

NORTH CAROLINA REGISTER

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December 17, 2007

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PUBLISHED BY

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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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bobby.bryan@ncmail.net

(919) 733-0928

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Office of State Budget and Management

116 West Jones Street

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Raleigh, North Carolina 27603-8005

(919) 733-0640 FAX

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jonathan.womer@ncmail.net

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Governor's Review

Reuben Young

reuben.young@ncmail.net

Legal Counsel to the Governor

(919) 733-5811

116 West Jones Street(919)

Raleigh, North Carolina 27603

Legislative Process Concerning Rule-making

Joint Legislative Administrative Procedure Oversight Committee

545 Legislative Office Building

300 North Salisbury Street

(919) 733-2578

Raleigh, North Carolina 27611

(919) 715-5460 FAX

contact: Karen Cochrane-Brown, Staff Attorney

karenc@ncleg.net

Jeff Hudson, Staff Attorney

jeffreyh@ncleg.net

County and Municipality Government Questions or Notification

NC Association of County Commissioners

215 North Dawson Street

(919) 715-2893

Raleigh, North Carolina 27603

contact: Jim Blackburn

jim.blackburn@ncacc.org

Rebecca Troutman

rebecca.troutman@ncacc.org

NC League of Municipalities

(919) 715-4000

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Raleigh, North Carolina 27603

contact: Anita Watkins

awatkins@nclm.org

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
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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
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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.

**SUMMARY OF NOTICE OF
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY**
Lowe's Home Centers, Inc.

Pursuant to N.C.G.S. § 130A-310.34, Lowe's Home Centers, Inc., has filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Property") in Hickory, Catawba County, North Carolina. The Property consists of 13.818 acres and is located at 1430 Second Street, N.E. Environmental contamination exists on the Property in the soil and groundwater. Lowe's Home Centers, Inc. has committed itself to limit use of the Property to a retail home improvement store (or other retail or office use), with associated outside storage areas, parking areas, a stormwater detention pond, and related open landscaped areas. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and Lowe's Home Centers, Inc., 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 Patrick Beaver Memorial Library, 375 3rd Street NE in Hickory, by contacting the Reference Desk at that address, or at 828-304-0500 ext. 7235; or at the offices of the N.C. Brownfields Program, 401 Oberlin Rd., Suite 150, Raleigh, NC 27605 by contacting Shirley Liggins at that address, at shirley.liggins@ncmail.net, or at (919) 508-8411, where DENR will provide auxiliary aids and services for persons with disabilities who wish to review the documents.

Written public comments, may be submitted to DENR within 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, *Lowe's Home Centers, Inc.*, 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 December 18, 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



U.S. Department of Justice

Civil Rights Division

JKT:MSR:DJ:maf
DJ 166-012-3
2007-4555

Voting Section - NWB.
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

November 8, 2007

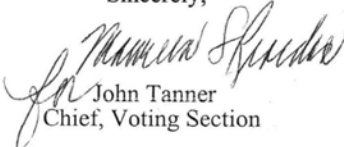
Mr. George A. Weaver
County Attorney
113 East Nash Street, Suite 404
Wilson, North Carolina 27893

Dear Mr. Weaver:

This refers to the adoption of the ATV (Authorization To Vote) form for Wilson County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on September 10, 2007.

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

Sincerely,


John Tanner
Chief, Voting Section



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

November 13, 2007

Frank W. Folger
Helms Mulliss & Wicker, PLLC
2600 Two Hannover Square
Raleigh, NC 27601

Re: *Advisory Opinion on Campaign Fundraising Questions pursuant
to N.C. Gen. Stat. § 163-278.23*

Dear Mr. Folger:

By letter dated October 17, 2007, you requested an advisory opinion. The questions you posed and my responses to them are as follows:

1. Without violating N.C.G.S. 163-278.13C or other North Carolina campaign finance laws, can a registered lobbyist employed by a corporation make a contribution to that corporation's political action committee ("PAC") knowing that the PAC plans to issue checks to State legislative and public servant candidates:

- a. If the lobbyist does not have a vote or chooses not to vote on where the funds are to be distributed and does not make any recommendations as to which State candidates the PAC funds should be distributed?

Yes. N.C. Gen. Stat. § 163-278.13C (a) prohibits lobbyists from making contributions "to a candidate or candidate campaign committee" when the candidate is a legislator or a public servant. It does not prohibit contributions by the lobbyist to other types of political committees, including the corporation's PAC, unless the facts are such as are discussed in "c" and "d" below.

- b. If the lobbyist does not have a vote or chooses not to vote on where the funds are to be distributed but does make a recommendation to the PAC and/or the corporation as to which State candidates the funds should be distributed?

Yes.

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

- c. If the lobbyist has a vote and exercises the vote on where the funds are to be distributed but does not unilaterally decide to which State candidates the funds should be distributed?

Possibly. This question is ambiguous and until we are given specific facts we cannot render a binding opinion. The lobbyist should avoid being the decision maker – either by acting unilaterally or by casting a determinative vote – on which candidates receive the PAC’s contributions. If the lobbyist is the effective decision maker on which State candidates are to receive the contributions from the PAC and the lobbyist makes a contribution to the PAC, then the lobbyist’s contribution could be doing indirectly what N.C. Gen. Stat. § 163-278.13C prohibits being done directly.

- d. If the lobbyist solely decides to which State candidates the funds should be distributed?

No. N.C. Gen. Stat. § 163-278.13C prohibits the lobbyist from contributing to a legislator or public servant who is a candidate with the knowledge that he or she will make all decisions on which candidates will receive contributions from the PAC. In addition, giving in this manner would violate the prohibition against giving in the name of another set forth in N.C. Gen. Stat. § 163-278.14.

2. Without violating N.C.G.S. 163-278.13C or other North Carolina campaign finance laws, can a registered lobbyist employed by a corporation who does not make a contribution to the corporation’s PAC:

- a. Make a recommendation to the PAC and/or the corporation as to which State candidates the PAC funds should be distributed if the lobbyist does not have a vote or chooses not to vote on which State candidates are to receive the funds?

Yes. The actions prohibited by N.C.G.S. 163-278.13C include making contributions to certain candidates and bundling and delivering contributions to those candidates. The facts you have posited in this question do not present either of these situations.

- b. Vote on where the PAC funds are to be distributed if the lobbyist does not unilaterally decide to which State candidates the funds should be distributed?

Possibly. This question is ambiguous and until we are given specific facts we cannot render a binding opinion. The lobbyist would be prudent, however, to avoid being the person who effectively decides to make a contribution from a corporation’s PAC to a candidate who is a legislator or public servant as those terms are defined. This is true even if the lobbyist does not act unilaterally and even if the lobbyist does not make a contribution to the corporation’s PAC because a contribution made by the corporation’s PAC when the lobbyist was the

decision maker could be viewed as doing indirectly what the lobbyist can not do directly.

- c. Solely decide to which State candidates the funds should be distributed?

See response to 2b above.

3. Without violating N.C.G.S. 163-278.13C or other North Carolina campaign finance laws, can a registered lobbyist contribute to a PAC if the PAC does not have a process, procedure, or policy established for earmarking monies to be distributed in this State?

N.C.G.S. 163-278.14 prohibits making contributions in the name of another, *i.e.*, earmarking of contributions. No contribution should be made to a political committee if it is in fact earmarked, nor should any political committee have a process, procedure or policy permitting earmarking of monies to be distributed in this State. Absent concerns about giving in the name of another, however, a lobbyist may make a contribution to a political committee that is not a candidate committee of a legislator or a public servant as those terms are defined by the applicable statutes.

If you should have any questions about any of the above responses, please do not hesitate to contact me or Kim Strach, Deputy Director-Campaign Finance. As required by law, this opinion will be published unedited in the North Carolina Register by the Codifier of Rules.

Sincerely,



Gary O. Bartlett
Executive Director

Cc: Julian Mann III, Codifier of Rules

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 Division of Services for the Deaf and Hard of Hearing intends to amend the rules cited as 10A NCAC 17D .0205, .0206, .0210, .0220.

Proposed Effective Date: April 1, 2008

Public Hearing:

Date: January 4, 2008

Time: 8:30 a.m. – 9:00 a.m.

Location: DSDHH Conference Room, Woodoak Bldg GL-3, 1100 Navaho Drive, Raleigh, NC

Reason for Proposed Action: These rules were approved by the Rules Review Commission in the spring of 2007. Implementation of these rules revealed unnecessary restrictions or gaps adversely affecting division operations/delivery of services. Therefore, the Division wishes to amend these rules to better reflect statutory requirements through more effective operations and service delivery.

Procedure by which a person can object to the agency on a proposed rule: A person can object to the agency on a proposed rule by sharing comments at the public hearing or by contacting the Division's rule-making coordinator (Chris McCain) or Director (Jan Withers) by e-mail, postal mail, or telephone.

Comments may be submitted to: Chris McCain, 2301 Mail Service Center, Raleigh, NC 27699-2301, Phone (919) 874-2212 (V/TTY), fax (919) 855-6872, email Chris.McCain@ncmail.net

Comment period ends: February 15, 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 17 – SERVICES FOR THE DEAF AND HARD OF HEARING

SUBCHAPTER 17D – ASSISTIVE EQUIPMENT DISTRIBUTION

SECTION .0200 – TELECOMMUNICATIONS EQUIPMENT DISTRIBUTION PROGRAM

10A NCAC 17D .0205 APPLICATION INFORMATION AND PROCEDURES

(a) Interested persons may request an application packet by calling or writing the Division at the Division Central Office, or by requesting one from any of the regional centers or downloading one from the Division website. The application packet shall include:

- (1) instructions for submitting reports and statements certifying that the applicant is deaf, hard of hearing, speech-impaired, or deaf-blind;
- (2) a Conditions of Acceptance form for the recipient to sign indicating that the recipient understands and agrees to the rights and responsibilities of the recipient and desires services of the program. This form includes information for recipients acting for minor users to sign indicating their agreement that equipment sets received under this program may be transferred to the user upon the user's 18th birthday at the request of the minor user; and
- (3) a standard application form calling for the following information:
 - (A) the full name, address, date of birth, and occupation of the recipient and all users of the equipment set;
 - (B) telephone number of the recipient;
 - (C) personal and financial information regarding all family members necessary to determine financial

eligibility according to the provisions of Rule .0210 of this Section;

- (D) copies of driver's license or other proof of identification and residence of the recipient; and
- (E) the disability status of the applicant or the intended user.

(b) To apply for equipment from the TEDP, an eligible applicant must:

- (1) answer all of the questions on the application form, sign it, and date it;
- (2) make a copy of an item from Rule .0206(b)(1) offering proof of residence in North Carolina to include with the application;
- (3) make a copy of an item from Rule .0206(d) offering proof of household income to include with the application;
- (4) read the Conditions of Acceptance form, sign and date the form, and include it with the application;
- (5) give the Disability Determination form to a certified person listed in Rule .0206(b)(2) to fill out; and
- (6) read the Equipment Selection form, select the equipment that best fits the applicant's need, and include it with the application.

(A) For Hearing Aid applications, submit the "Certification of Telecoil Candidacy and Hearing Aid Model Selection" form which is included in the application packet.

(B) For speech impaired applications, submit a written recommendation from a speech pathologist, speech therapist, or a professional trained to work with individuals with speech impairments.

(c) Providing false or misleading information on the application shall subject any applicant selected as a recipient to forfeiture of any equipment set provided.

(d) The regional centers shall provide assistance in completing application forms upon request.

(e) Applicants shall complete and sign all forms, attach all necessary documentation, and mail the completed application packet to the address specified on the application.

(f) The Division shall ~~verify-determine~~ an applicant's eligibility within 45 days following receipt of the completed application; except if the Division cannot ~~verify-determine~~ eligibility within 45 days, it shall inform the applicant in writing as soon as possible within the 45-day period indicating the problem and solicit clarification and additional information in order to determine the applicant's eligibility.

Authority G.S. 62-157; 143B-216.34.

10A NCAC 17D .0206 ELIGIBILITY

(a) Equipment sets shall be distributed to eligible recipients within the limits of available funding.

(b) To be eligible for equipment from the TEDP, an individual must meet the following criteria:

(1) be a resident of North Carolina; an individual can establish residency by:

- (A) submitting a copy of a current North Carolina driver's license or North Carolina non-driver identification; ~~or~~
- (B) submitting a copy of the ~~last three months of utility bills~~ most recent utility bill (telephone, electricity, cable, water, sewage or ~~gas~~); or
- (C) submitting an official letter from a current landlord or residential management entity verifying residency;

(2) be certified as deaf, hard of hearing, deaf-blind, or speech-impaired. An individual must submit a Disability Determination form authorized and certified by one of the following:

- (A) licensed hearing-aid specialist;
- (B) licensed audiologist;
- (C) licensed physician;
- (D) appropriate state or federal agency representative;
- (E) licensed speech pathologist; or
- (F) state certified teacher; ~~or~~
- ~~(G) disability service center representative; and~~

(3) not have another person with a similar disability from the same household receive similar equipment from TEDP. Those applying for hearing aids are exempt from this ~~requirement~~ requirement; and

~~(4) Another eligibility requirement is~~ have a limited household income. The income limit varies for individuals whose income is 250 percent above the Federal Poverty Level based on the number of individuals in the family.

(c) If a minor applicant applies, proof of income for the minor applicant, including the minor's income and the minor's parents' income, is required.

(d) An applicant who does not receive public funds can show proof of income by submitting a copy of one of the following forms for each source of income ~~the applicant has within the household:~~

- (1) the most recent ~~three months'~~ paycheck ~~stubs~~ stub;
- (2) the most recent W-2 form;
- (3) the most recent ~~local~~, state, and federal income tax return;
- (4) the most recent retirement statement;
- ~~(5) the most recent Social Center statement;~~
- ~~(6)(5)~~ the most recent Nursing Home statement;
- ~~(7)(6)~~ a copy of the ~~applicant's Supplemental Security or Social Security Disability Insurance~~ most recent Social Security check or a dated Social Security letter; or

- (8)(7) the most recent bank statement that shows a Social Security direct deposit; ~~deposit; or~~
 (8) documentation from an outside income verification agency.

(e) There is no age limit to be eligible for equipment. An individual can apply for himself/herself or for a child or dependent adult who lives in the same household.

Authority G.S. 62-157; 143B-216.34.

10A NCAC 17D .0210 FINANCIAL ELIGIBILITY

(a) An applicant shall meet the Division's financial needs test to be eligible to receive an equipment set.

(b) Applicants for an equipment set who are recipients of public funds such as AFDC, SSDI, SSI, CSHS (Children's Special Health Services), or the Food Stamp Program shall automatically meet the financial needs test upon submission of official documentation of their eligibility for from the publicly funded program.

(c) Financial eligibility for applicants not included under (b) of this Rule shall be determined by applying the federal poverty level for family size and income of the applicant in effect on the date of application.

(d) An applicant's family shall include the user and the following persons living in the same household as the user if the user is 18 years of age or older or if the user is less than 18 years of age and is married:

- (1) the user's spouse;
- (2) the user's children under 18 years of age;
- (3) other individuals related to the user by blood, marriage, or adoption if the other individuals have no income and do not have a parent or spouse who has income living in the same household; and
- (4) the user's children of any age who are temporarily living away from the household while attending school if they are being claimed as dependents by the user for tax purposes.

(e) An applicant's family shall include the user and the following persons living in the same household as the user if the user is less than 18 years of age and is not married:

- (1) the user's parents, not including step-parents;
- (2) siblings or half-siblings of the user, but not step-siblings, if the siblings are unmarried and less than 18 years of age;
- (3) siblings or half-siblings of the user, but not step-siblings, if the siblings are 18 years of age or older and have no income; and
- (4) other individuals related to the user by blood, marriage, or adoption if the other individuals have no income and do not have a parent or spouse who has income living in the same household.

(f) In (e)(2) and (3) of this Rule, siblings who are temporarily living away from the household while attending school may be considered as living in the same household if they are being claimed as dependents by their parents for tax purposes and the parents are in the same household as the user.

(g) Gross monthly income of the family members shall be considered in the financial needs test. If the applicant is married, the applicant must include his/her spouse's income. If the applicant is a minor, the applicant must include his/her parents' income. Examples of gross income include such items as the following:

- (1) salaries and wages;
- (2) earnings from self-employment, except for income that children may earn from babysitting, lawn mowing, or other miscellaneous tasks;
- (3) public assistance money;
- (4) unemployment compensation;
- (5) Social Security benefits;
- (6) Veteran's Administration benefits;
- (7) retirement and pension payments;
- (8) supplemental security income benefits.

(h) The following shall be excluded in the computation of gross monthly income:

- (1) combined, available cash in the bank not to exceed six times the gross monthly income for the family size; and
- (2) tax value of property held.

(i) The time period to be used as the basis for computing gross monthly income shall be the month preceding the date of application. For income that is not received on a monthly basis, the monthly pro rata share of the most recent receipt of the income shall be included in the computation.

Authority G.S. 62-157; 143B-216.34.

10A NCAC 17D .0220 RIGHTS/CONSUMER APPEALS

Applicants whose application for telecommunications equipment has been denied by the TEDP may file an appeal using the following procedure for consumer appeals:

- (1) Ask any Division staff member for a TEDP Appeal of Decision to Deny Request for Telecommunications Equipment Form. This form may be obtained from any of the Division's regional resource centers throughout North Carolina or from the TEDP Administration Office of the Division in Raleigh;
- (2) This form must contain an explanation of the reasons for the appeal and must be submitted to the TEDP ~~Administrator~~ Coordinator within 30 days of the rejection letter;
- (3) The TEDP ~~Administrator~~ Coordinator shall review the appeal and render a decision within two weeks after receiving the formal appeal;
- (4) The Division shall notify the individual appealing the decision, in writing, within five working days of the TEDP ~~Administrator's~~ Coordinator's decision;
- (5) Appeal of the TEDP ~~Administrator's~~ Coordinator's decision may be made in writing to the Director of the Division within two weeks after notification of the TEDP ~~Administrator's~~ Coordinator's decision;

- (6) The Director of the Division shall review the appeal and render a final decision within two weeks after notification of appeal to the Division Director;
- (7) The individual submitting the appeal may pursue further appeal by writing to the Director and requesting an Independent Hearing Officer (IHO);
- (8) The decision of the IHO may be appealed to the Department of Health and Human Services (DHHS); and
- (9) Appeal of a DHHS decision may be pursued through the Office of Administrative Hearings (OAH).

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

Fiscal Impact:

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

CHAPTER 41 – HEALTH: EPIDEMIOLOGY

SUBCHAPTER 41A – COMMUNICABLE DISEASE CONTROL

SECTION .0200 - CONTROL MEASURES FOR COMMUNICABLE DISEASES

10A NCAC 41A .0204 CONTROL MEASURES – SEXUALLY TRANSMITTED DISEASES

(a) Local health departments shall provide diagnosis, testing, treatment, follow-up, and preventive services for syphilis, gonorrhea, chlamydia, nongonococcal urethritis, mucopurulent cervicitis, chancroid, lymphogranuloma venereum, and granuloma inguinale. These services shall be provided upon request and at no charge to the patient.

(b) Persons infected with, exposed to, or reasonably suspected of being infected with gonorrhea, chlamydia, non-gonococcal urethritis, and mucopurulent cervicitis shall:

- (1) Refrain from sexual intercourse until examined and diagnosed and treatment is completed, and all lesions are healed;
- (2) Be tested, treated, and re-evaluated in accordance with the STD Treatment Guidelines published by the U.S. Public Health Service. The recommendations contained in the STD Treatment Guidelines are the required control measures for testing, treatment, and follow-up for gonorrhea, chlamydia, nongonococcal urethritis, and mucopurulent cervicitis, and are incorporated by reference including subsequent amendments and editions. A copy of this publication is on file for public viewing with the and a copy may be obtained free of charge by writing the Division of Public Health, 1915 Mail Service Center, Raleigh, North Carolina 27699-1915, and requesting a copy. However, urethral Gram stains may be used for diagnosis of males rather than gonorrhea cultures unless treatment has failed;
- (3) Notify all sexual partners from 30 days before the onset of symptoms to completion of therapy that they must be evaluated by a physician or local health department.

Authority G.S. 62-157.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health intends to amend the rule cited as 10A NCAC 41A .0204.

Proposed Effective Date: April 1, 2008

Public Hearing:

Date: January 7, 2008

Time: 2:00 p.m.

Location: Cardinal Room, 5605 Six Forks Road, Raleigh, NC 27609

Reason for Proposed Action: *This rule was amended effective November 1, 2007. After adoption, previously-unexpressed concerns were raised by the N.C. Medical Society regarding the testing of pregnant women for Chlamydia and gonorrhea at delivery. This amendment addresses those concerns.*

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, NC 27699-1931, phone (919) 715-5006, email Chris.Hoke@ncmail.net*

Comment period ends: February 15, 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

(c) Persons infected with, exposed to, or reasonably suspected of being infected with syphilis, lymphogranuloma venereum, granuloma inguinale, and chancroid shall:

- (1) Refrain from sexual intercourse until examined and diagnosed and treatment is completed, and all lesions are healed;
- (2) Be tested, treated, and re-evaluated in accordance with the STD Treatment Guidelines published by the U.S. Public Health Service. The recommendations contained in the STD Treatment Guidelines are the required control measures for testing, treatment, and follow-up for syphilis, lymphogranuloma venereum, granuloma inguinale, and chancroid, except that chancroid cultures are not required;
- (3) Give names to a disease intervention specialist employed by the local health department or by the Division of Public Health for contact tracing of all sexual partners and others as listed in this Rule:

(A) for syphilis:

- (i) congenital - parents and siblings;
- (ii) primary - all partners from three months before the onset of symptoms to completion of therapy and healing of lesions;
- (iii) secondary - all partners from six months before the onset of symptoms to completion of therapy and healing of lesions; and
- (iv) latent - all partners from 12 months before the onset of symptoms to completion of therapy and healing of lesions and, in addition, for women with late latent, spouses and children;

(B) for lymphogranuloma venereum:

- (i) if there is a primary lesion and no buboes, all partners from 30 days before the onset of symptoms to completion of therapy and healing of lesions; and
- (ii) if there are buboes all partners from six months before the onset of symptoms to completion of therapy and healing of lesions;

(C) for granuloma inguinale - all partners from three months before the onset of symptoms to completion of therapy and healing of lesions; and

(D) or chancroid - all partners from ten days before the onset of symptoms to completion of therapy and healing of lesions.

(d) All persons evaluated or reasonably suspected of being infected with any sexually transmitted disease shall be tested for syphilis, encouraged to be tested confidentially for HIV, and counseled about how to reduce the risk of acquiring sexually transmitted disease, including the use of condoms.

(e) All pregnant women shall be tested for syphilis, chlamydia and gonorrhea at the first prenatal visit. All pregnant women shall be tested for syphilis between 28 and 30 weeks of gestation and at delivery. Hospitals shall determine the syphilis serologic status of the mother prior to discharge of the newborn so that if necessary the newborn can be evaluated and treated as provided in (c)(2) of this rule. Pregnant women 25 years of age and younger shall be tested for chlamydia and gonorrhea in the third trimester ~~and or at delivery.~~ delivery if the woman was not tested in the third trimester.

(f) Any woman who delivers a stillborn infant shall be tested for syphilis.

(g) All newborn infants shall be treated prophylactically against gonococcal ophthalmia neonatorum in accordance with the STD Treatment Guidelines published by the U.S. Public Health Service. The recommendations contained in the STD Treatment Guidelines are the required prophylactic treatment against gonococcal ophthalmia neonatorum.

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

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health intends to amend the rules cited as 15A NCAC 18A .2604, .2606, .3606.

Proposed Effective Date: July 1, 2008

Public Hearing:

Date: January 8, 2008

Time: 10:00 a.m.

Location: 2728 Capital Boulevard, Room 1a201, Raleigh, NC

Reason for Proposed Action:

15A NCAC 18A .2604 – Change language from – corrected "on-site" to corrected "during the"

15A NCAC 18A .2606 – Change grading points

15A NCAC 18A .3606 – remove language regarding certificate points

Procedure by which a person can object to the agency on a proposed rule: Any objections to these rules may be submitted in writing via mail, delivery service, hand deliver or email to: Kristina V. Nixon, R.S., DENR Division of Environmental Health, P.O. Box 722, Edenton, NC 27932, phone (252) 724-0177, email kristi.nixon@ncmail.net.

Comments may be submitted to: *Kristina V. Nixon, DENR Division of Environmental Health, P.O. Box 722, Edenton, NC 27932, phone (252) 724-0177, email kristi.nixon@ncmail.net*

Comment period ends: *February 15, 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 18 - ENVIRONMENTAL HEALTH

SUBCHAPTER 18A - SANITATION

SECTION .2600 – THE SANITATION OF FOOD SERVICE ESTABLISHMENTS

15A NCAC 18A .2604 INSPECTIONS AND REINSPECTIONS

(a) Upon entry into a food service establishment, Environmental Health Specialists shall identify themselves and their purpose in visiting that establishment. Environmental Health Specialists shall inquire as to the identity of the responsible person and invite the responsible person to accompany them during the inspection. If no employee is identified as the responsible person, Environmental Health Specialists shall invite an employee to accompany them on the inspection. Following the inspection, the Environmental Health Specialist shall offer to review the results of the inspection with the responsible person.

(b) The grading of restaurants, food stands, drink stands, or meat markets shall be done on an inspection form furnished by the Department to local health departments. The form shall provide for the following information:

- (1) the name and mailing address of the facility;
- (2) the name of person to whom permit is issued;
- (3) the permit and score given;
- (4) standards of construction and operation as listed in Rules .2607 through .2644 of this Section;
- (5) a short explanation for all points deducted;

- (6) the signature of the Environmental Health Specialist;
- (7) the date.

(c) In filling out the inspection form, points may be deducted only once for a single occurrence or condition existing within or outside of the food service establishment. Deductions shall be based on actual violations of the rules of this Section observed during the inspection. The Environmental Health Specialist shall take zero, one-half or a full deduction of points depending upon the severity or the recurring nature of the non-critical violations. Critical violations may be corrected on-site-during the inspection and no more than one-half of the total point value shall be deducted when the violation meets the following criteria:

- (1) the critical violation was not documented on the previous inspection; and
- (2) correction of the item is documented on the inspection form.

(d) At the time of inspection, if a critical violation is observed and not corrected, the Environmental Health Specialist shall take one-half or a full deduction of points depending upon the severity or the recurring nature of the violation. The Environmental Health Specialist shall specify a time frame of no more than 10 calendar days to correct the critical violation.

(e) In determining whether items or areas of an establishment are clean for purposes of enforcing the rules set forth in this Section and grading an establishment, the Environmental Health Specialist shall consider, among other things: the age of the accumulated material, the relative percentage of items which are clean and not clean, the cleaning practices of the establishment and the health risk posed by the circumstances.

(f) Upon request of the permit holder or his or her representative a reinspection shall be made.

(g) In the case of establishments that have been closed for failure to comply with the Rules of this Section, a reinspection to consider the issuance or reissuance of a permit shall be made at the earliest convenience of the Environmental Health Specialist.

(h) In the case of establishments which request an inspection for the purpose of raising the alphabetical grade, and which hold unrevoked permits, the Environmental Health Specialist shall make an unannounced inspection after the lapse of a reasonable period of time, not to exceed 15 days, from the date of the request.

Authority G.S. 130A-248.

15A NCAC 18A .2606 GRADING

(a) The sanitation grading of all restaurants, food stands, drink stands and meat markets shall be based on a system of scoring wherein all establishments receiving a score of at least 90 percent shall be awarded Grade A; all establishments receiving a score of at least 80 percent and less than 90 percent shall be awarded Grade B; all establishments receiving a score of at least 70 percent and less than 80 percent shall be awarded a Grade C. Permits shall be revoked for establishments receiving a score of less than 70 percent. The Sanitation Inspection of Restaurants or other Food Handling Establishments shall be used to document points assessed for violation of the rules of this Section as follows:

- (1) Violation of ~~Rules .2608, .2612, .2615 or .2622, Rule .2616~~, of this Section related to personnel with infectious or communicable diseases restricted from approved sources, free of spoilage, adulteration or contamination shall equal no more than 3 5 percent.
- (2) Violation of ~~Rules .2608, .2609, .2610, .2611, .2612, .2613, .2614, .2622, Rule .2616 or .2632~~ of this Section related to proper employee tobacco or beverage use ~~potentially hazardous food temperatures or time requirements for food during storage, preparation, display, service or transportation~~ shall equal no more than 3 5 percent.
- (3) Violation of ~~Rules .2608, .2609, .2610, .2611, .2612, .2613, .2614, .2622 and .2632, .2616 or .2625~~ of this Section related to hands clean and properly washed ~~food storage, thawing, and preparation, cooking, handling, display, service, or transportation in a manner to prevent contamination, adulteration, or spoilage~~ shall equal no more than 4 5 percent.
- (4) Violation of ~~Rule .2609 .2611~~ of this Section related to minimal bare hand contact with foods re-serving food shall equal no more than 3 5 percent.
- (5) Violation of ~~Rule .2609 .2625~~ of this Section related to lavatory facilities provided ~~accurate thermometer availability~~ shall equal no more than 3 percent.
- (6) Violation of ~~Rule .2610 Rules .2608, .2612, .2615, and .2622~~ of this Section related to food obtained from approved source ~~written notice to customers about use of clean plates for return trips to buffet~~ shall equal no more than 4 1 percent.
- (7) Violation of ~~Rule .2609 .2610~~ of this Section related to food received at proper temperature ~~properly labeling or storage of dry food~~ shall equal no more than 3 2 percent.
- (8) Violation of ~~Rules .2608 and .2615 Rule .2616~~ of this Section related to food in good condition, safe, and unadulterated ~~personnel with infections or communicable diseases restricted~~ shall equal no more than 3 5 percent.
- (9) Violation of ~~Rule .2609 .2612~~ of this Section related to shellstock tags retained ~~proper handwashing or good hygienic practices~~ shall equal no more than 2 5 percent.
- (10) Violation of ~~Rule Rules .2608, .2616 .2610, .2612, .2614, .2615 and .2622~~ of this Section related to food protected during storage, handling, display, service & and transportation ~~clean clothes or hair restraints~~ shall equal no more than 3 4 percent.
- (11) Violation of ~~Rules .2618 or .2619 .2617, .2618, .2619, and .2622~~ of this Section related to food contact surfaces cleaned or and sanitized, by approved methods, methods and ~~sanitizers sanitizing solution~~ required shall equal no more than 3 5 percent.
- (12) Violation of ~~Rules .2618, or .2619 .2608 and .2611~~ of this Section related to proper handling of returned, previously served, and adulterated food ~~approved utensil washing facilities of sufficient size, with accurate thermometers or test methods available or used~~ shall equal no more than 2 3 percent.
- (13) Violation of ~~Rules .2617, .2618, or .2622 Rule .2609~~ of this Section related to proper cooking time and temperature to food contact surfaces shall equal no more than 4 3 percent.
- (14) Violation of ~~Rules .2601, .2608, .2617 or .2621 Rule .2609~~ of this Section related to proper cooling ~~food service equipment NSF or equal or approved utensils~~ shall equal no more than 4 2 percent.
- (15) Violation ~~Rule .2618 .2609~~ of this Section related to proper reheating ~~air drying clean equipment or utensils~~ shall equal no more than 3 percent.
- (16) Violation of ~~Rule .2620 .2609~~ of this Section related to the proper hot holding temperatures ~~storage of single service utensils~~ shall equal no more than 4 2 percent.
- (17) Violation of ~~Rules .2617 or .2622 .2609 and .2612~~ of this Section related to proper cold holding temperatures ~~non food contact surfaces clean or in good repair~~ shall equal no more than 4 2 percent. .
- (18) Violation of ~~Rules .2618 or .2623 Rule .2609~~ of this Section related to time as a public health control; approved procedures ~~available source of water supply, hot or cold water under pressure, or meets water temperature requirements~~ shall equal no more than 3 5 percent.
- (19) Violation of ~~Rules .2624, or .2625 .2618 and .2633~~ of this Section related to toxic substances properly identified, stored, used ~~lavatory or toilet facilities approved, accessible, or in good repair~~ shall equal no more than 3 4 percent.
- (20) Violation of ~~Rule .2623 .2612~~ of this Section related to consumer advisory provided ~~cross connections or other potential sources of contamination~~ shall equal no more than 2 5 percent.
- (21) Violation of ~~Rules .2609, .2624, or .2625 .2618, .2622, and .2623~~ of this Section related to source in accordance with 15A NCAC 18A.1700; hot and cold water under pressure and meets temperature requirements ~~lavatory facilities or toilet facilities with self-closing doors, fixtures or rooms clean, mixing faucet, soap, towels, dryer, or sign~~ shall equal no more than 3 2 percent.

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| <p>(22) Violation of Rules .2612, .2613, or .2626 <u>Rule .2609</u> of this Section related to <u>refrigeration and freezer capacity sufficient</u> wastewater discharged into approved, properly operating wastewater treatment and disposal system; other by-products disposed of properly shall equal no more than <u>1</u> 5 percent.</p> <p>(23) Violation of Rule .2626 <u>.2609</u> of this Section related to <u>proper cooling methods used</u> garbage cans, containerized systems properly maintained, cleaning facilities provided or contract maintained for cleaning shall equal no more than 2 percent.</p> <p>(24) Violation of Rule .2633 <u>.2609</u> of this Section related to <u>proper thawing methods used</u> animal or pest presence shall equal no more than <u>1</u> 4 percent.</p> <p>(25) Violation of Rule .2633 <u>.2609</u> of this Section related to <u>thermometers provided and accurate</u> self-closing doors or screened windows shall equal no more than <u>1</u> 2 percent.</p> <p>(26) Violation of Rule .2633 <u>.2610</u> of this Section related to <u>dry food stored properly and labeled accordingly</u> pest breeding places or rodent harborages shall equal no more than 1 percent.</p> <p>(27) Violation of Rules .2613, .2624, .2627, or .2628 <u>Rules .2612 and .2615</u> of this Section related to <u>original labeled container for storage of milk and shellfish</u> floors, walls, or ceilings properly constructed shall equal no more than <u>1</u> 2 percent.</p> <p>(28) Violation of Rules .2613, .2624, .2627, or .2628 <u>Rule .2633</u> of this Section related to <u>insects, rodents, and animals not present</u> floors, walls, or ceilings clean or in good repair shall equal no more than <u>2</u> 4 percent.</p> <p>(29) Violation of Rule .2630 <u>.2616</u> of this Section related to <u>clean clothes, hair restraints</u> lighting or ventilation that meets illumination or shield requirements shall equal no more than 1 percent.</p> <p>(30) Violation of Rule .2631 <u>Rules .2617 and .2633</u> of this Section related to <u>linens, clothes and aprons clean, properly used and stored</u> ventilation clean or in good repair shall equal no more than 1 percent.</p> <p>(31) Violation of Rule .2633 <u>.2609</u> of this Section related to <u>washing fruits and vegetables</u> storage or labeling of toxic substances shall equal no more than <u>1</u> 5 percent.</p> <p>(32) Violation of Rules .2620, .2632, or .2633 <u>Rule .2633</u> of this Section related to <u>not used for domestic purposes</u> outside premise clean, storage spaces clean, or storage above the floor shall equal no more than 1 percent.</p> <p>(33) Violation of Rule .2633 <u>Rules .2620 and .2622</u> of this Section related to <u>in-use utensils properly stored</u> storage space not used for</p> | <p>domestic purpose shall equal no more than 1 percent.</p> <p>(34) Violation of Rule .2633 <u>Rules .2620 and .2622</u> of this Section related to <u>utensils and equipment properly stored, air-dried, handled</u> work clothing and linen properly handled or stored and proper storage of mops, brooms and hoses shall equal no more than 1 percent.</p> <p>(35) Violation of <u>Rules 2612, .2618, and .2620</u> of this Section related to <u>single use and single service articles properly stored, handled, and used</u> shall equal no more than 1 percent.</p> <p>(36) Violation of <u>Rule .2617</u> of this Section related to <u>food contact and non-food contact surfaces easily cleanable and in good repair</u> shall equal no more than 1 percent.</p> <p>(37) Violation of <u>Rule .2618</u> of this Section related to <u>approved warewashing facilities of sufficient size</u> shall equal no more than 1 percent.</p> <p>(38) Violation of <u>Rules .2618 and .2619</u> of this Section related to <u>warewashing facilities maintained, test strips used</u> shall equal no more than 1 percent.</p> <p>(39) Violation of <u>Rules .2612, .2613, .2617, .2618, .2620, and .2621</u> of this Section related to <u>food service equipment and utensils approved</u> shall equal no more than 1 percent.</p> <p>(40) Violation of <u>Rules .2617 and .2618</u> of this Section related to <u>non-food surfaces clean</u> shall equal no more than 1 percent.</p> <p>(41) Violation of <u>Rule .2626</u> of this Section related to <u>wastewater discharged into approved, properly operating wastewater treatment and disposal system, other by-products disposed of properly</u> shall equal no more than 3 percent.</p> <p>(42) Violation of <u>Rule .2623</u> of this Section related to <u>no cross connections</u> shall equal no more than 3 percent.</p> <p>(43) Violation of <u>Rules .2624 and .2625</u> of this Section related to <u>toilet & lavatory facilities: supplied, properly constructed, clean, good repair, signs provided</u> shall equal no more than 2 percent.</p> <p>(44) Violation of <u>Rule .2626</u> of this Section related to <u>garbage properly handled and disposed; containers properly maintained</u> shall equal no more than 1 percent.</p> <p>(45) Violation of <u>Rules .2627 and .2628</u> of this Section related to <u>floors, walls, ceilings, properly constructed, clean, in good repair</u> shall equal no more than 1 percent.</p> <p>(46) Violation of <u>Rules .2630 and .2631</u> of this Section related to <u>meets illumination requirements; shielded; lighting and ventilation clean and in good repair</u> shall equal no more than 1 percent.</p> <p>(47) Violation of <u>Rules .2632 and .2633</u> of this Section related to <u>storage space clean, storage</u></p> |
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above floor, approved storage for brooms, mops, hoses, and other items shall equal no more than 1 percent.

- (48) Violation of Rule .2633 of this Section related to doors self-closing where required; all windows screened shall equal no more than 1 percent.

One half of the percent value may be assessed for any rule violation in this Section based on the severity or recurring nature of the violation.

(b) The grading of restaurants, food stands, drink stands and meat markets shall be based on the standards of operation and construction as set forth in Rules .2607 through .2644 of this Section. An establishment shall receive a credit of two points on its score for each inspection if a manager or other employee responsible for operation of that establishment and who is employed full time in that particular establishment has successfully completed in the past three years a food service sanitation program approved by the Department. Request for approval of food service sanitation programs shall be submitted in writing to the Division of Environmental Health. The course shall include a minimum of 12 contact hours and provide instruction in the following subject areas:

- (1) basic food safety;
- (2) requirements for food handling personnel;
- (3) basic HACCP;
- (4) purchasing and receiving food;
- (5) food storage;
- (6) food preparation and service;
- (7) facilities and equipment;
- (8) cleaning and sanitizing;
- (9) pest management program; and
- (10) regulatory agencies and inspections.

Evidence that a person has completed such a program shall be maintained at the establishment and provided to the Environmental Health Specialist upon request. An establishment shall score at least 70 percent on an inspection in order to be eligible for this credit.

(c) The posted numerical grade shall not be changed as a result of a food sampling inspection.

(d) The posted grade card shall be black on a white background. All graphics, letters, and numbers for the grade card shall be approved by the State. The alphabetical and numerical sanitation score shall be 1.5 inches in height. No other public displays representing sanitation level of the establishment may be posted by the local health department, except for sanitation awards issued by the local health department. Sanitation awards shall be in a different color and size from the grade card and must be clearly labeled as an award.

(e) Nothing herein shall affect the right of a permit holder to a reinspection pursuant to Rule .2604 of this Section.

(f) Nothing herein shall prohibit the Department from immediately suspending or revoking a permit pursuant to G.S. 130A-23(d).

Authority G.S. 130A-248.

15A NCAC 18A .3606 GRADING

(a) The sanitation grading of all resident camps shall be based on a system of scoring wherein all resident camps receiving a score of at least 90 percent shall be awarded Grade A; all resident camps receiving a score of at least 80 percent and less than 90 percent shall be awarded Grade B; all resident camps receiving a score of at least 70 percent and less than 80 percent shall be awarded Grade C. Permits shall be revoked for establishments receiving a score of less than 70 percent. The Sanitation Inspection of Resident Camps shall be used to document points assessed for violation of the Rules of this Section as follows:

- (1) Violation of Rule .3608 of this Section regarding site factors for camp facilities and activities and actual or potential health hazards shall be assessed a value of one point.
- (2) Violation of Rule .3609 of this Section regarding water supply, hot and cold water heating facilities in food preparation, utensil and hand washing, and areas required for cleaning shall be assessed a value of three points.
- (3) Violation of Rule .3609(d) of this Section regarding cross-connections shall be assessed a value of three points.
- (4) Violation of Rule .3610 of this Section regarding wastewater disposal shall be assessed a value of four points.
- (5) Violation of Rule .3611 of this Section regarding solid waste storage and cleaning facilities shall be assessed a value of two points.
- (6) Violation of Rule .3612 of this Section regarding swimming pools shall be assessed a value of one point.
- (7) Violation of Rule .3613(1) and (2) of this Section regarding camp building floors walls and ceilings construction, cleanliness and repair shall be assessed a value of one point.
- (8) Violation of Rule .3613(3) of this Section regarding lighting and ventilation adequacy and repair shall be assessed a value of one point.
- (9) Violation of Rule .3614(a) and (c) of this Section regarding sleeping quarters and lodging arrangement, cleanliness and repair shall be assessed a value of two points.
- (10) Violation of Rule .3614(b) of this Section regarding effective vermin exclusion shall be assessed a value of two points.
- (11) Violation of Rule .3614(d) of this Section regarding storage and handling of clean and dirty linen and clothing shall be assessed a value of one point.
- (12) Violation of Rule .3615(a), (b), (c) and (d) of this Section regarding approval, accessibility, adequateness, cleanliness and repair of lavatories, bathing and toilet facilities shall be assessed a value of two points.

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| <p>(13) Violation of Rule .3615(e) of this Section regarding cleanliness, repair of laundry facilities and handling of clean and soiled laundry shall be assessed a value of one point.</p> <p>(14) Violation of Rule .3616 of this Section regarding approval and cleanliness of drinking water facilities shall be assessed a value of two points</p> <p>(15) Violation of Rule .3617(a) and (d) of this Section regarding storage and handling of pesticides and potentially hazardous materials shall be assessed a value of two points.</p> <p>(16) Violation of Rule .3617(b) and (e) of this Section regarding cleanliness of the premises and repair of protective enclosures shall be assessed a value of one point.</p> <p>(17) Violation of Rule .3617(c) of this Section regarding location of animal stables and approved manure storage and removal shall be assessed a value of two points.</p> <p>(18) Violation of Rule .3618(a) of this Section regarding size and construction of food service facilities and dining halls shall be assessed a value of one point.</p> <p>(19) Violation of Rule .3618(b) of this Section regarding catering of camp food service shall be assessed a value of two points.</p> <p>(20) Violation of Rule .3619 of this Section regarding field sanitation standards and procedures shall be assessed a value of three points.</p> <p>(21) Violation of Rule .3620(a) and (c) of this Section regarding food service employee clothing, hair restraints and use of tobacco shall be assessed a value of one point.</p> <p>(22) Violation of Rule .3620(b) or (e) of this Section regarding employee handwashing shall be assessed a value of four points.</p> <p>(23) Violation of Rule .3620(d) of this Section regarding exclusion of persons with a communicable or infectious disease that can be transmitted by food shall be assessed a value of three points.</p> <p>(24) Violation of Rule .3621 of this Section regarding food source, wholesomeness, handling, service and transportation shall be assessed a value of four points.</p> <p>(25) Violation of Rule .3622(a) through (f) of this Section regarding food protection during service and storage shall be assessed a value of three points.</p> <p>(26) Violation of Rule .3622(g) of this Section regarding storage of dry foods shall be assessed a value of one point.</p> <p>(27) Violation of Rule .3623 of this Section regarding milk and milk products shall be assessed a value of two points.</p> | <p>(28) Violation of Rule .3624 of this Section regarding the source, storage and handling of ice shall be assessed a value of two points.</p> <p>(29) Violation of Rule .3625 of this Section regarding shellfish and crustacea meat shall be assessed a value of two points.</p> <p>(30) Violation of Rule .3626(a), (b), and (c) of this Section regarding refrigeration and thawing of foods shall be assessed a value of two points.</p> <p>(31) Violation of Rule .3626(d) of this Section regarding the protection of food from cross contamination by use of sanitized or gloved hands or utensils, sanitized surfaces and washing of produce shall be assessed a value of three points.</p> <p>(32) Violation of Rule 3626(e) through (m) of this Section regarding time and temperature requirements of foods during storage, preparation, cooking, display, service, and transportation shall be assessed a value of four points.</p> <p>(33) Violation of Rule 3626 (n) of this Section regarding food thermometers shall be assessed a value of two points.</p> <p>(34) Violation of Rule .3627 of this Section regarding re-service of foods shall be assessed a value of two points.</p> <p>(35) Violation of Rule .3628 of this Section regarding equipment and utensil construction, repair and cleanliness shall be assessed a value of three points.</p> <p>(36) Violation of Rule .3629(a) through (c), (e), (f), (k) and (n) of this Section regarding washing, rinsing and sanitizing of utensils and equipment shall be assessed a value of four points.</p> <p>(37) Violation of Rule .3629(d), (g) through (j), (l), and (o) of this Section regarding approved dishwashing facilities and methods shall be assessed a value of three points.</p> <p>(38) Violation of Rule 3629(m) regarding the hot water heating facilities for food service needs shall be assessed a value of three points.</p> <p>(39) Violation of Rule .3630 in this Section regarding storage and handling of utensils and equipment shall be assessed a value of two points.</p> <p>(40) Violation of Rule .3631 of this Section regarding food service area storage spaces shall be assessed a value of one point.</p> <p>(41) Violation of Rule .3632 of this Section regarding food service area lighting shall be assessed a value of one point.</p> <p>(42) Violation of Rule .3633 of this Section regarding food service ventilation shall be assessed a value of one point.</p> <p>(43) Violation of Rule .3634 of this Section regarding approved and properly located hand</p> |
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- washing lavatory facilities in food service areas shall be assessed a value of three points.
- (44) Violation of Rule .3635 of this Section regarding the food service area toilet facilities shall be assessed a value of one point.
 - (45) Violation of Rule .3636 of this Section regarding food service area floor construction, cleanliness and repair shall be assessed a value of one point.
 - (46) Violation of Rule .3637 of this Section regarding food service area wall and ceiling construction, cleanliness and repair shall be assessed a value of one point.
 - (47) Violation of Rule .3638(a) through (c) of this Section regarding use of trip kitchens, residential style educational kitchens and domestic kitchens shall be assessed a value of one point.
 - (48) Violation of Rule .3638(d) through (g) of this Section regarding toxic materials, food service laundry, mop and broom storage shall be assessed a value of one point.
 - (49) Violation of Rule .3638(h) and (i) of this Section regarding live animals and pest control measures in food service areas shall be assessed a value of two points.

(b) The grading of resident camps shall be based on the standards of operation and construction as set forth in Rules .3608 through .3638 of this Section. ~~An establishment shall receive a credit of one point on its score for each inspection if a manager or other employee responsible for operation of that establishment and who is employed full time in that particular establishment has successfully completed in the past three years a food service sanitation program approved by the Department under 15A NCAC 18A .2606. Request for approval of food service sanitation programs shall be submitted in writing to the Division of Environmental Health as required in 15A NCAC 18A .2606.~~

(c) Evidence that a person has completed such a program shall be maintained at the establishment and provided to the Environmental Health Specialist upon request. An establishment shall score at least 70 percent on an inspection in order to be eligible for this credit.

(d) The posted grade card shall be black on a white background. All graphics, letters and numbers for the grade card shall be approved by the State. The alphabetical and numerical sanitation score shall be 1.5 inches in height. No other public displays representing sanitation level of the establishment shall be posted by the local health department, except for sanitation awards issued by the local health department. Sanitation awards shall be in a different color and size from the grade card and must be labeled as an award.

(e) Nothing in this Rule shall affect the right of a camp manager to a reinspection pursuant to Rule .3605 of this Section.

(f) Nothing in this Rule shall prohibit the Department from immediately suspending or revoking a permit pursuant to G.S. 130A-23(d).

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 06 - BOARD OF BARBER EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Barber Examiners intends to adopt the rules cited as 21 NCAC 06F .0121; 06J .0109; 06K .0110; 06L .0111 - .0117; 06O .0112 - .0115; .06P .0101 - .0103; .06Q .0101 - .0103; 06R .0101, amend the rules cited as 21 NCAC 06A .0102 - .0104; 06B .0301, .0501; 06C .0203, .0205, .0903; 06F .0101, .0103 - .0104, .0110-.0111, .0113, .0120; 06H .0101, .0105; 06J .0101; 06K .0101; 06L .0102 - .0103, .0106 - .0107; 06M .0102; 06N .0101; 06O .0109 and repeal the rules cited as 21 NCAC 06B .0401 - .0402.

Proposed Effective Date: April 1, 2008

Public Hearing:

Date: February 18, 2008

Time: 2:00 p.m.

Location: 5809 – 102 Departure Drive, Raleigh, NC 27616

Reason for Proposed Action:

21 NCAC 06A .0102 – Change physical address.

21 NCAC 06A .0103 – Change in office hours.

21 NCAC 06A .0104 – Change in mailing address.

21 NCAC 06B .0301 – Change in physical address

21 NCAC 06B .0401 – .0402 - Temporary rule procedure is now codified in Chapter 150B of the General Statutes.

21 NCAC 06B .0501 –Correct error in wording.

21 NCAC 06C .0203 – Correct or standardize wording.

21 NCAC 06C .0205 – Add legal counsel as a representative of the Board to acknowledge a request for a hearing.

21 NCAC 06C .0903 – Recognize, and bring the Board's administrative rules in line with, the new State Government Ethics Act, Chapter 138A of the General Statutes.

21 NCAC 06F .0101 – Clarify distance requirements; clarify functionality of sink or lavatory; clarify towel storage requirement; establish minimum size for classroom.

21 NCAC 06F .0103 – Repealed in this rule but moved to a more logical location in 21 NCAC 06H .0101.

21 NCAC 06F .0104 – Clarify duties of barber school instructors.

21 NCAC 06F .0110 – Clarify record keeping requirements for barber schools.

21 NCAC 06F .0111 – Clarify record keeping requirements for barber schools.

21 NCAC 06F .0113 – Establish minimum time for submission of applications to allow for processing prior to commencement of classes.

21 NCAC 06F .0120 – Delete "nails" from curriculum requirement; establish books and training materials to be utilized in licensed barber schools.

Authority G.S. 130A-23; 130A-235; 130A-248; 130A-249.

21 NCAC 06F .0121 – Recognize barber schools in Division of Prisons and exempt the Division of Prisons' barber schools from two (2) existing administrative rule requirements.

21 NCAC 06H .0101 – Standardize wording; moved rule from 21 NCAC 06F .0103 to this rule as a more logical location.

21 NCAC 06I .0105 – Set forth as an administrative rule the Board's long-established policy regarding "on the job training."

21 NCAC 06J .0101 – Correct error in wording.

21 NCAC 06J .0109 – Since an apprentice barber license and a student barber permission to work do not have any identifying information other than a name and license number (apprentice only), require licensee to maintain identification so the Executive Director or an inspector can positively identify the person.

21 NCAC 06K .0101 – Repeal "health certificate" requirement, which by Board policy has not been enforced since passage of standardize wording of Health Insurance Portability & Privacy Act (HIPPA).

21 NCAC 06K .0110 – Since a barber permit does not have any identifying information other than a name and permit number, require permittee to maintain identification so the Executive Director or an inspector can positively identify the person.

21 NCAC 06L .0102 – Clarify distances requirements.

21 NCAC 06L .0103 – Clarify functionality of toilet facilities; clarify storage of towels; clarify functionality of sink or lavatory; exempt Division of Prisons from certain administrative rule requirements.

21 NCAC 06L .0106 – Clarify distances requirement; establish limitations for barber shops in residences; prohibit barber shop in structures not set on a permanent foundation.

21 NCAC 06L .0107 – Clarify functionality of sink or lavatory.

21 NCAC 06L .0111 – Limit regulated activities to a barber shop where sanitation is assured through regular inspection.

21 NCAC 06L .0112 – Clarify that a rented "booth space" or barber chair within a barber shop is still considered a part of the shop as a whole for purposes of sanitation inspections.

21 NCAC 06L .0113 – To specify the types of infectious or parasitic diseases which will bar a permittee, licensee or student from barbering.

21 NCAC 06L .0114 – To prohibit animals in barber shop except under very limited circumstances.

21 NCAC 06L .0115 – Clarify the scope of inspections; require the posting of inspection forms; clarify that the shop includes rented booths or chairs; clarify who is the responsible party.

21 NCAC 06L .0116 – Require the shop owner or manager to be the responsible party for ensuring that permittees, licensees and students are positively identified as the person whose name appears on the permit, license or permission.

21 NCAC 06L .0117 – Establish a sanitary requirement regarding rodents, vermin and insects and mold and mildew, or the potential for mold and mildew.

21 NCAC 06M .0102 – Clarify duties and responsibilities of inspectors to reflect long-established activities.

21 NCAC 06N .0101 – Add an administrative fee for pick-up orders.

21 NCAC 06O .0109 – Delete a six-month extension of a permit or license for which the Board has no authority to grant.

21 NCAC 06O .0112 – Add the presumptive civil penalties for failing to positively identify and failing to maintain identification.

21 NCAC 06O .0113 – Add the presumptive civil penalties for operating a barber shop in a residence and operating a barber shop in a mobile home.

21 NCAC 06O .0114 – Add the presumptive civil penalties for animals in a barber shop.

21 NCAC 06O .0115 – Add presumptive penalty for failing to maintain or falsifying records.

21 NCAC 06P .0101 – Define "the practice of barbering" and "barbering services."

21 NCAC 06P .0102 – To exempt certain similar activities from the scope of the Board's law and rules.

21 NCAC 06P .0103 – Define numerous undefined words and terms used in administrative rules.

21 NCAC 06Q .0101 – Set forth numerous prohibited practices that have previously had to be extrapolated from the Board's law and rules.

21 NCAC 06Q .0102 – Set forth the child support default law in the Board's administrative rules.

21 NCAC 06Q .0103 – Set forth the effect of a felony registered sex offender violation in the Board's administrative rules.

21 NCAC 06R .0101 – Establish a uniform method of distinguishing barber shops from other establishments that provide similar services, many of which are unregulated.

Procedure by which a person can object to the agency on a proposed rule: Appearance at a public hearing or written comment via U.S. Mail or e-mail.

Comments may be submitted to: Kelly W. Braam, 5809-102 Departure Drive, Raleigh, NC 27616, phone (919) 981-5360, fax (919) 981-5068, email kbraam@ncbarbers.com

Comment period ends: February 18, 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

SUBCHAPTER 06A - DEPARTMENTAL RULES**SECTION .0100 - ORGANIZATIONAL RULES****21 NCAC 06A .0102 PHYSICAL ADDRESS**

The physical address of the Board is ~~3901 Barrett Drive, Suite 300, 5809-102 Departure Drive~~ Raleigh, North Carolina ~~27609~~. 27616.

Authority G.S. 86A-6.

21 NCAC 06A .0103 OFFICE HOURS

The office hours of the Board are 8:00 a.m. to ~~5:00~~ 4:30 p.m., Monday through Friday. The office is closed on recognized State holidays.

Authority G.S. 86A-6.

21 NCAC 06A .0104 MAILING ADDRESS

The mailing address for the Board is ~~3901 Barrett Drive, Suite 300, 5809-102 Departure Drive~~ Raleigh, North Carolina ~~27609~~. 27616.

Authority G.S. 86A-6.

SUBCHAPTER 06B - RULE-MAKING PROCEDURES**SECTION .0300 - HEARINGS****21 NCAC 06B .0301 LOCATION OF HEARINGS**

Unless otherwise stated in a particular rule-making notice, hearings before the Board will be held at ~~3901 Barrett Drive, Suite 300, Raleigh, North Carolina 27609~~. the office of the Board at its address of record.

Authority G.S. 150B-12.

SECTION .0400 - TEMPORARY RULES**21 NCAC 06B .0401 POWER TO ISSUE**

~~The Board shall have the power to adopt temporary rules when required by reason of imminent peril to the public health, safety and welfare. Before the Board adopts a temporary rule, it shall issue whatever notice time permits and allow oral or written comments as time permits.~~

Authority G.S. 150B-13.

21 NCAC 06B .0402 LENGTH OF EFFECTIVENESS

~~A temporary rule shall in no event continue in effect for a period in excess of 180 days.~~

Authority G.S. 150B-13.

SECTION .0500 - DECLARATORY RULINGS**21 NCAC 06B .0501 REQUEST FOR DECLARATORY RULING**

Any person substantially affected by a statute administered or rule promulgated by the Board may request a declaratory ruling as to how the statute or rule applies to a given factual situation or whether a particular rule is valid. All requests for declaratory rulings shall be in writing and mailed to the Chairman at the office address.

Authority G.S. 150B-17.

SUBCHAPTER 06C - CONTESTED CASES**SECTION .0200 - REQUEST FOR A HEARING****21 NCAC 06C .0203 REQUEST AFTER INFORMAL EFFORTS**

Following informal contact with the Board as set out in 21 NCAC 06C .0202, if still dissatisfied, ~~one~~ the person may file a written request for an administrative hearing with the Board.

Authority G.S. 150B-38.

21 NCAC 06C .0205 ACKNOWLEDGEMENT

Requests for administrative hearings will be promptly acknowledged by the Board or its legal counsel and, if the request sets out a contested case, a hearing will be scheduled within a reasonable time.

Authority G.S. 150B-38.

SECTION .0900 - HEARING OFFICERS**21 NCAC 06C .0903 BIAS OF BOARD MEMBER**

If for any reason a member of the Board determines that personal bias or other factors would keep him from being able to hear a contested case and perform all duties in an impartial manner, he shall submit in writing to the Chairman his disqualification and the reasons ~~therefor~~. therefor as required by Chapter 138A of the General Statutes.

Authority G.S. 150B-40.

SUBCHAPTER 06F - BARBER SCHOOLS**21 NCAC 06F .0101 PHYSICAL STRUCTURE**

(a) The physical structure of barber schools in North Carolina shall conform to the following criteria:

- (1) be a minimum of 14 linear feet wide;
- (2) be equipped with a minimum of ten barber chairs in sanitary and safe condition sufficient for the number of students enrolled;
- (3) have a minimum of 896 square feet in the practical area for the first ten chairs;
- (4) have an additional 70 square feet in the practical area for each additional barber chair over the required ten;
- (5) have at least five linear feet of space between each chair, center to center;

- (6) have no more than ~~2~~ two students enrolled per barber chair;
- (7) be equipped with toilet facilities with hand-washing sink or basin sufficient to serve the number of people at the school;
- (8) have concrete ~~and or~~ wood floors covered with smooth, nonporous materials;
- (9) have instructional materials (blackboard space, slide programs, etc.) sufficient to teach barbering;
- (10) have a workstand workstand, with mirror, for each barber chair in the practical work area, constructed of such material as to render it easily cleaned;
- (11) have a tool cabinet for each barber chair, with a door as nearly air tight as possible;
- (12) have a towel cabinet, or other method of storage, such that clean towels are stored separate from used towels;
- ~~(12)~~(13) have at least one fully functional sink or lavatory, with hot and cold water, for each two barber chairs;
- ~~(13)~~(14) have the school separate from any other place or type of business by a substantial wall of ceiling height; ~~and~~
- (15) have a classroom area, separate from the practical area, with a minimum of 20 square feet per student; and
- ~~(14)~~(16) have classroom and desk chairs sufficient to serve the number of students ~~enrolled~~ enrolled and a desk and chair for the instructor.

This Paragraph shall be applicable to barber schools which are permitted on or after December 1, 1994 or which undergo modifications or structural renovations after that date.

(b) Barber schools existing prior to December 1, 1994, must have a minimum of 896 square feet for ten chairs and must have 70 square feet for each additional barber chair over the required ten, and have no more than ~~4~~ one student enrolled per barber chair. They must be equipped with toilet facilities sufficient to serve the number of people attending the school. They must have desk chairs separate from the practical area. The minimum square footage requirement of Subparagraph (a)(15) of this Rule applies to barber schools permitted on or after July 1, 2008.

Authority G.S. 86A-15; 86A-22.

21 NCAC 06F .0103 FILING

- (a) Each barber school shall file with the Board the name of the designated manager or managers of the school.
- (b) When a change in the designated management of a barber school occurs, the school must report the change at least 30 days before the change is effective, except in emergencies. If such change is due to an emergency, the filing shall be made not later than ten days after the change of management has occurred.
- ~~(c) The designated manager or managers shall be responsible for compliance with North Carolina General Statutes governing barbering and the rules of the Board.~~

Authority G.S. 86A-22.

21 NCAC 06F .0104 INSTRUCTORS

- ~~(a) Each~~ Unless otherwise exempt, each barber school shall have at least two instructors present at all times during instructional business hours.
- (b) At least one barber instructor shall actively monitor students engaged in barbering activities at all times.
- (c) While present on the premises of the barber school, barber instructors shall not barber for compensation and shall barber only for the purpose of instruction or demonstration.

Authority G.S. 86A-22.

21 NCAC 06F .0110 ROSTER AND STUDENT RECORDS

Each barber school shall comply with the following standards:

- (1) ~~have and~~ maintain an up-to-date written roster system which shall be used to ensure that each student shall ~~care for~~ serve substantially equal numbers of patrons;
- (2) maintain a complete record of each student including a weekly record of the number of days and hours the student attended classes in practical work and ~~theory~~ theory;
- (3) maintain a separate daily record of the number of patrons the student served for haircuts, shaves and other clinical ~~services~~ services;
- (4) maintain a weekly record of the subject matter taught the student in theory ~~classes~~ classes; and
- (5) provide the list of students required by G.S. 86A-22(5) by the 15th day of each month.

Authority G.S. 86A-22.

21 NCAC 06F .0111 COPIES OF BARBER SCHOOL RECORDS

Copies of all records or reports required to be kept by barber schools, either by the North Carolina General Statutes or by the rules of the Board, including time sheets for instructors to verify compliance with 21 NCAC 06F .0104, shall be furnished to the Board upon request.

Authority G.S. 86A-22.

21 NCAC 06F .0113 STUDENT PERMIT

- (a) Applications for student permits shall be submitted to the Board 10 days prior to the student beginning classes.
- ~~(a)(b)~~ A student shall be deemed enrolled for the purposes of compliance with the G.S. 86A-22 only from and after the date of issuance of a student permit by the Board. The student shall receive no credit for training received in barber school until a student permit has been issued for the student and received by the school.
- ~~(b)(c)~~ Within five working days of the date on which any student completes his course of study, drops out of school or transfers to another school, the barber school shall return to the Board the student permit issued for the student when the student enrolled in the school.

Authority G.S. 86A-22.

21 NCAC 06F .0120 BARBER SCHOOL CURRICULA

(a) The following categories and courses shall comprise the minimum course work for all students at barber schools:

	Hours
Classroom Lecture and Study Periods <u>Periods</u> :	
Hygiene and Good Grooming, Professional Ethics	25
Bacteriology, Sterilization, Sanitation	50
Implements, Honing, Stropping and Shaving	30
Men's Haircutting	20
Cutting and Styling Curly Hair, Mustaches and Beards	10
Shampooing and Rinsing, Scalp and Hair Treatments	10
Theory of Massage and Facial Treatments	5
Men's Razor Cutting, Women's Razor and Shear Cutting	30
Finger Waving Men's Hair, Air Waving and Curling Iron Techniques	5
Permanent Waving For Men, Chemical Hair Relaxing and Blow Drying	25
Hair Coloring	10
Men's Hair Pieces	5
The Skin, Scalp, and Hair and Nails	30
Disorders of the Skin, Scalp and Hair	15
Anatomy and Physiology	10
Electricity Therapy, Light Therapy and Chemistry	10
Barber Styling, Shop Management, and Product Knowledge	70
Licensing Laws and Rules and History of Barbering	20
Supervised Practice in Barbering <u>Barbering</u> :	
Shampooing and Scientific Hair and Scalp Treatments	55
Shaving	50
Tapered Hair Cutting	250
Hair Styling of Men and Women	400
Facials, Massages and Packs	10
Bleaching, Frosting, Hair Coloring and Body Permanents	90
Cutting and Fitting Hair Pieces	5
Hair Straightening	5
The Analyzing and Treatment of Hair and Skin Disorders	10
Lectures and Demonstrations on Practical Work <u>Work</u> :	
Shampooing and Scientific Hair and Scalp Treatments	15
Shaving	20
Tapered Hair Cutting	70
Hair Styling of Men and Women	100
Facials, Massages and Packs	5
Bleaching, Frosting, Hair Coloring and Permanent Waving	30
Cutting and Fitting Hair Pieces	5
Hair Straightening	3
The Analyzing and Treating of Hair and Skin Disorders	10
Men's and Women's Razor Cutting	15
Total Hours	1528

(b) All barber schools shall use course books and training materials specifically created for the purpose of teaching barbering skills. Unless the course book or training material has separate and distinct sections covering the practice of barbering, cosmetology course books and training materials are not acceptable.

Authority G.S. 86A-22(1); 86A-22(4).

21 NCAC 06F .0121 PENAL INSTITUTIONS

(a) The Board may enter into memoranda of understanding or other agreements with the North Carolina Department of Correction, Division of Prisons for the approval of schools of barbering at penal institutions within North Carolina.

(b) With the exception of the requirement regarding toilet facilities set forth in 21 NCAC 06F .0101(7) and a tool cabinet set forth in 21 NCAC 06F .0101(11), the Division of Prisons shall otherwise comply with the same requirements as other barber schools.

Authority G.S. 86A-22.

SUBCHAPTER 06H - BARBER SCHOOL OWNERS AND MANAGERS

21 NCAC 06H .0101 DUTIES AND RESPONSIBILITIES

It shall be the duty and responsibility of all barber school managers to:

- (1) file for a school permit at least 30 days before opening the school for business;
- (2) ~~instruct~~ ensure that all students are instructed as nearly alike as possible;
- (3) ensure compliance with the North Carolina General Statutes governing barber schools and barbering and the administrative rules of the Board.

Authority G.S. 86A-13; 86A-15; 86A-22.

SUBCHAPTER 06I - OUT-OF-STATE TRANSFERS

21 NCAC 06I .0105 APPRENTICE BARBER

(a) A student who has trained in another state may take the examination to become a registered apprentice barber provided:

- (1) he proves satisfactorily to the Board that his hours of training in the out-of-state barber school are the substantive equivalent to those in North Carolina;
- (2) he provides proof of completion of barber school training;
- (3) he completes and furnishes to the Board Form BAR-7;
- (4) he pays the required fee according to G.S. 86A-25; and
- (5) he furnishes a copy of any court record involving a felony conviction.

(b) An applicant who has trained in another state and who is licensed in another state ~~should~~ shall report this to the Board. In determining whether the applicant has the required training to be an apprentice barber, the Board ~~will~~ may consider experience as a licensed barber in another state. An applicant licensed in another state must provide certified verification of the licensure from the out-of-state licensing Board.

(c) The Board shall not recognize any training obtained through on the job training and any such experience shall have to be made up in a qualified North Carolina School of Barbering before obtaining a license or sitting for an exam.

Authority G.S. 86A-5; 86A-18; 86A-24; 86A-25.

SUBCHAPTER 06J - APPRENTICE BARBERS

21 NCAC 06J .0101 REGISTERED APPRENTICE

In order to become a registered apprentice barber, an applicant shall meet the following requirements:

- (1) attend a qualified barber school for a period of at least 1528 hours or the equivalent as determined by the Board. ~~For~~ (For curriculum requirements see 21 NCAC 6F .0020; .0020);
- (2) furnish the Board with Form BAR-4 and pay the fee according to G.S. 86A-25;
- (3) make a score of at least 70 percent on both a written and practical apprentice examination.

Authority G.S. 86A-3; 86A-10; 86A-24; 86A-25.

21 NCAC 06J .0109 IDENTIFICATION

All apprentice barbers and student barbers with permission to work shall maintain government-issued photo identification in their possession at all times while performing barbering services and produce said identification to the Executive Director or inspector upon request.

Authority G.S. 86A-1; 86A-11.

SUBCHAPTER 06K - REGISTERED BARBER

21 NCAC 06K .0101 REGISTERED BARBER

To become a registered barber an applicant must:

- (1) meet the qualifications in G.S. 86A-3;
- (2) furnish the Board with Form BAR-5 and pay the fee according to G.S. 86A-25; and
- ~~(3) — furnish a certificate of satisfactory health signed by a physician; and~~
- ~~(4)~~ (3) make a score of at least 70 percent or better on the clinical portion of the registered barber examination.

Authority G.S. 86A-3; 86A-15; 86A-25.

21 NCAC 06K .0110 IDENTIFICATION

All Registered Barbers shall maintain government-issued photo identification in their possession at all times while performing barbering and produce said identification to the Executive Director or inspector upon request.

Authority G.S. 86A-; 86A-10.

SUBCHAPTER 06L - BARBER SHOPS

21 NCAC 06L .0102 MEASUREMENTS OF BARBER SHOP

(a) Except as stated in Paragraph (b) and (c) of this Rule, each barber shop shall be a minimum of 196 square feet measured from the inside walls of the shop, not including common areas

shared with other businesses or residents. In addition, each chair shall be located in an area where there is no less than 12 linear feet from front wall to back wall, measured through the center of the chair, with the back wall being the wall or plain to which the backstand is affixed. There shall be a minimum of five linear feet of space between each barber chair, from center to center of each chair and there shall be no less than three linear feet from the center of any chair to any side wall. There shall be an unobstructed aisle in front of each chair of no less than four feet. This Paragraph shall be applicable to barber shops which are permitted on or after December 1, 1994 or which undergo modification or structural renovations on or after that date.

(b) Barber shops existing prior to February 1, 1976, must be a minimum of 12 feet in width and 14 feet in length.

(c) Barber shops existing prior to December 1, 1994, must be a minimum of 14 feet in width and 14 feet in length.

Authority G.S. 86A-15.

21 NCAC 06L .0103 EQUIPMENT

(a) Each barber shall have a cabinet for barbering equipment. Such cabinets shall be constructed of material that may be easily cleaned.

(b) Each shop shall have smooth finished walls, ceilings and floors, and no exposed pipes.

(c) Each barber chair shall be covered with a smooth, non-porous surface, such as vinyl or leather, which is easily cleaned.

(d) Each shop shall have within said shop or building functioning toilet facilities, facilities for employees and patrons.

(e) Each barber shop shall have a cabinet, or other method of storage, such that clean towels are stored separate from used towels.

~~(b)(f)~~ In addition to the requirements of Paragraph ~~(a)~~(d) of this Rule, barber shops which are permitted on or after January 1, 1995 or which undergo modifications or structural renovations after that date must have within said shop or building a hand-washing sink or basin, lavatory for patrons with hot and cold water, soap and disposable towels.

(g) Where a barber shop is located within a shop licensed by the North Carolina Board of Cosmetic Art Examiners, the ~~bathroom~~ toilet facility and sink may be shared with the cosmetology shop.

(h) With the exception of Paragraphs (a) and (d) of this Rule, the Division of Prisons shall otherwise comply with the same requirements as other barber shops.

Authority G.S. 86A-15.

21 NCAC 06L .0106 SEPARATION FROM OTHER BUSINESSES; RESIDENTIAL SHOPS; MOBILE HOMES

(a) When a building or room is used for both a barber shop and for some other business and the building or room has limited air conditioning, ventilation, or heat outlets, or air circulation, the required partition between the shop and the other business may be completed from the floor up to a minimum of six feet with some open-like material from six feet to the ceiling to permit good air circulation.

(b) Notwithstanding Paragraph (a) of this Rule and 21 NCAC 6L .0002 and where a barber shop is located within a shop licensed by the North Carolina Board of Cosmetic Art

Examiners and which is permitted on or after January 1, 1995, or which ~~undergo~~ undergoes modifications or structural renovations after that date, the following shall apply:

(1) The area within which the barber chair or chairs are located must be separated from the cosmetology shop by a partition or wall of at least seven feet in height and constructed of a solid, smooth finished material, but which may contain a door.

(2) Within the barber shop area, each barber chair shall be located in an area where there is no less than 12 linear feet from front wall to back wall, measured through the center of the chair, with the back wall being the wall or plain to which the backstand is affixed.

(3) There shall be a minimum of five linear feet of space between each barber chair, from center to center of each chair and there shall be no less than three linear feet from the center of any chair to any side wall.

(4) There shall be an unobstructed aisle in from of each chair of no less than four linear feet.

(5) The area where the barber chair or chairs are located must otherwise comply with all other sanitary rules and laws not inconsistent with this Rule.

(c) For barber shops permitted on or after July 1, 2008, a barber shop in a residential building shall maintain a separate entrance which shall not open off the living quarters, and which shall not have any doors or openings leading to the living quarters which are unlocked during business hours. Entrance through garages or any other rooms shall not be permitted. Shops are prohibited in a basement of a residence.

(d) The toilet facilities or any sink in the living quarters of any residence shall not be considered in the toilet facility and sink requirements in 21 NCAC 06L .0103 or the sink distance requirement 21 NCAC 06L .0105.

(e) For barber shops permitted on or after July 1, 2008, mobile homes, motor homes, trailers or any type of recreational vehicle must be permanently set on a foundation or they shall not be approved. Any such structure approved for a barber shop shall maintain a separate entrance which shall not open off the living quarters, and shall not have any doors or openings to the living quarters which are unlocked during business hours.

Authority G.S. 86A-1; 86A-15.

21 NCAC 06L .0107 LAVATORY

(a) Each barber in an existing barber shop permitted before January 1, 1995 which is not modified or structurally renovated after that date shall be provided with a functioning sink with hot and cold water, located within his immediate barbering area.

(b) For barber shops permitted on or after January 1, 1995 or which undergo modifications or structural renovation after that date, said sink shall be located within seven linear feet of each barbering area.

Authority G.S. 86A-15.

21 NCAC 06L .0111 WHERE BARBER SERVICES MAY BE PERFORMED

All barber services as defined in G.S. 86A-2 and 21 NCAC 06P .0103 shall only be performed at a location approved and permitted by the Board as a barber shop.

Authority G.S. 86A-15.

21 NCAC 06L .0112 RENTED BOOTH SPACE

(a) Where a barber shop rents or leases space to another licensee, the Board shall hold the barbershop manager responsible for the barbering services performed in the rented or leased space and for the sanitary conditions of the rented or leased space.

(b) The Board's inspectors shall examine the entire premises of each shop irrespective of booth space allotments.

Authority G.S. 86A-15.

21 NCAC 06L .0113 DISEASES

(a) No patron with a definite open sore or sores, exhibiting symptoms of an infectious dermatologic disease or disorder or parasitic infestations of the skin or hair or a communicable disease shall be served.

(b) No holder of a Registered Barber permit, apprentice or student barber with a permission to work who knowingly has an infectious dermatologic disease, infectious disease with open sore or sores on the hand or hands, or parasitic infestation of the skin or hair in a communicable stage or any other communicable disease shall provide barber service in a barber shop.

(c) The Board shall have the right to require a physical examination of any person employed in any barber shop who is suspected of having an infectious dermatologic disease, infectious disease with open sore or sores on the hand or hands, or parasitic infestation of the skin or hair in a communicable stage.

Authority G.S. 86A-15.

21 NCAC 06L .0114 POLICY PROHIBITING PETS

(a) With the exception of trained guide or assistance animals no animals shall be permitted in a barber shop. However, the Board may grant a one year exemption for only one animal per barber shop if the following requirements are met:

- (1) A written request applying for such exemption is made by the owner or manager of the barber shop;
- (2) Such barber shop owner or manager is also the owner of the animal to be exempted;
- (3) The owner of the barber shop submits to the Board written documentation from a veterinarian, licensed by the State of North Carolina, indicating that the animal is in good health and has received all appropriate vaccinations and related medical treatment.
- (4) The owner of the barber shop submits to the Board proof of a general liability (or equivalent) insurance policy which contains coverage in an amount which totals at least

one million dollars. Such policy shall include coverage for any actions taken by such animal;

(5) The barber shop manager submits to the Board written documentation that the animal would not be a danger to the general health, safety and welfare of the public; and

(6) The barber shop manager submits a photograph of the animal which is the subject of the proposed exemption.

(b) If granted, the barber shop manager shall maintain the photograph of the animal exempted at the barber shop.

(c) Such exemption may be renewed.

Authority G.S. 86A-15.

21 NCAC 06L .0115 INSPECTIONS OF SHOPS

(a) The Board's Executive Director and its inspectors shall have the power to enter and make reasonable inspections of any shop during its regular business hours for the purpose of determining whether or not the Board's law and administrative rules are being observed. Persons duly authorized to make an inspection of shops shall prepare a report of such inspections on forms provided by the Board. Such report shall be signed by the inspector and by the owner of the shop or by a person authorized to sign for the owner. The carbon copy of such inspection report shall be left with the owner or manager, and posted within the barbering area until the next inspection. The carbon copy of any violation notice shall be left with the owner or manager, and posted within the barbering area until the violation is resolved with the Board.

(b) The Board's Executive Director and its inspectors shall have the power to inspect all aspects of the shop including the backstand and its drawers and cabinets, and any other drawers, closets or other enclosures within the permitted shop.

(c) The Board's Executive Director and its inspectors shall have the power to determine and assign numerical and letter sanitary grades to a shop following inspections. Such grade shall be displayed on the sanitary rules required to be posted by G.S. 86A-15(b).

(d) The shop manager is responsible for keeping the entire shop open for inspection, including space rented or leased to another licensee.

(e) The shop manager is responsible for the general sanitary condition of the entire shop.

Authority G.S. 86A-5(a)(1); 86A-15.

21 NCAC 06L .0116 OTHER DUTIES OF BARBER SHOP OWNERS AND MANAGERS

All barber shop owners and managers are responsible for positively identifying any licensee to determine that the licensee is, in fact, the person who's name appears on the license or Registered Barber permit prior to allowing the licensee to perform barbering services in the shop, and maintain a record of the identifying information about the licensee.

Authority G.S. 86A-1; 86A-10; 86A-11.

21 NCAC 06L. 0117 GENERAL SANITATION

All barber shops shall remain free of any visible signs of rodents, vermin or insects or signs of mold, mildew or water damage.

Authority G.S. 86A-15.

SUBCHAPTER 06M - BARBERSHOP INSPECTORS

21 NCAC 06M .0102 DUTIES AND RESPONSIBILITIES

The duties and responsibilities of barber shop inspectors shall be as follows:

- (1) to regularly inspect existing barber shops and barber schools and to inspect new barber shops and barber schools prior to opening;
- (2) to inspect any business that advertises or holds itself out as possibly offering barbering

- services or employing barbers on the premises, whether licensed or unlicensed;
- ~~(2)~~(3) to investigate complaints in the inspector's assigned inspection area;
 - ~~(3)~~(4) to file weekly reports with the Board which contain a summary of the inspector's activities of the past week and make necessary recommendations to the Board;
 - ~~(4)~~(5) to write receipts for all money collected, providing duplicate copies to the payor and to the Board office;
 - ~~(5)~~(6) to issue notices of violations and warnings for violations of the Board's law or administrative rules; and
 - ~~(6)~~(7) to administer examinations as directed by the Board office.

Authority G.S. 86A-7; 86A-13; 86A-15; 86A-22.

SUBCHAPTER 06N - FORMS

21 NCAC 06N .0101 FEES

The Board charges the following amounts for the fees authorized by G.S. 86A-25:

- | | | |
|------|--|-----------------------------|
| (1) | Certificate of registration or renewal as a barber | \$ 35.00 |
| (2) | Certificate of registration or renewal as an apprentice barber | \$ 35.00 |
| (3) | Barbershop permit or renewal | \$ 40.00 |
| (4) | Examination to become a registered barber | \$ 85.00 |
| (5) | Examination to become a registered apprentice barber | \$ 85.00 |
| (6) | Late fee for restoration of an expired barber certificate within first year after expiration | \$ 35.00 |
| (7) | Late fee for restoration of an expired barber certificate after first year after expiration but within five years after expiration | \$ 70.00 |
| (8) | Late fee for restoration of an expired apprentice certificate within the first year after expiration | \$ 35.00 |
| (9) | Late fee for restoration of an expired apprentice certificate after first year after expiration but within three years of first issuance of the certificate | \$ 45.00 |
| (10) | Late fee for restoration of an expired barber shop certificate | \$ 45.00 |
| (11) | Examination to become a barber school instructor | \$150.00 |
| (12) | Student permit | \$ 20.00 |
| (13) | Issuance of any duplicate copy of a license, certificate or permit | \$ 10.00 |
| (14) | Barber school permit or renewal | \$ 85.00 |
| (15) | Late fee for restoration of an expired barber school certificate | \$ 85.00 |
| (16) | Barber school instructor certificate or renewal | \$ 60.00 |
| (17) | Late fee for restoration of an expired barber school instructor certificate within first year after expiration | \$ 45.00 |
| (18) | Late fee for restoration of an expired barber school instructor certificate after first year after expiration but within three years after expiration | \$ 85.00 |
| (19) | Inspection of newly established barbershop | \$120.00 |
| (20) | Inspection of newly established barber school | \$220.00 |
| (21) | Issuance of a registered barber or apprentice certificate by certification | \$85.00 \$ 80.00 |
| (22) | Charge for certified copies of public documents \$10.00 for first page, \$0.25 for each <u>per</u> page thereafter | |
| (23) | Charge for duplication services and material \$5.00 for first page, \$0.25 for each page thereafter | |
| (24) | Certificate of registration or renewal as a barber for barbers over 70 years of age | \$ 0.00 |
| (25) | <u>Administrative fee for paying any required fee for renewal or restoration, or a civil penalty and attorney fee, where the licensee or Registered Barber is subject to a pick-up order issued to an inspector.</u> | <u>\$ 70.00</u> |

Authority G.S. 86A-25.

SUBCHAPTER 06O - CIVIL PENALTY

21 NCAC 06O .0109 EXPIRED LICENSE

(a) The presumptive civil penalty for engaging in the practice of barbering with a license or permit that has expired or lapsed ~~for more than a six month duration:~~

- | | | |
|-----|-------------------------|----------|
| (1) | 1 st offense | \$50.00 |
| (2) | 2 nd offense | \$100.00 |
| (3) | 3 rd offense | \$150.00 |

(b) The presumptive civil penalty for a shop allowing an individual to engage in the practice of barbering with a license or permit that has expired or lapsed ~~for more than a six month duration:~~

- | | | |
|-----|-------------------------|----------|
| (1) | 1 st offense | \$50.00 |
| (2) | 2 nd offense | \$100.00 |
| (3) | 3 rd offense | \$150.00 |

Authority G.S. 86A-1; 86A-5(a)(6); 86A-17(b); 86A-27.

21 NCAC 06O .0112 IDENTIFICATION

(a) The presumptive civil penalty for a barber shop owner or manager failing to positively identify a Registered Barber, apprentice or holder of permission to work:

- | | | |
|-----|-------------------------|----------|
| (1) | 1 st offense | \$50.00 |
| (2) | 2 nd offense | \$100.00 |
| (3) | 3 rd offense | \$200.00 |

(b) The presumptive civil penalty for a Registered Barber, apprentice or holder of permission to work failing to maintain and produce identification:

- | | | |
|-----|-------------------------|----------|
| (1) | 1 st offense | \$50.00 |
| (2) | 2 nd offense | \$100.00 |
| (3) | 3 rd offense | \$200.00 |

Authority G.S. 86A-1; 86A-10; 86A-11; 86A-27.

21 NCAC 06O .0113 BARBER SHOPS IN RESIDENCES AND MOBILE HOMES

(a) The presumptive civil penalty for operating a barber shop in a residence in violation of 21 NCAC 06L .0106(c):

- | | | |
|-----|-------------------------|----------|
| (1) | 1 st offense | \$100.00 |
| (2) | 2 nd offense | \$200.00 |
| (3) | 3 rd offense | \$500.00 |

(b) The presumptive civil penalty for operating a barber shop in a mobile home in violation of 21 NCAC 06L .0106(d):

- | | | |
|-----|-------------------------|----------|
| (1) | 1 st offense | \$150.00 |
| (2) | 2 nd offense | \$250.00 |
| (3) | 3 rd offense | \$500.00 |

Authority G.S. 86A-15; 86A-27.

21 NCAC 06O .0114 ANIMALS IN BARBER SHOPS

(a) The presumptive civil penalty for allowing an animal in a barber shop without first obtaining an exemption from the Board:

- | | | |
|-----|-------------------------|----------|
| (1) | 1 st offense | \$50.00 |
| (2) | 2 nd offense | \$100.00 |
| (3) | 3 rd offense | \$200.00 |

(b) The presumptive civil penalty for allowing an animal in a barber shop with an expired exemption:

- | | | |
|-----|-------------------------|----------|
| (1) | 1 st offense | \$100.00 |
| (2) | 2 nd offense | \$250.00 |
| (3) | 3 rd offense | \$500.00 |

Authority G.S. 86A-15; G.S. 85A-27.

21 NCAC 06O .0115 SCHOOL FAILING TO MAINTAIN OR FALSIFYING RECORDS

(a) The presumptive civil penalty for failing to maintain records by a barber school:

- | | | |
|-----|-------------------------|----------|
| (1) | 1 st offense | 150.00 |
| (2) | 2 nd offense | \$200.00 |
| (3) | 3 rd offense | \$500.00 |

(b) The presumptive civil penalty for falsifying records by a barber school:

- | | | |
|-----|-------------------------|----------|
| (1) | 1 st offense | \$250.00 |
| (2) | 2 nd offense | \$500.00 |
| (3) | 3 rd offense | \$750.00 |

Authority G.S. 86A-22; 86A-27.

SUBCHAPTER 06P - DEFINITIONS

21 NCAC 06P .0101 BARBERING

Unless specifically exempted by statute, "the practice of barbering" or "barbering services" means any one or more of the activities defined in G.S. 86A-2 when performed upon the public for compensation, free, or otherwise.

Authority G.S. 86A-2.

21 NCAC 06P .0102 BARBERING EXEMPTIONS

"The practice of barbering" or "barbering services" does not include the practice of natural hair styling or braiding.

Authority G.S. 86A-2.

21 NCAC 06P .0103 GENERAL DEFINITIONS

For purposes of these administrative rules, the following definitions shall apply:

- (1) "Sanitary" means free of infectious agents, diseases, or infestation by insects or vermin and free of soil, dust, or foreign material.
- (2) "Barber" means any person who engages in or attempts to engage in the practice of barbering or provide barbering services.
- (3) "Barber school" means any establishment that engages in or attempts to engage in the teaching of the practice of barbering.
- (4) "Barber instructor" means any person who engages in or attempts to engage in the teaching of the practice of barbering.
- (5) "Barber pole" means a cylinder or pole with alternating stripes of any combination including red and white, and red, white, and blue, which run diagonally along the length of the cylinder or pole.
- (6) "The practice of natural hair styling" means work done for a fee or other form of

compensation, by any person, utilizing techniques performed by hand that result in tension on the hair strands or roots such as twisting, wrapping, weaving, extending, locking, or braiding of the hair by hand or mechanical device, and which work does not include cutting the hair or the application of dyes, reactive chemical(s), or other preparations to alter the color or to straighten, curl, or alter the structure of the hair, or the application of heat to alter, straighten or curl the hair.

- (7) "Braiding" means intertwining the hair in a systematic motion to create patterns in a three-dimensional form, inverting the hair against the scalp along part of a straight or curved row of intertwined hair, or twisting the hair in a systematic motion, and includes extending the hair with natural or synthetic hair fibers, and which work does not include cutting the hair or the application of dyes, reactive chemicals, or other preparations to alter the color or to straighten, curl, or alter the structure of the hair, or the application of heat to alter, straighten or curl the hair.

Authority G.S. 86A-2; 86A-5; 86A-13; 86A-15; 86A-22; 86A-23.

SUBCHAPTER 06Q - PROHIBITED PRACTICES

21 NCAC 06Q .0101 ADDITIONAL GROUNDS FOR DENIAL OR DISCIPLINE

Except as provided in this Chapter 86A of the General Statutes, no person shall do any of the following:

- (1) Engage in or attempt to engage in the practice of barbering, hold oneself out as a practicing barber, or advertise in a manner that indicates the person is a barber, without a license or permit;
- (2) Operate or attempt to operate a barber shop without a permit;
- (3) Engage in or attempt to engage in the teaching of or assist in the teaching of the practice of barbering without a barber instructor license;
- (4) Advertising barbering services unless the establishment and personnel employed therein are licensed or permitted;
- (5) Use or display a barber pole for the purpose of offering barber services to the consuming public without a barber shop permit;
- (6) Operate or attempt to operate a barber school without a barber school license;
- (7) Teach or attempt to teach any phase of barbering for compensation, free, or otherwise without approval from the Board;
- (8) Being a barber, knowingly continuing the practice of barbering, or being a student, knowingly continuing as a student in any barber school, while such person has an

infectious, contagious, or communicable disease;

- (9) Obtain or attempt to obtain a license or permit by fraudulent misrepresentation for money, other than the required fee, or any other thing of value;
- (10) Employ another person to perform or performing the practice of barbering in a permitted barber shop unless that person is licensed as a barber;
- (11) Use any room or place for barbering which is also used for residential or other business purposes or a mobile home, recreational vehicle or camper, in violation of 21 NCAC 06L .0106;
- (12) Fail to positively identify a Registered Barber, apprentice barber, or student barber with a right to work permit prior to allowing the person to perform barbering services;
- (13) Fail to maintain and produce identification upon the request of the Executive Director or an inspector during an inspection;
- (14) Allow a Registered Barber, or apprentice to perform barbering services while a license or permit is administratively suspended in violation of G.S. 86A-20(5);
- (15) Violate a Settlement Agreement entered into with the Board; or
- (16) Violate the Board's law or any administrative rule adopted by the Board or a local department of health for barbers, barber shops or barber schools.

Authority G.S. 86A-1; 86A-2; 86A-5(a); 86A-10; 86A-11; 86A-13; 86A-15; 86A-16; 86A-17; 86A-18; 86A-20; 86A-22; 86A-23; 86A-24.

21 NCAC 06Q .0102 EFFECT OF CHILD SUPPORT DEFAULT ON LICENSE OR CERTIFICATE

On receipt of a notice pursuant to Chapter 93B, Section 13 of the General Statutes, the Board shall comply with Chapter 110, Section 142.1 of the General Statutes and any administrative rules with respect to a license or permit issued pursuant to Chapter 86A.

Authority G.S. 93B-13; 110-142.1.

21 NCAC 06Q .0103 REGISTERED SEX OFFENDER

The Board shall refuse to issue or renew, or shall revoke any license or permit issued pursuant to Chapter 86A of the General Statutes, where the applicant, licensee or permittee has been adjudicated a felony sexual offender and is required to register pursuant to Chapter 14, Section 208.5 of the General Statutes or any similar statutes or ordinances.

Authority G.S. 14-208.5.

SUBCHAPTER 06R - ADVERTISING

**21 NCAC 06R .0101 DISPLAY OF SIGN OR BARBER
POLE**

Every establishment permitted to practice barbering shall display at its main entrance a sign of appropriate size which will be clearly visible from the street, and whose lettering shall be no

smaller than three inches stating "barber shop," "barber salon," "barber styling" or similar use of the designation, "barber," or shall display a "barber pole" as defined in 21 NCAC 06P .0103(e).

Authority G.S. 86A-1; 86A-2.

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

Rule-making Agency: *Commission for Public Health*

Rule Citation: *10A NCAC 41A .0502*

Effective Date: *December 1, 2007*

Date Approved by the Rules Review Commission: *November 15, 2007*

Reason for Action: *A recent change in State Budgetary Policy (a new Medicaid rate of reimbursement to physicians that administer vaccine to a Medicaid eligible child) that was announced June 1, 2007 created a conflict between the rules and policies of two state agencies, the Division of Medical Assistance and the Division of Public Health, with regard to billing and reimbursement for administration of a required childhood vaccine. By using the temporary rulemaking process pursuant to G.S. 150B-21.1(a)(3), this conflict and the resulting confusion of the public is resolved expeditiously. Moreover, the main party of interest in this matter, the N.C. Pediatric Society represents N.C. Pediatricians, was active and involved in the temporary rulemaking process at the public hearing and before the Commission for Public Health when the rule was adopted.*

CHAPTER 41 – HEALTH: EPIDEMIOLOGY

SUBCHAPTER 41A – COMMUNICABLE DISEASE CONTROL

SECTION .0500 - PURCHASE AND DISTRIBUTION OF VACCINE

10A NCAC 41A .0502 VACCINE FOR PROVIDERS OTHER THAN LOCAL HEALTH DEPARTMENTS

(a) The Division of Public Health shall provide vaccines required by law free of charge to the following providers for administration to individuals who need vaccines to meet the requirement of G.S. 130A-152, 130-155.1 and 10A NCAC 41A .0401:

- (1) Community, migrant, and rural health centers;
- (2) Colleges and universities for students; and
- (3) Physicians and other health care providers.

(b) Upon request of the Division, required vaccines may be distributed by local health departments operating as agents of the State to providers listed in Subparagraphs (a)(1), (2) and (3) of this Rule.

(c) Providers authorized in Paragraph (a) of this Rule shall be eligible to receive free vaccines from the Division only if they

sign an agreement with the Division. This agreement will be prepared by the Division of Public Health and will require the provider to:

- (1) Charge ~~vaccine administration fees at no more than a single dose of vaccine than the rate rates established by the Health Care Financing Administration (HCFA); Charge no more than double the HCFA rate as a reasonable fee for the administration of two or more vaccines given at a single visit. State's Medicaid program. The rate established by HCFA is published in the Federal Register (59FR50235), and is incorporated herein by reference along with any subsequent amendments and editions. The HCFA rate~~ State's Medicaid rates may be inspected at the Division of Public Health. Copies may also be obtained from the Division of Public Health at no charge;
- (2) Provide all vaccines needed during a visit unless a specific contraindication exists to one or more of the vaccine;
- (3) Charge no office fee in addition to an administration fee for an immunization-only visit;
- (4) Agree not to charge an administration fee to an individual who states that they are unable to pay;
- (5) Impose no condition as a prerequisite to receiving vaccine;
- (6) The providers shall submit a monthly doses administered report by the tenth of each month electronically through the North Carolina Immunization Registry or on a form provided by the Immunization Section.
- (7) Report adverse vaccine reactions through the Vaccine Adverse Event Reporting System (VAERS);
- (8) Provide the latest edition of the applicable Important Information Statement (IIS), or Vaccine Information Statement (VIS) to the parent, guardian, or person standing in loco parentis for each dose of vaccine administered; document this action within the patient's permanent medical record; retain the documentation for a period of 10 years following the end of the calendar year in which the vaccine dose was administered, or for 10 years following the recipient's age of majority, whichever is longer; upon request, furnish copies of the documentation to the

local health department or the Division. Keep a record of the vaccine manufacturer, lot number, and date of administration for each dose of vaccine administered;

- (9) Allow periodic inspection of their vaccine supplies and records by the Division of Public Health and

- (10) Comply with the rules of this Section.

(d) A provider who fails to submit timely and accurate reports as required each month shall have vaccine shipments withheld until that month's report is received by the Immunization Section.

History Note: Authority G.S. 130A-152; 130A-155.1; 130A-433; S.L. 1986, c. 1008, s. 2; S.L. 1987, c. 215, s. 7;
Temporary Rule Eff. October 5, 1986 for a period of 120 days to expire on February 1, 1987;

Temporary Rule Eff. February 1, 1987 for a period of 120 days to expire on May 31, 1987; Eff. March 1, 1987;

Temporary Amendment Eff. February 1, 1988, for a period of 180 days to expire on July 29, 1988;

Temporary Amendment Eff. August 26, 1992, for a period 180 days or until the permanent rule becomes effective, whichever is sooner;

Temporary Amendment Eff. October 1, 1994, for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Amended Eff. October 1, 1995; January 1, 1995; January 4, 1994; January 4, 1993;

Temporary Amendment Eff. December 1, 1998;

Amended Eff. August 1, 2000;

Temporary Amendment Eff. December 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>.

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Chief Administrative Law Judge
JULIAN MANN, III

Senior Administrative Law Judge
FRED G. MORRISON JR.

ADMINISTRATIVE LAW JUDGES

Beecher R. Gray
Selina Brooks
Melissa Owens Lassiter
Don Overby

A. B. Elkins II
Joe Webster
Shannon Joseph

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
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