCAC 27G .0602(11), in its catchment area. This Rule does not govern complaints pertaining to utilization review decisions.

(b) The Local Management Entity shall:

- (1) establish a written notification procedure to inform each client of the complaint process concerning the provision of public services. The procedure shall include the provision of written information explaining the client's right to contact the Local Management Entity, the Division of Mental Health, Developmental Disabilities and Substance Abuse Services, the Division of Health Service Regulation, the Division of Social Services and The North Carolina Protection and Advocacy system known as Carolina Legal Assistance (CLA);
- (2) seek to resolve issues of concern through informal agreement between the client and the provider and document the attempts at resolution;

(3) develop and implement written policies including those safeguards and procedures listed below:

- (A) safeguards for protecting the identity of the complainant;
- (B) safeguards for protecting the complainant and any staff person from harassment or retaliation;
- (C) procedures to receive and track complaints;
- (D) procedures to assist a client in initiating the complaint process;
- (E) procedures for encouraging the complainant to communicate with the provider to allow for resolution of the issue;
- (F) methods to be used in investigating a complaint;
- (G) procedures for responding to complaints and options to be considered in resolving a complaint, including corrective action and referral to the Division of Mental Health, Developmental Disabilities and Substance Abuse Services, the Division of Health Service Regulation, the Division of Social Services or other agencies as required;
- (H) procedures governing complaints and appeals made by a provider and a complainant;
- (I) procedures for notifying the home Local Management Entity, if different, of the complaint and actions taken; and
- (J) procedures for the Local Management Entity Director to convene an ad hoc appeal review committee to review consumer and provider appeals. The client rights committee, as defined in 10A NCAC 27G .0504, shall approve policy and procedures regarding the formation of the appeal review committee including assurance of the review committee's lack of conflict of interest, composition, disability affiliation(s) and other experience or qualifications relevant to the issue(s) in the complaint. The committee's recommendations shall be by majority vote;

(4) review the complaint and communicate to the complainant within five working days of receipt whether the complaint will be addressed informally or by conducting an investigation; and

(5) The Local Management Entity shall notify the complainant in writing of the results of the

informal process in a letter dated within 15 working days from receipt of the complaint. If the need for an investigation is revealed during the informal process, the Local Management Entity shall begin the investigation or refer the matter to the appropriate State or local government agency. If the complainant is not satisfied with the informal process, the complainant may file an appeal in writing to the Local Management Entity Director. The appeal must be received within 15 working days from the date of the informal resolution letter. The Local Management Entity Director shall convene an appeal review committee according to Part (b)(3)(J) of this Rule.

The Local Management Entity Director shall issue an independent decision after reviewing the appeal review committee's recommendation. The decision shall be dated and mailed to the appellant by the Local Management Entity within 20 working days from receipt of the appeal.

(c) When the Local Management Entity refers the complaint to the State or local government agency responsible for the regulation and oversight of the provider, the Local Management Entity shall send a letter to the complainant informing him or her of the referral and the contact person at the agency where the referral was made. The Local Management Entity shall contact the State or local government agency where the referral was made within 120 days of the date the Local Management Entity received the complaint to determine the actions the State or local government agency has taken in response to the complaint. The Local Management Entity shall communicate the status of the State or local government agency's response to the complainant and to the client's home Local Management Entity, if different.

Authority G.S. 122C-112.1.

10A NCAC 27G .7003 REQUIREMENTS FOR LOCAL MANAGEMENT ENTITY COMPLAINT INVESTIGATIONS

(a) The Local Management Entity shall follow these procedures when investigating providers according to 10A NCAC 27G .0606:

- (1) The Local Management Entity shall make contact with the provider when investigating a complaint. The Local Management Entity shall state the purpose of the contact and inform the provider that the Local Management Entity is in receipt of a complaint concerning the provider and the general nature of the complaint.
- (2) The Local Management Entity shall complete the complaint investigation within 30 days of the date of the receipt of the complaint.
- (3) Upon completion of the complaint investigation, the Local Management Entity shall submit a report of investigation findings to the complainant, the provider and client's

home Local Management Entity, if different. The report shall be submitted within 10 working days of the date of completion of the investigation. The complaint investigation report shall include:

- (A) statements of the allegations or complaints lodged;
 - (B) steps taken and information reviewed to reach conclusions about each allegation or complaint;
 - (C) conclusions reached regarding each allegation or complaint;
 - (D) citations of statutes and rules pertinent to each allegation or complaint; and
 - (E) required action regarding each allegation or complaint.
- (4) The provider shall submit a plan of correction to the Local Management Entity for each issue requiring correction identified in the report in a letter dated 10 working days from the date the provider receives the complaint investigation report.
 - (5) The Local Management Entity shall review and respond in writing to the provider's plan of correction with approval or a description of additional required information. The Local Management Entity shall respond to the provider in a letter dated 10 working days of receipt of the plan of correction.
 - (6) The provider shall implement a plan of correction within 60 days from the date of the complaint investigation report.
 - (7) The complainant or provider who disagrees with the results of the Local Management Entity actions may file an appeal regarding the investigation that is received by the Local Management Entity within 15 working days from the receipt of the Local Management Entity investigation report. The appeal is limited to items identified in the original complaint record and the investigation report.
 - (8) The Local Management Entity shall convene a review committee to review the appeal as specified in 10A NCAC 27G .7002(b)(3)(J).
 - (9) The Local Management Entity Director shall issue a written decision based on the appeal committee's decision to uphold or overturn the findings of the investigation. The decision letter shall be dated within 20 working days from receipt of the appeal.
 - (10) The Local Management Entity shall follow-up on issues requiring correction in the investigation report no later than 60 days from the date the plan of correction is approved.
 - (11) When a complaint investigation involving a category B provider identifies an issue which if substantiated by the Division of Mental Health, Developmental Disabilities and

Substance Abuse Services could result in a revocation or suspension of the provider's funding pursuant to 10A NCAC 26C .0501 through .0504, the LME shall document the issue or issues creating the concern and immediately contact the Division of Mental Health, Developmental Disabilities and Substance Abuse Services. The Division of Mental Health, Developmental Disabilities and Substance Abuse Services will consult with the Local Management Entity and then will determine which agency will lead the investigation and which agencies need to be involved. Separate complaint investigations shall not be performed.

(12) Local Management Entity shall provide information regarding the disposition of the complaint to the complainant and the client's home Local Management Entity, if different, as soon as the investigation is concluded.

(b) The Local Management Entity shall maintain copies of complaint investigations, resolutions and follow-up reports for providers for review by the Department of Health and Human Services.

Authority G.S. 122C-112.1.

10A NCAC 27G .7004 APPEALS REGARDING UTILIZATION REVIEW DECISIONS FOR NON-MEDICAID SERVICES

(a) This Rule governs appeals made to the Local Management Entity Director of utilization review decisions made by the Local Management Entity to deny, reduce, suspend or terminate a client's non-Medicaid funded services.

(b) A client may appeal to the Local Management Entity Director the utilization review decision of a Local Management Entity to deny, reduce suspend, or terminate a non-Medicaid state funded service.

(c) The Local Management Entity shall send to the client or legal representatives notification letters regarding utilization review decisions for non-Medicaid funded services. The letter shall be dated and mailed no later than the next work day following the review decision to deny, reduce, suspend, or terminate a non-Medicaid state funded service. The Local Management Entity shall separately notify the provider regarding the service authorization.

(d) The letter shall include information regarding the reason for the decision and any available options or considerations while the appeal is under review.

(e) An appeal regarding a non-Medicaid services utilization review decision must be filed only by a consumer or legal representative. The appeal must be received in writing by the Local Management Entity within 15 working days of the date of the notification letter. The Local Management Entity shall provide help to an appellant who requests assistance in filing the appeal.

(f) The Local Management Entity shall acknowledge receipt of the appeal in writing in a letter to the appellant dated the next working day after receipt of the appeal.

(g) The Local Management Entity may authorize interim services until the final review decision, as set forth in 10A NCAC 27I .0609, is reached.

(h) The clinical review shall be conducted by an employee(s) or contractor(s) of the Local Management Entity not involved in the utilization review decision that is the subject of the appeal. The clinical reviewer(s) clinical credentials shall be at least comparable to those of the person who rendered the initial utilization review decision.

(i) The clinical reviewer(s) shall complete a clinical review of the appeal and shall uphold or overturn the original decision.

(j) The Local Management Entity shall notify the appellant in writing of the clinical review decision in a letter dated and mailed within seven working days from receipt of the appeal request and shall separately notify the provider regarding the service authorization.

(k) If the clinical review overturns the initial utilization review decision, the decision letter shall state the date on which the denied service shall be authorized or the date on which the suspended, reduced or terminated service shall be reinstated.

(l) In cases in which the decision upholds the previous decision, the Local Management Entity shall inform appellants in writing of the opportunity to appeal a decision regarding a non-Medicaid service to the State Division of Mental Health, Developmental Disabilities and Substance Abuse Services Non-Medicaid Appeals Panel according to 10A NCAC 27I .0600 and G.S. 143B-147(a)(9).

Authority G.S. 122C-112.1.

SUBCHAPTER 27I – AREA AUTHORITY OR COUNTY PROGRAM REQUIREMENTS

SECTION .0200 – CONTENT, FORMAT, SUBMISSION, REVIEW AND APPROVAL OF LOCAL MANAGEMENT ENTITY BUSINESS PLAN

10A NCAC 27I .0201 SCOPE

(a) The requirements of this Section shall govern the content, format, submission, review and approval of an LME business plan as set forth in G.S. 122C-115.2.

(b) The LME business plan shall be in effect for at least three State fiscal years.

Authority G.S. 122C-112.1(a)(4)(5); 122C-115.2; S.L. 2006-142, Section 2.(b).

10A NCAC 27I .0202 LME BUSINESS PLAN CONTENT AND FORMAT REQUIREMENTS

(a) The plan shall be divided into chapters that correspond to the administrative functions carried out by the LME. The chapters shall address administrative functions including:

- (1) governance or administration;
- (2) provider relations;
- (3) service management;
- (4) quality management;
- (5) consumer affairs; and
- (6) business and information management.

(b) A LME that has organized itself using different administrative function titles may use substitute title names and may expand or reduce the number of chapters. Each LME shall address all of the administrative functions as set forth in G.S. 122C-115.2(b) and 122C-115.4(b) unless a function has been removed pursuant to G.S. 122C-115.4(d).

(c) The LME business plan shall be submitted in a template provided by the Secretary.

(d) Each chapter shall address the following elements:

(1) Mission Statement. The LME shall develop a mission statement to identify what the LME plans to accomplish for the administrative function addressed in each chapter.

(2) Current Operations. The LME shall address the organizational structure used to fulfill all activities associated with the administrative function addressed in each chapter. The current operations element shall include an organizational chart for the administrative function addressed in each chapter of the LME business plan.

(3) Strategic Objective. The LME shall provide a narrative identifying the planned improvements in operations for the administrative function addressed in each chapter for each of the next three State fiscal years.

(4) Resource Allocation. The LME shall compare the current operational costs associated with the administrative function addressed in each chapter to the administrative allocation and provide an explanation for deviation from that norm.

(5) Business Rules. The LME shall list the business rules for each administrative function that enhances or inhibits the efficiency and effectiveness of the organization.

Authority G.S. 122C-112.1(a)(4)(5); 122C-115.2; S.L. 2006-142, Section 2.(b).

10A NCAC 27I .0203 LME BUSINESS PLAN SIGNATURE REQUIREMENTS

(a) Each LME business plan shall include the signatures of the individuals named as follows:

(1) director of the area authority or county program;

(2) board chairman indicating approval by the area authority or county program board of directors;

(3) chairperson(s) of each board of county commissioners in the catchment area of the area authority or county programs; and

(4) chairperson of the area authority or county program consumer and family advisory committee (CFAC).

(b) The signatures with the exception of the chairperson of the area authority or county program CFAC shall be made on the cover page accompanying the LME business plan. The CFAC

chairperson may sign either on the cover letter or via separate correspondence.

Authority G.S. 122C-112.1(a)(4)(5); 122C-115.2; S.L. 2006-142, Section 2.(b).

10A NCAC 27I .0204 LME BUSINESS PLAN SUBMISSION AND REVIEW PROCEDURES

(a) The area authority or county program proposing the LME business plan shall submit the proposed plan to the Secretary of Health and Human Services for review and certification.

(b) The Secretary shall review the business plan within 30 days of receipt of the plan.

(c) The Secretary shall certify an LME business plan that meets the requirements as set forth in this Section.

Authority G.S. 122C-112.1(a)(4)(5); 122C-115.2; S.L. 2006-142, Section 2.(b).

10A NCAC 27I .0205 PLAN OF CORRECTION

(a) When an LME fails to meet the requirements as set forth in this Section, the LME shall submit a plan of correction to the Division of Mental Health, Developmental Disabilities and Substance Abuse Services. The Department of Health and Human Services may withhold administrative funding from an LME that does not submit a plan of correction.

(b) The Division of Mental Health, Developmental Disabilities and Substance Abuse Services shall conduct the following activities:

- (1) review the plan of correction;
- (2) evaluate the information submitted; and
- (3) conduct follow-up onsite reviews when required to verify information submitted by an LME.

(c) The Division of Mental Health, Developmental Disabilities and Substance Abuse Services shall respond in writing to the LME's plan of correction within 30 calendar days of the receipt of the plan of correction with approval or denial of the plan of correction.

(d) The LME shall submit a revised plan of correction within 30 calendar days if the original plan of correction is denied. Upon receipt of the second plan of correction the Division of Mental Health, Developmental Disabilities and Substance Abuse Services shall conduct the following activities:

- (1) review the second plan of correction;
- (2) evaluate information; and
- (3) provide assistance needed to resolve outstanding issues so that the LME business plan may be certified as set forth in G.S. 122C-115.2(c).

(e) Plans of correction will be shared with the LME Board of Directors and the CFAC.

Authority G.S. 122C-112.1(a)(4)(5); 122C-115.2; S.L. 2006-142, Section 2.(b).

SECTION .0400 - SECRETARY APPROVAL OF LME SERVICE DELIVERY

10A NCAC 27I .0401 SCOPE

(a) This Section governs the procedures for Local Management Entities (LME) to seek approval from the Secretary to directly deliver mental health, developmental disabilities and substance abuse services.

(b) These Rules are applicable to all LMEs seeking approval to directly deliver any of the services set forth in the Division of Medical Assistance (DMA) Clinical Policy Numbers 8A, 8C, 8D1 and 8D2 including subsequent amendments and editions, services under the CAP-MR/DD waiver as approved by the Centers for Medicare and Medicaid Services, and state funded only services. Copies of Clinical Policy Numbers 8A, 8C, 8D1 and 8D2 are available at no cost from the DMA website at <http://www.ncdhhs.gov/dma/>. Copies of the CAP-MR/DD waiver and the service definitions for state funded only services are available at no cost from the Division of Mental Health, Developmental Disabilities and Substance Abuse Services website at <http://www.ncdhhs.gov/dmhddsas/>.

Authority G.S. 122C-112.1.

10A NCAC 27I .0402 DEFINITIONS

As used in the rules of this Section, the following terms have the meanings specified:

- (1) "Local Management Entity (LME)" means the same as defined in G.S. 122C-3(20b).
- (2) "Request for Application (RFA)" means a procurement strategy through which an LME solicits applications from public and private providers of mental health, developmental disabilities, and substance abuse services to provide one or more specific service(s) to clients in the LME's catchment area.
- (3) "Request for Information (RFI)" means a procurement strategy through which an LME solicits information from public and private providers of mental health, developmental disabilities and substance abuse services regarding the providers' interest in providing one or more specific services to clients in the LME's catchment area.
- (4) "Request for Proposal (RFP)" means a procurement strategy through which an LME solicits proposals from public and private providers of mental health, developmental disabilities and substance abuse services interested in providing one or more specific services to clients in the LME's catchment area.

Authority G.S. 122C-112.1.

10A NCAC 27I .0404 PROCESS

(a) A LME seeking approval to directly deliver services shall submit a request in writing containing all required information at least 60 days in advance of the date on which the LME wishes to begin service delivery or the expiration date of a previous approval if the LME wishes to continue service delivery.

(b) The request shall be submitted to the Division of Mental Health, Developmental Disabilities and Substance Abuse Services (DMH/DD/SAS), 3001 Mail Service Center, Raleigh, NC 27699-3001.

(c) The Director of DMH/DD/SAS or designee shall review the submitted documentation and request additional information, if necessary. If the service the LME wishes to deliver is a Medicaid payable service, DMH/DD/SAS shall also consult with the Division of Medical Assistance.

(d) The Secretary shall make a decision regarding the request within 15 business days of receipt of the recommendation from the Director of DMH/DD/SAS or designee.

- (e) The Secretary's decision shall be based upon the following:
- (1) access;
 - (2) availability of qualified public or private providers;
 - (3) client choice; and
 - (4) fair competition.

(f) The Director of DMH/DD/SAS or his designee shall communicate the Secretary's decision to the LME in writing within 15 business days of the decision.

(g) In the event that a LME requests to deliver services on a temporary basis as a result of an unanticipated closure of a private or public provider in the LME catchment area, the LME may request an expedited review of its service delivery request.

Authority G.S. 122C-112.1.

10A NCAC 27I .0403 INFORMATION INCLUDED IN REQUEST

A LME seeking approval from the Secretary to directly deliver services in accordance with the rules of this section shall submit the following information:

- (1) the name(s) of the service(s) for which approval is sought;
- (2) the period of time for which approval is sought;
- (3) the number of existing providers in the catchment area, by service, and the number of clients existing providers have the capacity to serve, for any service for which approval is sought;
- (4) the estimated number of clients in the catchment area or relevant geographic territory, if the LME is requesting to deliver services in only a portion of the catchment area, in need of the service for which approval is sought and the estimated number of clients to be served directly by the LME and the estimated number of clients to be served by the providers;
- (5) information on the actions the LME has taken to seek to attract sufficient numbers of providers for the service for which approval is sought to the catchment area such that it is not necessary for the LME to directly deliver services, including copies of Request for Application (RFA), Request for Information (RFI) and Request for Proposals (RFP), copies

of all applications, information and proposals received in reponse to such activities, and the number of providers attracted through such efforts;

- (6) a description of the LME's organizational structure detailing how service delivery staff and staff performing LME functions are separately managed;
- (7) a description of how consumers will be given a choice of service provider for the service(s) for which approval is sought; and
- (8) documentation that the LME Board has approved the LME's request to deliver services.

Authority G.S. 122C-112.1.

CHAPTER 28 – MENTAL HEALTH: STATE OPERATED FACILITIES AND SERVICES

SUBCHAPTER 28F – ADMISSION AND DISCHARGE

SECTION .0200 – VOLUNTARY ADMISIONS, INVOLUNTARY COMMITEMENTS AND DISCHARGES OF ADULTS FROM REGIONAL PSYCHIATRIC HOSPITALS

10A NCAC 28F .0214 LME UTILIZATION OF STATE HOSPITALS

(a) The purpose of this Rule is to ensure equitable allocation and utilization of State hospital resources while minimizing the potential for utilization of State hospitals and State hospital units in excess of their established capacity. Resource allocations are based on a per capita formula for each hospital region.

(b) The LME shall authorize admission to a State operated psychiatric hospital only if alternate community services are not adequate to treat the individual.

(c) LMEs shall comply with the State operated psychiatric hospital utilization plan established by the Division, including:

- (1) The number of admissions to Adult, Geriatric and Adolescent admissions units; and
- (2) Utilization of bed days in all service categories.

(d) LMEs with utilization in excess of their allocation in any unit for admissions or utilization of bed days shall comply with requirements of the State operated psychiatric hospital utilization plan approved annually.

Authority G.S. 122C-112.1.

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Commission for Public Health intends to amend the rule cited as 10A NCAC 43A .0808.

Proposed Effective Date: April 1, 2008

Public Hearing:

Date: December 17, 2007

Time: 2:00 p.m.

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

Reason for Proposed Action: *We have requested modifications of this Rule to align teen pregnancy prevention program requirements with published program evaluation evidence and recent Centers for Medicaid and Medicare funding requirements. The modifications requested require all applications for funding to provide a plan to provide comprehensive sexuality education including complete and medically accurate information about contraceptive methods as well as abstinence from sexual activity to all applicants. All applicants will also provide a plan to refer teens who have needs beyond the scope of the project for contraception, in accordance with Medicaid funding requirements.*

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

Comments may be submitted to: *Chris G. Hoke, JD, 1931 Mail Service Center, Raleigh, North Carolina 27699-1931, phone (919) 707-5006, email Chris.Hoke@ncmail.net*

Comment period ends: January 14, 2008

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 43 – PERSONAL HEALTH

SUBCHAPTER 43A - FAMILY PLANNING

SECTION .0800 - TEEN PREGNANCY PREVENTION

10A NCAC 43A .0808 CRITERIA FOR PROJECT SELECTION

(a) The Department shall present funding recommendations to the Commission from among the applicants that meet the minimum standards in Rule .0803 of this Subchapter. A multi-disciplinary committee of public and private health and human services providers who are familiar with adolescent health issues shall review applications based upon the criteria set out below. Recommendations shall also be based upon the best selection of projects according to the following criteria:

- (1) Degree of need of the locality, including that the service area has a significant adolescent pregnancy problem as evidenced by its adolescent pregnancy rate, adolescent birth rate, attributable risk score, and percentage of repeat adolescent births;
(2) Evidence of selection of a program model that has documented success in the prevention of teen pregnancy;
(3) All applications shall include a plan to provide comprehensive sexuality education including complete and medically accurate information about contraceptive methods including abstinence to all participants.
(4) All applications shall include a plan to refer teens who have needs beyond the scope of the program including but not limited to substance abuse, domestic violence, family planning, and mental health, to an appropriate provider.
(5)(3) A statewide program evaluation plan that addresses the administration of pre-tests and post-tests that measure participants' knowledge, attitudes and behaviors as compared to a control group; and submission of data in an internet based database;
(6)(4) Adequacy of agency and staff to meet project objectives;
(7)(5) Level of community support. There shall be documentation such as letters or statements of commitment from partnering organizations to show strong support for the application;
(8)(6) Evidence that the proposed budget does not exceed the costs of the planned program activities; and
(9)(7) Existing or formerly TPPI-funded projects shall demonstrate that they have provided an effective intervention for reducing adolescent pregnancy rates among their participants.

(b) The Commission shall provide input regarding the proposed funding decisions made by the Department. The Department shall consider the input of the Commission, but shall not be bound by it. The Department shall notify the projects that are to be funded by June 1 of each year.

Authority G.S. 130A-124; 130A-131.15A.

TITLE 11 - DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Department of Insurance intends to adopt the rules cited as 11 NCAC 08 .1501 - .1506.

Proposed Effective Date: March 1, 2008

Public Hearing:

Date: December 4, 2007

Time: 10:00 a.m.

Location: 3rd Floor Hearing Room, Dobbs Building, 430 N. Salisbury Street, Raleigh, NC

Reason for Proposed Action: Establishes appeal guidelines from the NC Building Code for alternative design construction and methods.

Procedure by which a person can object to the agency on a proposed rule: The Department of Insurance will accept written objections to these rules until the expiration of the comment period on January 14, 2008.

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

Comment period ends: January 14, 2008

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 08 - ENGINEERING AND BUILDING CODES DIVISION

SECTION .1500 - ALTERNATE DESIGNS AND CONSTRUCTION APPEALS

11 NCAC 08 .1501 ALTERNATE DESIGNS AND CONSTRUCTION

As used in this Section, the term "compliant alternative designs and construction" means those construction designs or methods that do not conform to the express requirements of the North Carolina State Building Code ("Code"), but provide the equivalent level of protection of public health, safety, and welfare prescribed by the Code.

Authority G.S. 143-140.1.

11 NCAC 08 .1502 TIME FOR APPEAL AND DOCUMENTS REQUIRED

Within 30 days after the date a local authority having jurisdiction ("local authority") notifies a designer or owner-representative that the local authority has decided that an alternative designs and construction proposed by the designer or owner-representative violates the Code, the designer or owner-representative may appeal the decision in writing to the N.C. Department of Insurance, Engineering Division, 1201 Mail Service Center, Raleigh, NC 27699-1201. The designer or owner-representative shall provide the Engineering Division with all construction documents pertaining to the alternative designs and construction, including supporting language, drawings, and descriptions.

Authority G.S. 143-140.1.

11 NCAC 08 .1503 SERVICE ON LOCAL AUTHORITY

The designer or owner-representative shall serve the local authority with a written notice of the appeal and copies of all documents the designer or owner-representative provides to the Engineering Division in accordance with Rule .1502 of this Section. The notice of appeal and the documents shall be served on the local authority on the same date as those items are served on the Engineering Division.

Authority G.S. 143-140.1.

11 NCAC 08 .1504 RESPONSE BY LOCAL AUTHORITY

Within five business days after the date the appeal is received by the Engineering Division, the local jurisdiction may file a response to the appeal with the Engineering Division at the same address in Rule .1502 of this Section.

Authority G.S. 143-140.1.

11 NCAC 08 .1505 REVIEW OF LOCAL AUTHORITY DECISION

(a) If the Engineering Division determines that the requested alternative designs and construction are not compliant, the Engineering Division may uphold the determination by the local authority.

(b) If the Engineering Division determines that the requested alternative designs and construction are compliant because they provide the equivalent level of protection of public health, safety and welfare as required by the Code, the Engineering Division

may overrule the determination by the local authority. The designer or owner-representative may then use the alternative designs and construction.

Authority G.S. 143-140.1.

11 NCAC 08 .1506 ADMINISTRATIVE AND JUDICIAL REVIEW

(a) A party that is aggrieved by the determination of the Engineering Division may appeal to the Building Code Council. The Council shall uphold or overrule the decision of the Engineering Division.

(b) A party that is aggrieved by the decision of the Council under this Rule may file a petition for judicial review under Article 4 of Chapter 150B of the General Statutes.

Authority G.S. 143-140.1.

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Criminal Justice Education and Training Standards Commission intends to amend the rules cited as 12 NCAC 09B .0228; 09C .0401, .09E .0102, .0104 - .0105; 09G .0415.

Proposed Effective Date: *March 1, 2008*

Public Hearing:

Date: *November 30, 2007*

Time: *1:00 p.m.*

Location: *Department of Justice, Room G-22, 114 W. Edenton Street, Raleigh*

Reason for Proposed Action:

12 NCAC 09B .0228 – *Wildlife officers are no longer tasked with radiological monitoring duties as part of the State's Emergency Response Team. The eight hour block of instruction on Radiological Monitoring Duties has been replaced with an eight hour block of instruction on Rapid Deployment Training.*

12 NCAC 09C .0401 – *This rule concerns certification of schools at law enforcement agencies and community colleges. Each school is certified for a five year period. A school must have current certification in order to offer criminal justice courses. There are approximately 50 schools whose certification will expire within one year. Due to staff vacancies and lack of funds the current staff is unable to complete site visits and audits of all 50 schools by the end of the one year period. The Commission wants to grant the remaining schools an extension on the certification period until such time as the Standards Division staff can catch up. This additional time would not exceed two years.*

12 NCAC 09E .0102, .0105 – *The Commission has changed the required topics for annual In-Service Training for law enforcement officers. The following topics have been removed: Legal Update: Case Law; Domestic Violence; Juvenile Minority Sensitivity: What's Hot/What's Not; Ethics: On Duty or Off Duty; and Interacting with Special Populations. The following*

have been added: *Legal Update; Career Survival: Truth or Consequences; Juvenile Minority Sensitivity Training: Effects of Juvenile Bullying; and Response to Critical Incidents. The total number of annual in-service training hours remains 24.*

12 NCAC 09E .0104 – Added requirement that instructors teaching Incident Command System for NIMS (National Incident Management System) compliance must be qualified through FEMA as Incident Command Instructors.

12 NCAC 09G .0415 – Change the word "revolver" to "handgun" to more accurately reflect the type of weapons training being conducted.

Procedure by which a person can object to the agency on a proposed rule: *The objection, reasons for the objection, and the clearly identified portion of the rule to which the objection pertains, must be submitted in writing to Teresa Marrella, Department of Justice, Criminal Justice Standards Division, 114 West Edenton Street, Raleigh, NC 27602.*

Comments may be submitted to: *Teresa Marrella, Department of Justice, 114 West Edenton Street, Raleigh, NC 27602, phone (919) 716-6470, fax (919) 716-6752, email tmarrella@ncdoj.com*

Comment period ends: *January 14, 2008*

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 09 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SUBCHAPTER 09B - STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT: EDUCATION: AND TRAINING

SECTION .0200 – MINIMUM STANDARDS FOR CRIMINAL JUSTICE SCHOOLS AND CRIMINAL JUSTICE TRAINING PROGRAMS OR COURSES OF INSTRUCTION

12 NCAC 09B .0228 BASIC TRAINING - WILDLIFE ENFORCEMENT OFFICERS

(a) The basic training course for wildlife enforcement officers appointed by the Wildlife Resources Commission as authorized under G.S. 113-136 shall consist of at least 652 hours of instruction designed to provide the trainee with the skills and knowledge to perform those tasks essential to function as a wildlife enforcement officer.

(b) Each basic training course for wildlife enforcement officers shall include the following identified topical areas and minimum instructional hours for each area:

- | | | |
|------|---|----------|
| (1) | Course Orientation | 2 Hours |
| (2) | Arrest Search & Seizure/Constitutional Law | 28 Hours |
| (3) | Law Enforcement Communications and Information System | 8 Hours |
| (4) | Elements of Criminal Law | 24 Hours |
| (5) | Subject Control/Arrest Techniques | 48 Hours |
| (6) | Juvenile Law and Procedures | 8 Hours |
| (7) | First Responder | 40 Hours |
| (8) | Firearms | 48 Hours |
| (9) | Hunter Safety | 12 Hours |
| (10) | Patrol Techniques | 16 Hours |
| (11) | Field Notetaking and Report Writing | 12 Hours |
| (12) | Domestic Violence Response | 12 Hours |
| (13) | Criminal Investigation | 12 Hours |
| (14) | Field & Custodial Interviews | 16 Hours |
| (15) | Controlled Substances | 10 Hours |
| (16) | ABC Laws and Procedures | 4 Hours |
| (17) | Explosives & Hazardous Materials | 12 Hours |
| (18) | Law Enforcement Drivers Training | 48 Hours |
| (19) | Preparing for Court and Testifying in Court | 12 Hours |
| (20) | Game and Fish Laws | 36 Hours |
| (21) | Motorboat Laws | 16 Hours |
| (22) | Boating Procedures & Small Boat Handling | 20 Hours |
| (23) | Dealing with Problem Animal Situations | 4 Hours |
| (24) | Basic Field Identification of Fishes | 6 Hours |
| (25) | Basic Field Identification of Game Animals, Game Birds and Non-Game Animals | 2 Hours |
| (26) | Identification of Migratory Waterfowl | 2 Hours |
| (27) | Endangered Species | 2 Hours |
| (28) | Trapping | 8 Hours |
| (29) | Water Safety and Swimming | 20 Hours |
| (30) | Knotsmanship, A Practical Use of Rope | 2 Hour |
| (31) | Wildlife Law Enforcement and the Media | 8 Hours |
| (32) | Motorboat Accident Investigation | 12 Hours |
| (33) | Crowd Management | 12 Hours |
| (34) | Radiological Monitoring Rapid Deployment | 8 Hours |
| (35) | Covert Activities | 2 Hours |
| (36) | Basic Photography | 4 Hours |
| (37) | Motor Vehicle Laws | 20 Hours |
| (38) | Physical Training | 60 Hours |

- (39) Standardized Field Sobriety Training 32 Hours
- (40) Ethics 4 Hours

(c) The "Wildlife Basic Training Manual" as published by the North Carolina Wildlife Resources Commission shall be used as the basic curriculum for delivery of wildlife enforcement officer basic training courses. Copies of this publication may be inspected at the office of the agency:

The Division of Enforcement Training Office
 North Carolina Wildlife Resources Commission
 512 North Salisbury Street
 Raleigh, North Carolina 27604

and may be obtained from the Wildlife Resources Commission for ninety-five dollars (\$95.00) per copy.

(d) Commission-accredited schools that are accredited to offer the "Basic Training: Wildlife Enforcement Officers" course are: The Division of Enforcement Training Office of the North Carolina Wildlife Resources Commission.

Authority G.S. 17C-6; 17C-10.

SUBCHAPTER 09C - ADMINISTRATION OF CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SECTION .0400 - ACCREDITATION OF CRIMINAL JUSTICE SCHOOLS AND TRAINING COURSES

12 NCAC 09C .0401 CERTIFICATION OF CRIMINAL JUSTICE SCHOOLS

(a) The Commission shall establish a standing subcommittee, called the ~~Accreditation~~-Certification Committee, of the Education and Training Committee for the purposes of evaluating Request for School ~~Accreditation~~-Certification applications and making recommendations to the Education and Training committee on the granting of ~~accreditation~~-certification to institutions and agencies. The ~~Accreditation~~-Certification Committee shall be comprised of two members appointed by the School Directors' Advisory Committee and two members who shall be ~~commission~~-Commission members to include the North Carolina Department of Community Colleges' representative to the Commission. The Chairman of the Commission shall appoint the Chairman of the ~~Accreditation~~-Certification Committee.

(b) Any school requesting ~~accreditation~~-certification meeting the minimum requirements contained in 12 NCAC 09B .0200 must submit a completed Request for School ~~Accreditation~~-Certification application. Upon receipt of a completed Request for School ~~Accreditation~~-Certification application:

- (1) The Standards Division staff shall review the application for any omissions and clarifications and conduct a site visit to tour facilities, confirm information on the application, and determine if and where deficiencies exist;
- (2) The Standards Division Staff shall contact the applying institution or agency concerning deficiencies and shall provide assistance on correcting problem areas;

(3) The Standards Division staff shall make a recommendation to the ~~Accreditation~~-Certification Committee when the accredited institution has satisfied the requirements outlined in 12 NCAC 09B .0200;

(4) The Standards Division staff shall submit the application and staff reports to the ~~Accreditation~~-Certification Committee for review;

(5) The ~~Accreditation~~-Certification Committee shall then submit a recommendation to the Education and Training Committee on the approval or denial of the application; and

(6) The Education and Training Committee shall recommend to the full Commission at its next regularly scheduled meeting the approval or denial of ~~accreditation~~-certification for the applicant institution or agency.

(c) ~~Accreditation~~-Certification of a school shall remain effective for five years from issuance unless earlier suspended or revoked for failure to maintain compliance with the requirements outlined in 12 NCAC 09B .0200, Minimum Standards for Criminal Justice Schools and Criminal Justice Training Programs or Courses of Instruction.

(d) The identity of those schools ~~accredited~~-certified under this Rule shall be published and distributed annually by the Standards Division together with the name and business address of the school director and the schedule of criminal justice training courses planned for delivery during the succeeding year.

(e) A school may apply for ~~reaccreditation~~-recertification to the Commission by submitting a completed Request for School ~~Accreditation~~-Certification application. The application for ~~reaccreditation~~-recertification shall contain information on changes in facilities, equipment, and staffing. Upon receipt of a completed application:

- (1) The Standards Division staff shall review the application for any omissions and clarification;
- (2) The Standards Division staff shall attach copies of the reports of site visits conducted during the last period of certification to the application;

(3) The Standards Division staff shall submit the application and staff reports to the ~~Accreditation~~-Certification Committee for Review;

(4) The ~~Accreditation~~-Certification Committee shall submit a recommendation to the Education and Training Committee on the approval or denial of the application; and

(5) The Education and Training Committee shall recommend to the full Commission at its next regularly scheduled meeting the approval or denial of ~~accreditation~~-certification of the applicant institution or agency.

(f) In instances where ~~accredited~~-certified schools have been found to be in compliance with 12 NCAC 09B .0200 through favorable site visit reports, Standards Division staff shall ~~reaccredit~~-recertify on behalf of the Commission. Such action shall be reported to the Commission through the ~~Accreditation~~-Certification Committee.

Certification Committee and the Education and Training Committee at its next scheduled meeting.

(g) The Commission may suspend or revoke a school's ~~accreditation certification~~ when it finds that the school has failed to meet or continuously maintain any requirement, standard, or procedure for school or course ~~accreditation certification~~.

(h) The certification of a school whose certification is scheduled to expire in calendar year 2006 and who has submitted a request for recertification is extended for a maximum of two years under the following conditions:

- (1) certification has not expired;
- (2) the school has submitted a request for recertification along with the required documentation by December 31, 2006;
- (3) the Standards Division staff is unable to complete the recertification process by December 31, 2006; and
- (4) the school is not denied recertification prior to the expiration of the current certification. Certification or certification extension according to this paragraph expires when recertification is denied or revoked or the Standards Division staff is able to complete the recertification process and it is determined that the school is in compliance with the Rules for recertification. If the school recertification is denied or revoked, the school must not deliver Commission certified criminal justice courses until such recertification has been granted or reinstated by the Commission.

Authority G.S. 17C-6.

SUBCHAPTER 09E - IN-SERVICE TRAINING PROGRAMS

SECTION .0100 - LAW ENFORCEMENT OFFICER'S IN-SERVICE TRAINING PROGRAM

12 NCAC 09E .0102 REQUIRED ANNUAL IN-SERVICE TRAINING TOPICS

The following topical areas are hereby established as minimum topics and hours to be included in the law enforcement officers' annual in-service training program:

- (1) Firearms Training and Qualification (4);
- (2) ~~Legal Update: Case Law (2); Update (4);~~
- (3) ~~Domestic Violence Career Survival: Truth or Consequences (2);~~
- (4) Juvenile Minority Sensitivity: ~~What's Hot/What's Not~~ Effects of Juvenile Bullying (2);
- (5) ~~Ethics: On Duty or Off Duty (2); Response to Critical Incidents (4); and~~
- (6) ~~Interacting with Special Populations (4); and~~
- (7) Department Topics of Choice (8).

Authority G.S. 17C-6; 17C-10.

12 NCAC 09E .0104 INSTRUCTORS: ANNUAL IN-SERVICE TRAINING

The following requirements and responsibilities are hereby established for instructors who conduct the law enforcement officers' annual in-service training program:

- (1) The instructor shall hold Instructor Certification issued by the Commission as outlined in 12 NCAC 09B .0302, 09B .0304, and 09B ~~.0306~~ .0306, except for instructors delivering Incident Command System training for NIMS (National Incident Management System) compliance. Those instructors must be certified through FEMA as Incident Command Instructors. In addition, each instructor certified by the Commission to teach in a Commission-certified course shall remain competent in his/her specific or specialty areas. Such competence includes remaining current in the instructor's area of expertise, which may be demonstrated by attending and successfully completing all instructor updates issued by the Commission.
- (2) The instructor shall deliver the training consistent with the specifications as established in Rules 09E .0105 and .0106.
- (3) The instructor shall report the successful or unsuccessful completion of training for each officer to the Department head. Such reporting shall be on a Commission form.
- (4) Where the officer fails to successfully qualify with a weapon, the instructor shall inform the officer that the officer did not qualify and the instructor shall deliver a Commission form to the officer which shall be signed by the officer. This form shall instruct the officer not to use the weapon and shall require the officer to notify the Department head or designated representative within 24 hours of the failure to qualify. The instructor shall personally deliver this form or send the form by certified mail to the Department head or designated representative within 72 hours of the failure to qualify.

Authority G.S. 17C-6; 17C-10.

12 NCAC 09E .0105 MINIMUM TRAINING SPECIFICATIONS: ANNUAL IN-SERVICE TRAINING

The following specifications shall be incorporated in each law enforcement agency's annual in-service training courses:

- (1) Firearms:
 - (a) Use of Force: review the authority to use deadly force [G.S. 15A-401(d)(2)] including the relevant case law and materials.
 - (b) Safety:
 - (i) range rules and regulations;
 - (ii) handling of a firearm;
 - (iii) malfunctions.

- (c) Review of Basic Marksmanship Fundamentals:
 - (i) grip, stance, breath control and trigger squeeze;
 - (ii) sight and alignment/sight picture;
 - (iii) nomenclature.
- (d) The "Specialized Firearms Instructor Training Manual" as published by the North Carolina Justice Academy shall be applied as a guide for conducting the annual in-service firearms training program. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division
 North Carolina Department of Justice
 114 West Edenton Street
 Old Education Building
 Post Office Drawer 149
 Raleigh, North Carolina 27602;

- (2) ~~Legal Update: Case Law (2); Update (4);~~
- (3) ~~Domestic Violence Career Survival: Truth or Consequences (2);~~
- (4) ~~Juvenile Minority Sensitivity: What's Hot/What's Not Effects of Juvenile Bullying (2)~~
- (5) ~~Ethics: On Duty or Off Duty (2); Response to Critical Incidents (4); and~~
- (6) ~~Interacting with Special Populations (4); and~~
- (7) Department Topics of Choice (8).

The In-Service Lesson Plans as published by the North Carolina Justice Academy shall be applied as a minimum curriculum for conducting the annual in-service training program. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division
 North Carolina Department of Justice
 114 West Edenton Street
 Old Education Building
 Post Office Drawer 149
 Raleigh, North Carolina 27602

and may be obtained at cost from the Academy at the following address:

North Carolina Justice Academy
 Post Office Drawer 99
 Salemburg, North Carolina 28385

Authority G.S. 17C-6; 17C-10.

SUBCHAPTER 09G - STANDARDS FOR CORRECTIONS EMPLOYMENT, TRAINING, AND CERTIFICATION

SECTION .0400 – MINIMUM STANDARDS FOR TRAINING OF CORRECTIONAL OFFICERS, PROBATION/ PAROLE OFFICERS, AND PROBATION/ PAROLE OFFICERS-SURVEILLANCE

12 NCAC 09G .0415 CORRECTIONS SPECIALIZED INSTRUCTOR TRAINING – FIREARMS

- (a) The instructor training course requirement for corrections specialized firearms instructor certification shall consist of at least 80 hours of instruction presented during a continuous period of not more than two weeks.
- (b) Each corrections specialized firearms instructor training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a corrections firearms instructor in the "Basic Training-Correctional Officer" course, "Basic Training-Probation/Parole Officer" course, "Basic Training-Probation/Parole Officer-Intermediate" course, and in-service training courses for correctional officers, PERT teams, and probation/parole officers-intermediate.
- (c) Each corrections specialized firearms instructor training course shall include the following topical areas:

- (1) Overview;
 - (A) Course Overview
 - (B) Legal Considerations for Firearm Instructors
 - (C) Department of Correction Firearms Training Courses
- (2) Firearms Safety;
- (3) Range Operations;
- (4) Medical Emergencies on the Range;
- (5) ~~Revolver—Handgun - Operation, Use and Maintenance;~~
 - (A) ~~Revolver—Handgun Training-Classroom~~
 - (B) Standard ~~Revolver—Handgun~~ Courses of Fire-Range
 - (C) Introduction to Low/Limited Light (LLL) Fire-Classroom and Range
 - (D) ~~Revolver—Handgun~~ Care and Maintenance
- (6) Advanced ~~Revolver—Handgun~~ Training;
 - (A) Advanced ~~Revolver—Handgun~~ Training – Classroom
 - (B) Advanced ~~Revolver—Handgun~~ Courses of Fire – Range
- (7) ~~Revolver—Handgun~~ Night Firing; ~~Revolver—Handgun~~ Low/Limited Light Fire – Classroom and Range
- (8) Rifle Training and Qualification;
 - (A) Rifle Training – Classroom
 - (B) Rifle Training – Range
 - (C) Rifle Qualification and Low/Limited Light Fire Familiarization Course – Range
- (9) Shotgun Training and Qualification;
 - (A) Shotgun Training – Classroom
 - (B) Shotgun Training - Range
 - (C) Shotgun Low/Limited Light Fire – Range
- (10) Maintenance and Repair of Rifles and Shotguns;
- (11) Special Techniques, Training Aids, and Methods;

- Special Techniques for the Reluctant/Frightened Shooter
- (12) Chemical Weapons; Chemical Agents, Equipment, Tactics and Storage
- (13) Situational Use of Firearms;
 - (A) The Shooting Decision
 - (B) Situational Use of Firearms
 - (C) Situational Exercises - Day
 - (D) Situational Exercises – Low/Limited Light
- (14) Administrative Matters, Testing, and Evaluation

(d) Commission-accredited schools that are accredited to offer the "Corrections Specialized Instructor Training - Firearms" course are: The Office of Staff Development and Training of the North Carolina Department of Correction.

Authority G.S. 17C-6.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 61 - NORTH CAROLINA RESPIRATORY CARE BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Respiratory Care Board intends to amend the rules cited as 21 NCAC 61 .0201, .0204, .0305.

Proposed Effective Date: March 1, 2008

Public Hearing:

Date: November 30, 2007

Time: 1:00 p.m.

Location: NC Respiratory Care Board, 1100 Navaho Drive, Suite 242, Raleigh, NC 27609

Reason for Proposed Action:

21 NCAC 61 .0201 – To amend continuing education requirements for individuals applying for licensure who have been out of the practice of respiratory care.

21 NCAC 61 .0204 – To increase fees as authorized under amendments to G.S. 90-660(b) enacted in House Bill 1381/ S.L. 2007.

21 NCAC 61 .0305 – To amend continuing education requirements for individuals applying for a change in status from inactive to active.

Procedure by which a person can object to the agency on a proposed rule: A person may object to the Board on a proposed rule by sending a written objection addressed to Floyd Boyer, RRT RCP Executive Director, North Carolina Respiratory Care Board, 1100 Navaho Drive, Suite 242, Raleigh, NC 27609, phone (919) 878-5595, fax (919) 878-5565, email fboyer@ncrcb.org.

Comments may be submitted to: *Floyd Boyer, RRT RCP, 1100 Navaho Drive, Suite 242, Raleigh, NC 27609, phone (919) 878-5595, fax (919) 878-5565, email fboyer@ncrcb.org*

Comment period ends: *December 31, 2007*

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 .0200 – APPLICATION FOR LICENSE

21 NCAC 61 .0201 APPLICATION PROCESS

(a) Each applicant for a respiratory care practitioner license shall complete an application form provided by the Board. This form shall be submitted to the Board and shall be accompanied by:

- (1) one recent head and shoulders passport type photograph of the applicant of acceptable quality for identification, two inches by two inches in size;
- (2) the fee established in Rule .0204 of this Chapter;
- (3) evidence, verified by oath, that the applicant has successfully completed the minimum requirements of a respiratory care education program approved by the Commission for Accreditation of Allied Health Educational Programs or the Canadian Council on Accreditation for Respiratory Therapy Education;
- (4) evidence, verified by oath, that the applicant has successfully completed the requirements for certification in Basic Life Support which includes Adult, Child and Infant Cardiopulmonary Resuscitation (CPR), the Heimlich Maneuver, and Automatic External Defibrillator (AED) use by the American Heart Association, the American Red Cross or the American Safety and Health Institute; and

- (5) evidence from the National Board for Respiratory Care (NBRC) of successful completion of the Certified Respiratory Therapist (CRT) examination administered by it.

(b) Applicants for initial licensure in North Carolina, who have been inactive and who have not practiced respiratory care for a period of time greater than one year, must complete the following requirements in addition to the requirements in Paragraph (a) of this Rule:

- (1) for applicants who have not practiced respiratory care for a period of time greater than one year, but less than five years, the applicant must provide evidence of ~~40~~ 12 hours of continuing education, that meet the requirements of 21 NCAC 61 .0401, for each full year of inactivity; and
- (2) for applicants who have not practiced respiratory care for a period of time greater than five years, the applicant must provide evidence of 60 hours of continuing education, that meet the requirements of 21 NCAC 61 .0401 and evidence from the National Board for Respiratory Care (NBRC) of successful completion of the Certified Respiratory Therapist (CRT) examination taken as an assessment examination within the 90-day period before receipt of the application for licensure, licensure or completion of a Respiratory Care refresher course offered through a Respiratory Care Education program accredited by the Commission for the Accreditation of Allied Health Educational Programs.

Authority G.S. 90-652 (1),(2) and (13); 90-653(a).

21 NCAC 61 .0204 FEES

- (a) Fees are as follows:
 - (1) For an initial application, a fee of ~~twenty five dollars (\$25.00);~~ fifty dollars (\$50.00);
 - (2) For issuance of an active license, a fee of ~~one hundred dollars (\$100.00);~~ one hundred twenty-five dollars (\$125.00);
 - (3) For the renewal of an active license, a fee of ~~fifty dollars (\$50.00);~~ sixty five dollars (\$65.00);
 - (4) For the late renewal of any license, an additional late fee of ~~fifty dollars (\$50.00);~~ seventy- five dollars (\$75.00);
 - (5) For a license with a provisional or temporary endorsement, a fee of ~~thirty five dollars (\$35.00);~~ fifty dollars (\$50.00);
 - (6) For official verification of license status, a fee of ~~ten dollars (\$10.00);~~ twenty dollars (\$20.00);
 - (7) For copies of rules adopted pursuant to this Article and licensure standards, charges not

exceeding the actual cost of printing and mailing.

- (b) Fees shall be nonrefundable and shall be paid in the form of a cashier's check, certified check or money order made payable to the North Carolina Respiratory Care Board. However, personal checks shall be accepted for payment of renewal fees.

Authority G.S. 90-652(2),(9); 90-660.

SECTION .0300 –LICENSING

21 NCAC 61 .0305 INACTIVE STATUS

- (a) A licensee who wishes to retain a license but who will not be practicing respiratory care may obtain inactive status by indicating this intention on the annual renewal and payment of a fee of twenty dollars (\$20.00). An individual licensed on inactive status may not practice respiratory care during the period in which he or she remains on inactive status.
- (b) An individual licensed on inactive status may convert his or her license to active status by submission of a renewal application and payment of the renewal fee and late fee. The renewal application must contain evidence of the completion of a minimum of ~~40~~ 12 hours of continuing education that meets the requirements of 21 NCAC 61 .0401 for each full year of inactivity.
- (c) In no case may an individual remain on inactive status for more than 60 months.

Authority G.S 90-652(1),(2),(4).

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 011 .2108 and amend the rule cited as 25 NCAC 01C .0304.

Proposed Effective Date: April 1, 2008

Public Hearing:

Date: December 5, 2007

Time: 10:00 a.m.

Location: Office of State Personnel, Administrative Building, 3rd floor, 116 West Jones Street, Raleigh, NC 27603

Reason for Proposed Action:

25 NCAC 01C .0304 - We are proposing a rule change to conform to changes made by the 2007 General Assembly. Senate Bill 1546 amended G.S. 122 and G.S. 123 to redefine personnel file. The proposed rule change deletes the details in Paragraph (a) and replaces it with a sentence that refers to the statute. Since all of this is in the statute, it is not necessary to repeat it in the rule. The other change is to correct a statute number in Paragraph (d).

25 NCAC 011 .2108 - The proposed rule outlines the criteria and procedure for setting the salaries of Area Mental Health Directors.

Procedure by which a person can object to the agency on a proposed rule: *A person may object to these proposed rules by one of the following methods: A written letter to Peggy Oliver, HR Policy Administrator, Office of State Personnel, 1331 Mail Service Center, Raleigh, NC 27699-1331; An email to peggy.oliver@ncmail.net; A telephone call to Peggy Oliver at (919) 807-4832*

Comments may be submitted to: *Peggy Oliver, 1331 Mail Service Center, Raleigh, NC 27699-1331, phone (919) 807-4832, fax (919) 715-9750, email peggy.oliver@ncmail.net*

Comment period ends: *January 14, 2008*

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 01 - OFFICE OF STATE PERSONNEL

SUBCHAPTER 01C - PERSONNEL ADMINISTRATION

SECTION .0300 - PERSONNEL RECORDS AND REPORTS

25 NCAC 01C .0304 CONFIDENTIAL INFORMATION IN PERSONNEL FILES

(a) ~~Except as provided in G.S. 126-23 and G.S. 126-24, personnel files of State employees shall not be subject to inspection and examination. All information not specified in G.S. 126-23 and which relates to the individual's application, selection or nonselection, promotions, demotions, transfers, leave, salary, suspension, performance evaluation forms, disciplinary actions, and termination of employment is confidential.~~

(b) Agencies shall maintain in personnel records only information that is relevant to accomplishing personnel administration purposes.

(c) Information used in making a determination about employment or other personnel actions shall, to the extent practical, be obtained directly from the individual. There may be instances where it is necessary to obtain information from other sources. This may be obtained either directly from those sources or by the use of a consumer reporting agency. If the consumer reporting agency is utilized, the requirements of the Fair Credit Reporting Act, Title VI of The Consumer Credit Protection Act (Public Law 91-508) must be followed.

(d) All information in an employee's personnel file shall be open for inspection and examination as set forth in G.S. ~~125-24, 126-24~~. For this purpose, supervisor is any individual in the chain of administrative authority above a given state employee within a pertinent state agency. An official is a person who has official or authorized duties or responsibilities in behalf of an agency; it does not imply a necessary level of duty or responsibility. This right to access includes the circumstances where one state agency is considering for employment a person who is or has been employed in another state agency; the head of the latter agency may release to an official of another agency information relative to the employee's job performance.

(e) Each individual requesting access to confidential information shall submit proof of identity.

(f) A record shall be made of each disclosure except to the employee or the supervisor.

Authority G.S. 126-24; 126-26; 126-29.

SUBCHAPTER 01I - SERVICE TO LOCAL GOVERNMENT

SECTION .2100 - COMPENSATION

25 NCAC 01I .2108 COMPENSATION OF AREA MENTAL HEALTH DIRECTORS

(a) The salary of an Area Mental Health Director shall be established by the area board of the Local Management Entity and shall be within the salary range recommended for Area Mental Health Directors by the Office of State Personnel and approved by the State Personnel Commission.

(b) Each director's salary shall be based upon labor market data from counties within the Local Management Entity. The salary may not be less than the minimum of the range, nor more than the maximum of the range established for Area Mental Health Directors under this Rule.

(c) Area boards may request an adjustment to the salary range for Area Mental Health Directors from the State Personnel Commission in accordance with G. S. 122C-121(a1).

Authority G.S. 126-4; 122C-156(a).

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

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

TITLE 10A– DEPARTMENT OF HEALTH AND HUMAN SERVICES

SUBCHAPTER 43E - CHILD HEALTH

Rule-making Agency: *Early Childhood Vision Commission, Department of Health and Human Services, Division of Public Health*

SECTION .0400 - EARLY CHILDHOOD VISION CARE PROGRAM

Rule Citation: *10A NCAC 43E .0401 - .0405*

10A NCAC 43E .0401 GENERAL

Effective Date: *November 1, 2007*

(a) The Early Childhood Vision Care Program shall be administered by the Division of Public Health, 1928 Mail Service Center, Raleigh, North Carolina 27699-1928.

Date Approved by the Rules Review Commission:
October 18, 2007

(b) The provisions of G.S. 130A-440.1 govern the administration of this program.

Reason for Action: *The original legislation for the Early Childhood Vision Care Program was passed in July 2005. Due to controversy and a lawsuit filed in March 2006, a consent order for preliminary injunction and stay of proceedings was signed granting an injunction of the implementation, administration and enforcement of Session Law 2005-276, Section 10.59F through and including June 30, 2007. On August 13, 2006, the governor signed HB 2699 which changed both the makeup of the Commission and key points of the Early Childhood Vision Care legislation. New members of the Governor's Early Childhood Vision Care Commission were appointed in late January 2007, with the last member being sworn in February 6, 2007. The process of organizing a new commission, orienting new members, making decisions about eligibility pursuant to the revised statute, and investigating and agreeing upon appropriate reimbursement processes was lengthy. Beginning with the 2007-2008 school year, G.S. 130A-440.1 requires children entering kindergarten in public schools to have a vision screening. The notice of the proposed temporary rules and the public hearing were sent to local health directors, Division of Medical Assistance, Department of Public Instruction, Health Choice, Prevent Blindness North Carolina, N.C. Pediatrics Society, N.C. Academy of Family Physicians, N.C. Optometry Society, N.C. Ophthalmology Society, Health Check Coordinators, Division of Services for the Blind, N.C. School Principals Association, More at Four, N.C. Head Start, Department of Social Services, N.C. Coalition to Promote Health Insurance for Children, NC/NCHC Steering Committee and their Targeted Minority List Serve, N.C. Academy of Family Practitioners, N.C. Medical Society, and the N.C. Commission on Children with Special Health Care Needs. The response has been universally both positive and supportive. Immediate adoption of the rule is required in order to carry out the legislation for children enrolling in public kindergarten in the 2007-2008 school year.*

History Note: Authority G.S. 130A-440.1; 143B-216.75; Temporary Adoption Eff. November 1, 2007.

10A NCAC 43E .0402 COVERED SERVICES

The Early Childhood Vision Care Program shall provide reimbursement for comprehensive eye examinations, materials, and services related to the provision of visual aids by ophthalmologists, optometrists, and opticians pursuant to G.S. 130A-440.1 and consistent with state Medicaid policy.

History Note: Authority G.S. 130A-440.1; 143B-216.75; Temporary Adoption Eff. November 1, 2007.

10A NCAC 43E .0403 ELIGIBILITY

(a) Children are eligible for covered services under the Early Childhood Vision Care Program if they meet the following criteria:

- (1) they are eligible to attend N.C. public schools in grades kindergarten through grade three;
- (2) their family income does not exceed 250 percent of the federal poverty level;
- (3) they do not have private health insurance coverage with vision care provision, and they are not eligible for vision care services under N.C. Health Choice, Medicaid, the Department of Health and Human Services' Services for the Blind programs, Vision Service Plan's Sight for Students, and
- (4) they are not currently receiving vision care services from the Lion's Club Foundation.

(b) Applicant income eligibility shall be determined by self-declaration.

History Note: Authority G.S. 130A-440.1; 143B-216.75; Temporary Adoption Eff. November 1, 2007.

CHAPTER 43 – PERSONAL HEALTH

**10A NCAC 43E .0404 APPLICATIONS FOR
PROGRAM SERVICES**

Requests for services covered by the program shall be submitted to the Division of Public Health.

*History Note: Authority G.S. 130A-440.1; 143B-216.75;
Temporary Adoption Eff. November 1, 2007.*

**10A NCAC 43E .0405 REIMBURSEMENT TO
PROVIDERS**

Reimbursement for covered services provided to eligible children shall be paid at the Medicaid rate.

*History Note: Authority G.S. 130A-440.1; 143B-216.75;
Temporary Adoption Eff. November 1, 2007.*

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
Selina Brooks	A. B. Elkins II
Melissa Owens Lassiter	Joe Webster
Don Overby	Shannon Joseph

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<u>ALCOHOL BEVERAGE CONTROL COMMISSION</u>				
ABC Commission v. Agustin Zeferino Hernandez, T/A El Pujido	06 ABC 2275	Chess	10/09/07	
ABC Commission v. La Fiesta Mexicana II, Inc., T/A La Fiesta Mexicana	07 ABC 0149	Gray	04/19/07	
ABC Commission v. NK Group, Inc., T/A NK Food Mart,	07 ABC 0163	Overby	04/18/07	
ABC Commission v. 703 Jonestown, Inc., T/A Red Rooster	07 ABC 0305	Webster	10/04/07	
ABC Commission v. Donna Darlene Johnston, T/A Wagon Wheel	07 ABC 0738	Webster	09/20/07	
ABC Commission v. Jamal Kamel Hajeh, T/A Pleasant Grove Grocery	07 ABC 0883	Morrison	09/11/07	

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

CRIME VICTIMS COMPENSATION

Robert White, Jr., v. Crime Victims Compensation Commission	07 CPS 0497	Webster	09/12/07	
Pricilla McAllister v. Crime Victims Compensation Commission	06 CPS 1166	Webster	06/14/07	

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

DAG, Food and Drug Protection Division, Pesticide Section v. Jeffrey A. Oxley	06 DAG 0636	Webster	10/04/07	
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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Hanson Hill Rest Home and Faiger Blackwell v. DHHS, DFS, Adult Care Licensure Section	03 DHR 0945	Overby	04/16/07	
Mary Elizabeth Matthews v. DHHS, Division of Medical Assistance	06 DHR 0485	Mann	10/01/07	
Kristen Valerie Kennedy v. Div. of Mental Health/Development Disabilities/ Substance Abuse Services at Dix	06 DHR 0984	Mann	05/08/07	
Eyvette Abbott, Robbie Wilson Community Services, Inc., v. DHHS (DMH/DD/SAS)	06 DHR 1139	Webster	06/06/07	
Amran Hussein, Trading as Laurinburg Food Mart v. DHHS, Div. of Public Health	06 DHR 1569	Webster	04/17/07	
James Hampton for South Haven Assisted Living v. DHHS, DFS, Mental Health Licensure and Certification Section	06 DHR 1783	Gray	04/23/07	
Burnell Yancey, Jr. v. DHHS, Div. of Medical Assistance	06 DHR 1817	Elkins	05/29/07	22:01 NCR 82
Nidal Dahir, DHHS, Division of Public Health	06 DHR 1916	Lassiter	05/14/07	
Mary K. Short for Kathryn M. Short v. DHHS, Division of Mental Health, Developmental Disabilities and Substance Abuse	06 DHR 2282	Gray	05/18/07	
Egusta Ford v. DMA, Third Party Recovery	06 DHR 2364	Gray	05/14/07	
Stacey M Saylon v. Health Care Personnel Registry	06 DHR 2413	Gray	09/24/07	
Annette L. Gwynn v. DHHS, Division of Medical Assistance	07 DHR 0030	Webster	06/08/07	
John A. Millan and Cornelia D. Millan v. DHHS	07 DHR 0031	Gray	05/23/07	
Doris Durden/MID #945-63-2642K v. DHHS	07 DHR 0055	Overby	06/04/07	
Rita Amirahmadi v. DHHS, Division of Medical Assistance	07 DHR 0250	Elkins	06/05/07	
Linda S. Little, Littles Day Care	07 DHR 0266	Overby	05/23/07	

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Kareem S. Scott v. DHHS, DFS	07 DHR 0300	Webster	05/11/07	
Peter Emeka Nwankwo v. DHHS	07 DHR 0355	Overby	05/04/07	
Geraldine Fenner v. DHHS	07 DHR 0367	Overby	05/23/07	
Annette L. Gwyn v. DHHS/Division of Medical Assistance	07 DHR 0382	Lassiter	04/16/07	
Jessie Duncan v. DHHS	07 DHR 0424	Elkins	06/08/07	
Leonard Atkins Jr. v. Rowan County DSS (Ms. Tate)	07 DHR 0464	Gray	06/07/07	
Visitacion T Uy v. DHHS/Division of Medical Assistance	07 DHR 0489	Overby	05/10/07	
Dorothy Sue Johnson v. DHHS, DFS	07 DHR 0502	Webster	06/15/07	
Robin E. Peacock, Bridging to Success, Inc v. DHHS, DFS, Mental Health Licensure Section	07 DHR 0510	Gray	05/30/07	
Samantha A. Amerson v. DHHS	07 DHR 0578	Overby	06/15/07	
Anna Trask v. DHHS, Health Care Personnel Registry	07 DHR 0661	Overby	06/15/07	
Stacey M. Saylor v. Health Care Personnel Registry	07 DHR 0662	Gray	09/24/07	
Carmalitta M. Taylor v. DHHS	07 DHR 0832	Lassiter	08/22/07	
Carolyn Tolson v. DHHS	07 DHR 0850	Lassiter	08/22/07	
Dorothy Rose, Willie Rose, v. DHHS	07 DHR 0859	Lassiter	10/08/07	
Linda Thompson v. DHHS	07 DHR 0862	Lassiter	08/29/07	
Keith Beddingfield c/o Thyllis Smith ATFTH Staff, Value Options, Inc.	07 DHR 1059	Overby	10/04/07	
Tonya Thompson v. DHHS	07 DHR 1062	Gray	09/07/07	
Gina Fuller v. Value Options	07 DHR 1137	Overby	10/04/07	
Heavenly Healthcare, AD Fulton v. NC DHHS/Division of Medical Asst.	07 DHR 1262	Overby	10/04/07	
Michael J. Graves v. DHHS, DFS, Mental Health Licensure and Certification Section	07 DHR 1468	Overby	10/10/07	
Beacon Child Care Center, DHHS, Division of Public Health, Child and Adult Care Food Program	07 DHR 1470	Elkins	10/16/07	

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Travis Dan Williams v. Criminal Justice Education and Training Standards Commission	06 DOJ 1198	Webster	04/26/07	
Robert Anthony Wilson v. DOJ, Company Police Program	06 DOJ 1508	Gray	02/16/07	
Jerry Hailey v. Insurance Underwriting Association	06 DOJ 1528	Gray	10/01/07	22:09 NCR 883
Jeremy Shayne Pearce v. DOJ, Campus Police Program	06 DOJ 2424	Overby	04/16/07	
Andre Cornelius Patterson v. Private Protective Services Board	07 DOJ 0003	Gray	05/18/07	
David Keith Shelton v. Private Protective Services Board	07 DOJ 0011	Morrison	03/29/07	
Larry Talbert v. Private Protective Services Board	07 DOJ 0036	Morrison	04/05/07	
Patricia Ann Davis v. Criminal Justice Education and Training Standards Commission				
Patricia Ann Davis v. Criminal Justice Education and Training Standards Commission	07 DOJ 0045	Gray	04/03/07	
Antonio Jose Coles v. Sheriffs' Education and Training Standards Comm.	07 DOJ 0142	Overby	04/03/07	
Joseph Lester Early II v. Sheriffs' Education and Training Standards Comm.	07 DOJ 0143	Lassiter	09/28/07	
Jeffrey S. Moore v. Private Protective Services Board	07 DOJ 0468	Morrison	06/08/07	
Roy Lee Burgess v. DOJ, Campus Police Program	07 DOJ 0540	Gray	09/25/07	
Norman Jerome Turner v. Criminal Justice Education and Training Standards Commission	07 DOJ 0599	Overby	09/19/07	
Paul James Dunn v. Sheriffs' Education and Training Standards Commission	07 DOJ 0729	Overby	09/19/07	
Frank Burton Scofield v. DOJ, Company Police Program	07 DOJ 0814	Chess	10/10/07	
William Brian Martin v. Alarm Systems Licensing Board	07 DOJ 0929	Gray	10/16/07	

DEPARTMENT OF TRANSPORTATION

Citizens for the Preservation of Willis Landing, Kenneth M. Seigler v. DOT	07 DOT 0175	Gray	03/27/07	
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DEPARTMENT OF STATE TREASURER

Sparkle Nicole Jones v. DST and Denise Virginia Lee and Arthur E. Seay, III	05 DST 1612	Gray	05/23/07	
Charles R. Franklin, Jr. v. DST, Retirement Systems Division	06 DST 1672	Overby	05/14/07	22:01 NCR 85
Elaine Scarlett v. DST, Retirement Systems Division	07 DST 0452	Webster	10/12/07	

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Billy Ray Brown v. Department of Public Instruction	02 EDC 1272	Webster	06/14/07	
Lynn C. Sasser v. Board of Education	06 EDC 0044	Elkins	05/04/07	
Karen Stallings v. Board of Education	06 EDC 1725	Elkins	05/08/07	22:01 NCR 90
Phyllis Simms v. Board of Education	06 EDC 1780	Elkins	04/02/07	
April Williams Compton v. National Board Certification Committee Public Schools of NC	06 EDC 1816	Webster	05/18/07	
John M. Radford, Jr., v. Dept. of Public Instruction	06 EDC 1841	Webster	08/17/07	
Vonnita Hart Taylor v Department of Public Instruction	06 EDC 2203	Webster	09/20/07	
Ms. Victoria L. Ruffin v. Board of Education	06 EDC 2218	Overby	06/01/07	
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Jason Forrister v. Dept. of Public Instruction	07 EDC 0054	Gray	06/22/07	22:09 NCR 888
Merredith Page v. Board of Education	07 EDC 0056	Webster	04/19/07	
Jane H. Layton v. Department of Public Instruction	07 EDC 0182	Webster	09/18/07	
Olga Patricia Cancino v. Public Schools of NC et al.	07 EDC 0904	Chess	10/10/07	

DEPT. OF ENVIRONMENT AND NATURAL RESOURCES

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George A. Jenkins, Jr, d/b/a Lake Juno Park, Inc., v. Dept. of Environmental Health	05 EHR 1161	Lassiter	02/16/07		
Wayne Smith, Jack in the Box, Inc. v. DENR	05 EHR 1237	Hunter	10/02/07		
Robert D. Bryant v. DENR, Division of Coastal Management and Stanley L. McCauley	05 EHR 2185	Chess	02/16/07		
Franklin Grading Co., Inc. v. DENR, Division of Air Quality	06 EHR 0239	Lassiter	10/01/07		
Wildcat Investments LLC, James Cook v. Cherokee County Health Depart.	06 EHR 0631	Gray	04/23/07		
Randy Dockery v. Cherokee County Health Department	06 EHR 0728	Gray	04/23/07		
Alan Raper v. Cherokee Health Department	06 EHR 0873	Gray	04/23/07		
Christopher Perry v. Caldwell County Health Department	06 EHR 1010	Elkins	06/05/07		
Franklin Grading Co., Inc. v. DENR, Division Air Quality	06 EHR 1525	Lassiter	10/01/07		
Robert Don Foster v. DENR, Div. of Coastal Management	06 EHR 1833	Morrison	05/11/07	22:01 NCR	95
Andrew Price v. DENR, Div. of Coastal Management and William F. Canady	06 EHR 1834	Morrison	05/11/07	22:01 NCR	95
Conrad McLean v. DENR/Division of Air Quality	06 EHR 2243	Gray	05/03/07		
Terry Collins v. DENR, Division of Waste Management	06 EHR 2414	Gray	05/01/07		
Riverwalk, LLC v. Town of Highlands	06 EHR 2420	Gray	10/01/07		
Paul A. Stennett v. DENR, Public Water Supply Section	07 EHR 0170	Overby	05/04/07		
Daniel R. Wroblewski v. DENR and Coastal Management	07 EHR 0217	Overby	05/08/07		
James Wallace v. DENR	07 EHR 0600	Elkins	09/18/07		
Max Plowman v. DENR, Division of Air Quality	07 EHR 0828	Webster	09/25/07		
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Board of Examiners for Engineers and Surveyors v. C. Phil Wagoner, PLS No. L-2416	07 EHR 0141	Morrison	08/21/07		
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Jerry W. Conner (NCDOC#0085045) and James A. Campbell (NCDOC# 0063592) v. Council of State	07 GOV 0238	Morrison	08/09/07	22:04 NCR	280
James Edwards Thomas and Marcus Robinson and Archie Lee Billings v. Council of State	07 GOV 0264	Morrison	08/09/07	22:04 NCR	280
<u>DEPARTMENT OF INSURANCE</u>					
Toni W. Goodwin v. Teachers and State Employees Comprehensive Major Medical Plan	06 INS 1016	Overby	05/07/07		
Larry Miller v. Teachers' and State Employees' Comprehensive Major Medical Plan	06 INS 1236	Overby	04/11/07		
Randall A. Meder v. Teachers' and State Employees' Comprehensive Major Medical Plan	06 INS 1413	Overby	07/16/07	22:04 NCR	264
Barbara Smith Pearce v. State Health Plan	07 INS 0008	Overby	07/12/07	22:04 NCR	273
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Sylvia Oliver v. Superior Court Judges, Clerk of Court Judges	07 MIS 1603	Lassiter	10/18/07		
<u>OFFICE OF ADMINISTRATIVE HEARINGS</u>					
Senora Kemp v. OAH	07 OAH 0776	Lassiter	09/06/07		
<u>OFFICE OF STATE PERSONNEL</u>					
Willie G. Shaw v. Division of Forest Resources	05 OSP 0414	Overby	04/13/07		
Deona R. Hooper v. NCCU	06 OSP 1071	Lassiter	04/25/07		
Franklin Leaven v. DHHS, DDH	06 OSP 1132	Lassiter	10/17/07		
Patrice Bernard v. NC A&T State University	06 OSP 1550	Elkins	06/05/07		
Angelia Davis v. UNC-Charlotte	06 OSP 1908	Gray	03/08/07		
Keith Dial v. Dept. of Juvenile Justice and Delinquency Prevention	06 OSP 2346	Gray	04/20/07		
Larry L. Deyton v. Mitchell County Commission Board	06 OSP 2415	Gray	04/19/07		
Rose M. Baltezare v. City of Brevard	07 OSP 0009	Gray	04/03/07		
Dorothy H. Williams v. John Umstead Hospital	07 OSP 0265	Lassiter	04/24/07		
Pei Wang v. UNC-Chapel Hill	07 OSP 0273	Lassiter	04/19/07		
Candace R. Berguson v. Caswell County DSS and Mr. Jeff Earp, County Manager	07 OSP 0294	Lassiter	04/20/07		
Shannon Harris Tadlock v. Wilson County, Department of Public Health	07 OSP 0491	Lassiter	05/07/07		
Patricia G. Flanigan v. Fayetteville State University	07 OSP 0503	Overby	05/10/07		
Tobias M. Guilluame v. FSU Police & Public Safety	07 OSP 0565	Overby	05/10/07		
Archie Andrew Copeland v. Dept. of Juvenile Justice & Delinquency Prevention	07 OSP 0976	Lassiter	08/29/07		
Patricia Bethea Williams v. NC A&T State University	07 OSP 1053	Overby	08/28/07		
<u>SECRETARY OF STATE</u>					
Mary C. Brandon v. Department of the Secretary of State	06 SOS 1839	Elkins	04/02/07		
Samuel Abraham , pro-se v. SOS, General Counsel Ann Wall	07 SOS 0224	Overby	04/27/07		
Mr. Tim Rhodes, President, Event Marketing Services, Inc. v. SOS	07 SOS 0374	Overby	06/14/07		
Angela Dozier v. SOS	07 SOS 0912	Gray	08/30/07		

CONTESTED CASE DECISIONS

UNC HOSPITALS

Kenneth Trivette v. UNC Hospitals
Mark A. Parrish v. UNC Hospitals

06 UNC 2014
06 UNC 2406

Elkins
Elkins

04/02/07
06/15/07

Carolyn Parker v. UNC Hospitals
Debra B. Davis v. UNC Hospitals

07 UNC 0924
07 UNC 1169

Lassiter
Brooks

09/06/07
10/01/07