

NORTH CAROLINA REGISTER

VOLUME 24 • ISSUE 12 • Pages 1004 - 1060

December 15, 2009

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215 North Dawson Street (919) 715-2893
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Joint Legislative Administrative Procedure Oversight Committee
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300 North Salisbury Street (919) 733-2578
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contact: Karen Cochrane-Brown, Staff Attorney Karen.cochrane-brown@ncleg.net
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NORTH CAROLINA REGISTER
Publication Schedule for January 2009 – December 2009

| 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 31st legislative day of the session beginning: | 270 th day from publication in the Register |
| 23:13 | 01/02/09 | 12/08/08 | 01/17/09 | 03/03/09 | 03/20/09 | 05/01/09 | 05/2010 | 09/29/09 |
| 23:14 | 01/15/09 | 12/19/08 | 01/30/09 | 03/16/09 | 03/20/09 | 05/01/09 | 05/2010 | 10/12/09 |
| 23:15 | 02/02/09 | 01/09/09 | 02/17/09 | 04/03/09 | 04/20/09 | 06/01/09 | 05/2010 | 10/30/09 |
| 23:16 | 02/16/09 | 01/26/09 | 03/03/09 | 04/17/09 | 04/20/09 | 06/01/09 | 05/2010 | 11/13/09 |
| 23:17 | 03/02/09 | 02/09/09 | 03/17/09 | 05/01/09 | 05/20/09 | 07/01/09 | 05/2010 | 11/27/09 |
| 23:18 | 03/16/09 | 02/23/09 | 03/31/09 | 05/15/09 | 05/20/09 | 07/01/09 | 05/2010 | 12/11/09 |
| 23:19 | 04/01/09 | 03/11/09 | 04/16/09 | 06/01/09 | 06/22/09 | 08/01/09 | 05/2010 | 12/27/09 |
| 23:20 | 04/15/09 | 03/24/09 | 04/30/09 | 06/15/09 | 06/22/09 | 08/01/09 | 05/2010 | 01/10/10 |
| 23:21 | 05/01/09 | 04/09/09 | 05/16/09 | 06/30/09 | 07/20/09 | 09/01/09 | 05/2010 | 01/26/10 |
| 23:22 | 05/15/09 | 04/24/09 | 05/30/09 | 07/14/09 | 07/20/09 | 09/01/09 | 05/2010 | 02/09/10 |
| 23:23 | 06/01/09 | 05/08/09 | 06/16/09 | 07/31/09 | 08/20/09 | 10/01/09 | 05/2010 | 02/26/10 |
| 23:24 | 06/15/09 | 05/22/09 | 06/30/09 | 08/14/09 | 08/20/09 | 10/01/09 | 05/2010 | 03/12/10 |
| 24:01 | 07/01/09 | 06/10/09 | 07/16/09 | 08/31/09 | 09/21/09 | 11/01/09 | 05/2010 | 03/28/10 |
| 24:02 | 07/15/09 | 06/23/09 | 07/30/09 | 09/14/09 | 09/21/09 | 11/01/09 | 05/2010 | 04/11/10 |
| 24:03 | 08/03/09 | 07/13/09 | 08/18/09 | 10/02/09 | 10/20/09 | 12/01/09 | 05/2010 | 04/30/10 |
| 24:04 | 08/17/09 | 07/27/09 | 09/01/09 | 10/16/09 | 10/20/09 | 12/01/09 | 05/2010 | 05/14/10 |
| 24:05 | 09/01/09 | 08/11/09 | 09/16/09 | 11/02/09 | 11/20/09 | 01/01/10 | 05/2010 | 05/29/10 |
| 24:06 | 09/15/09 | 08/24/09 | 09/30/09 | 11/16/09 | 11/20/09 | 01/01/10 | 05/2010 | 06/12/10 |
| 24:07 | 10/01/09 | 09/10/09 | 10/16/09 | 11/30/09 | 12/21/09 | 02/01/10 | 05/2010 | 06/28/10 |
| 24:08 | 10/15/09 | 09/24/09 | 10/30/09 | 12/14/09 | 12/21/09 | 02/01/10 | 05/2010 | 07/12/10 |
| 24:09 | 11/02/09 | 10/12/09 | 11/17/09 | 01/02/10 | 01/20/10 | 03/01/10 | 05/2010 | 07/30/10 |
| 24:10 | 11/16/09 | 10/23/09 | 12/01/09 | 01/15/10 | 01/20/10 | 03/01/10 | 05/2010 | 08/13/10 |
| 24:11 | 12/01/09 | 11/05/09 | 12/16/09 | 02/01/10 | 02/22/10 | 04/01/10 | 05/2010 | 08/28/10 |
| 24:12 | 12/15/09 | 11/20/09 | 12/30/09 | 02/15/10 | 02/22/10 | 04/01/10 | 05/2010 | 09/11/10 |

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.



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 28
REESTABLISHING THE NORTH CAROLINA FILM COUNCIL

By the authority vested in me as Governor by the Constitution and laws of North Carolina, **IT IS ORDERED:**

Section 1. **Establishment**

The North Carolina Film Council is hereby established.

Section 2. **Duties**

The Council shall have the following duties and functions:

- a. Advise the Governor on matters that would enhance the likelihood of the film industry choosing North Carolina for filmmaking.
- b. Serve as a forum for film-making concerns and recommendations relating to the film industry in North Carolina including, but not limited to, the following:
 1. Assist in the ongoing development and growth of the North Carolina film industry;
 2. Support financial incentives that help North Carolina remain competitive in recruiting film to the State;
 3. Develop the financial capability of North Carolina to support projects with local financing of the film industry;
 4. Develop a support network for production activities relating to the film industry;
 5. Assist in developing a marketing strategy and vision of the North Carolina Film Office;
 6. Assist in the support and coordination of the activities of local and regional film commissions in North Carolina;
 7. Provide advice on projects directly assigned by the Governor to the Council;
 8. Assist with recruitment of the film industry to select North Carolina sites for filmmaking; and
 9. Monitor the North Carolina film industry and assist in developing protocol to measure filmmaking activity within North Carolina.

Section 3. Membership

The Council shall consist of no more than 25 voting members who shall be appointed by the Governor and who shall serve at the pleasure of the Governor. The Council shall include the following members:

- a. representatives of the film industry within the state representing acting, production, directing, producing, and film studio management;
- b. representatives of state or local government; and
- c. at-large members.

Section 4. Terms of Membership

All members shall be appointed for a term of three years.

Section 5. Vacancies

A vacancy occurring during a term of appointment is filled in the same manner as the original appointment and for the balance of the unexpired term.

Section 6. Travel Expense

Members of the Council shall receive necessary travel and subsistence expenses, when available, from Department of Commerce funds, pursuant to N.C. Gen. Stat. §138-5.

Section 7. Officers

The Chair and Vice Chair of the Council shall be appointed by the Governor and serve at the pleasure of the Governor. The Council may elect other officers as it deems necessary.

Section 8. Meetings

The Council shall meet at least three times yearly and at other times at the call of the Governor or the Chair or upon written request of at least 10 of its members.

Section 9. Staff Assistance

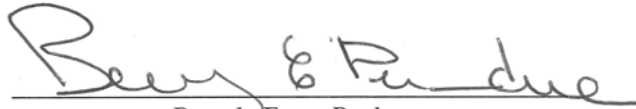
The Department of Commerce shall provide clerical support and other services required by the Council.

Section 10. Effect and Duration

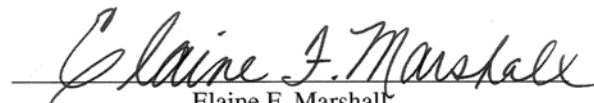
This Executive Order rescinds Executive Order No. 121 issued July 30, 2007. It shall be effective immediately and shall remain in effect until November 11, 2013, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twelfth day of November in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State



EXECUTIVE ORDER NO. 29

ESTABLISHING THE NORTH CAROLINA INNOVATION COUNCIL

WHEREAS, amidst increasing economic competition from other states and countries, North Carolina must aggressively pursue and leverage innovation, the creation of new ideas and the translation of those new ideas into products, processes and services with economic value, as a means to grow and diversify its economy through the 21st century; and

WHEREAS, in the transition to a knowledge and innovation economy, the State has responded by making strategic investments in infrastructure, institutions, and human capital; however, the constantly and rapidly evolving nature of our technology industries requires new perspectives and approaches to stimulate technological innovation advancement in the State of North Carolina; and

WHEREAS, North Carolina has the intellectual capital and facilities to foster research and innovation, yet, the State must establish an institutional and policy framework that maximizes the potential of its assets to accelerate the progression and transformation of innovative ideas into economic development and prosperity; and

WHEREAS, given the broad scope and interdependence of innovation-related activities such as targeted research investments, commercialization efforts, entrepreneurship services, risk capital development, and the development of new, high-growth industry segments, sustained and coordinated statewide leadership across various sectors is needed to strategically advance North Carolina's innovation agenda; and

WHEREAS, the Office of Science and Technology of the North Carolina Department of Commerce's Advancing Innovation in North Carolina report in December 2008 calls for coordinated leadership for a well-functioning innovation framework.

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Establishment

The North Carolina Innovation Council (hereafter the "Council") is hereby established. The Council members shall serve at the pleasure of the Governor. The Council shall be comprised of no fewer than 26 and no more than 35 members appointed by the Governor, as follows:

- a. The Governor or designee;
- b. Two Representatives from the State Senate;
- c. Two Representatives from the State House of Representatives;
- d. The Secretary of Commerce or designee;
- e. The State Treasurer or designee;
- f. Three representatives from the North Carolina Board of Science and Technology;
- g. Three representatives from the North Carolina Economic Development Board
- h. One representative from higher education;
- i. One representative from K-12 education;
- j. One representative from local government;
- k. Two representatives from high-tech, innovative businesses;
- l. Two representatives from the venture capital, financing or intellectual property community;
- m. Two representatives from non-profit and/or trade organizations interested in innovation and economic development; and
- n. Any other member(s) as the Governor deems appropriate.

Section 2. Officers

The Governor shall appoint a Chair, Vice-Chair, or Co-Chairs of the Council as she or he deems appropriate.

Section 3. Duties and Responsibilities

The duties and responsibilities of the Council shall include, but not be limited to, the following:

- a. Provide the Governor with advice, counsel and recommendations regarding the following matters:
 - (1) Aligning investments in public and private innovation programs strategically;
 - (2) Facilitating access to bridge funding and technical assistance that move high-potential product concepts into the commercial marketplace faster;
 - (3) Eliminating redundancy in programming to reduce unnecessary overhead and optimize the funds invested in outcome-driven research and commercialization;
 - (4) Making strategic investments and policies to build world-class research and development enterprises, aid the development of a scalable collaborative communications network infrastructure, encourage and foster collaboration among academia and industry, commercialize innovative products and practices, and cultivate human capital in North Carolina;
 - (5) Identifying gaps in North Carolina's technology portfolio;

- (6) Measuring outcomes to align performance of the programs;
 - (7) Facilitating access to information and resources on the State's innovation agenda;
 - (8) Encouraging state agencies to communicate and collaborate with one another to unify the state around a strategic innovation and competitiveness agenda; and
 - (9) Facilitating collaboration among state, local, private, and federal agencies on a shared innovation agenda.
- b. Champion the importance of innovation, as well as coordinate promotion and communication of the State's successes to its citizens and other audiences;
 - c. Convene cross-functional groups of policy, academic, and business leaders to elicit information and strategic policy initiatives that accelerate the progression of innovative ideas to economic development and social prosperity;
 - d. Assist in devising methods to identify, promote, and recruit potential enterprises and individuals to bring to North Carolina to augment innovation clusters and economic growth throughout the state;
 - e. Develop ideas and recommendations on policies to cultivate and retain innovative researchers, entrepreneurs, and enterprises within the state – in the public, private and nonprofit sectors and throughout the state; and
 - f. Develop criteria to measure performance relative to strategic goals and, where the state has invested heavily in innovation policies, improve coordination of those policies to optimize the benefits the state receives from its investments.

Section 4. Meetings

The Council shall meet at regularly scheduled quarterly meetings, and at the call of the Chairs or the Governor.

Section 5. Council Administration and Expenses

- a. Council members shall not receive compensation or a per diem for serving on the Council.
- b. Support staff, facilities, and resources for the Council shall be provided by the Governor's Policy Office, the Office of Science and Technology, and the Treasurer's Office.
- c. All departments, commissions, boards, offices, entities, agencies, and officers of the State of North Carolina, or any political subdivision thereof, are authorized and directed to cooperate with the Council in implementing the provisions of this Order.

Section 6. Implementation and Duration

This Executive Order shall be effective immediately and shall remain in effect until November 16, 2013, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this sixteenth day of November in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State



EXECUTIVE ORDER NO. 30

PROCLAMATION OF A STATE OF EMERGENCY
BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA

WHEREAS, I have determined that a state of emergency, as defined in G.S. §166A-4 and G.S. §14-288.1(10), exists in the State of North Carolina, specifically in Dare County, due to the remnants of Tropical Storm Ida causing widespread flooding and damaging and obstructing North Carolina Highway 12, beginning on November 12, 2009.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Pursuant to G. S. §§166A-5 and 14-288.15, I, therefore, proclaim the existence of a state of emergency in the State.

Section 2. I hereby order all state and local government entities and agencies to cooperate in the implementation of the provisions of this proclamation and the provisions of the North Carolina Emergency Operations Plan.

Section 3. I hereby delegate to Reuben F. Young, Secretary of Crime Control and Public Safety, and/or his designee, all power and authority granted to me and required of me by Chapter 166A, and Article 36A of Chapter 14 of the General Statutes for the purpose of implementing the said Emergency Operations Plan and to take such further action as is necessary to promote and secure the safety and protection of the populace in North Carolina.

Section 4. Further, Reuben F. Young, Secretary of Crime Control and Public Safety, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in G.S. §143B-476.

Section 5. I hereby order this proclamation: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) unless the circumstances of the state of emergency prevent or impede, to be promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State, and the clerks of

superior court in the counties to which it applies; and (c) to be distributed to others as necessary to assure proper implementation of this proclamation.

Section 6. This proclamation shall become effective immediately and shall continue until it is terminated in writing.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this sixteenth day of November in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-fourth.



A handwritten signature in cursive script, reading 'Beverly Eaves Perdue', written over a horizontal line.

Beverly Eaves Perdue
Governor

ATTEST:

A handwritten signature in cursive script, reading 'Elaine F. Marshall', written over a horizontal line.

Elaine F. Marshall
Secretary of State

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

(919) 807-2875

NOTICE OF VERBATIM ADOPTION OF FEDERAL STANDARDS

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

- rule changes have been submitted to update the *North Carolina Administrative Code* at 13 NCAC 07F .0101 to incorporate by reference the occupational safety and health related provisions of Title 29 of the *Code of Federal Regulations* Parts 1910 promulgated as of November 10, 2009, except as specifically described, and
- the *North Carolina Administrative Code* at 13 NCAC 07A .0301 automatically includes amendments to certain parts of the *Code of Federal Regulations*, including Title 29, Part 1904-Recording and Reporting Occupational Injuries and Illnesses.

This update encompasses recent verbatim adoptions that are effective October 15, 2009 concerning:

- Revising Standards Referenced in the Acetylene Standard
- (74 FR 57883 - 57884, November 10, 2009)

The *Federal Register* (FR), as cited above, confirms the effective date of the direct final rule published on August 11, 2009 in 74 FR 40442 - 40447 which contains both technical and economic discussions that explain the basis for each change.

For additional information, please contact:

Bureau of Education, Training and Technical Assistance
Occupational Safety and Health Division
North Carolina Department of Labor
1101 Mail Service Center
Raleigh, NC 27699-1101

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

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

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 11 – DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Insurance intends to adopt the rules cited as 11 NCAC 22 .0101-.0117.

Proposed Effective Date: April 1, 2010

Public Hearing:

Date: January 25, 2010

Time: 1:00 p.m.

Location: 3rd Floor, Dobbs Bldg., 430 N. Salisbury St., Raleigh, NC 27603

Reason for Proposed Action: These rules are purposed to implement the provisions of Article 89A of General Statutes Chapter 58 and specifically subsections 58-89A-105, 58-89A-106 and 58-89A-107 pursuant to the regulation of a self-funded health benefit plan trust sponsored by a Professional Employer Organization (PEO).

Procedure by which a person can object to the agency on a proposed rule: The Department of Insurance will accept written objections to these rules until the expiration of the comment period on February 15, 2010.

Comments may be submitted to: Karen E. Waddell, 1201 Mail Service Center, Raleigh, NC 27699-1201, phone (919) 733-4529, fax (919) 733-6495, and email karen.waddell@ncdoi.gov

Comment period ends: February 15, 2010

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 after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule 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 919-431-3000.

Fiscal Impact:

☐

State

☐

Local

☐

Substantial Economic Impact (≥\$3,000,000)

☒

None

CHAPTER 22 - PEO TRUSTS

11 NCAC 22 .0101 SCOPE

This Chapter applies to self-funded trusts sponsored by a professional employer organizations if the trust is subject to Article 89A of Chapter 58 of the General Statutes.

Authority G.S. 58-2-40; 58-89A-15; 58-89A-105; 58-89A-106.

11 NCAC 22 .0102 DEFINITIONS

(a) The definitions in G.S. 58-89A-5, including subsequent amendments or editions, are incorporated by reference into this Chapter.

(b) As used in this Chapter, the following terms have the meanings ascribed to them:

- (1) "Claims accrued" means liability for accrued benefits, that portion of claims incurred on or prior to the valuation date that result in liability of the trust for the payment of benefits for medical services that have been rendered on or prior to the valuation date, and for the payment of benefits for days of hospitalization and days of disability that have occurred on or prior to the valuation date, that the trust has not paid as of the valuation date, but for which it is liable, and will have to pay after the valuation date.
- (2) "Claims reported" means when a trust has been informed that a claim has been incurred, if the date reported is on or prior to the valuation date, the claim is considered as a reported claim for annual statement purposes.
- (3) "Claims unaccrued" means liability for unaccrued benefits, that portion of claims incurred on or before the valuation date that result in liability of the trust for the payment of benefits for medical services expected to be rendered after the valuation date, and for benefits expected to be payable for days of hospitalization and days of disability occurring after the valuation date.
- (4) "Claims unreported" means a claim that has been incurred on or before the valuation date, but the trust has not been informed.

- (5) "Claim reserves" mean reserves or liabilities held for claims incurred on or before the valuation date, but unpaid as of the valuation date. Claim reserves include both reported and unreported claims. Claim reserves are established for both accrued and unaccrued benefits.
- (6) "Incurred date" means the date that a claim is determined to be a liability of the trust. For example, the charges for inpatient hospital and physician visits in hospitals would be assigned an incurred date equal to the date of admission; outpatient hospital charges would be assigned an incurred date equal to the date of service; surgical expenses would be assigned an incurred date equal to the date of the surgery.
- (7) "Trust" means a self-funded health benefit plan trust sponsored by a PEO that covers the PEO's employees or assigned employees, or both.
- (8) "Unearned premium reserves" mean reserves established for premiums received that produce insuring periods extending beyond the valuation date.

Authority G.S. 58-2-40; 58-89A-15; 58-89A-105; 58-89A-106.

11 NCAC 22 .0103 GENERAL ELIGIBILITY

- (a) Each PEO shall provide to the Commissioner documentation that the PEO has sole fiscal control over the trust and the PEO that is responsible for all operations of the trust.
- (b) Trustees of the trust may be owners, partners, officers, directors, or employees of the PEO or of one or more of the PEO's client employers. With the Commissioner's approval, a person who is not an owner, partner, officer, director or employee may serve as a trustee. Trustees may contract with an licensed third party administrator to administer the operations of the trust.
- (c) The trust shall provide benefits solely for the PEO's employees or the assigned employees, or both.
- (d) Any profits from the operation of a trust shall be invested in securities in accordance with G.S. 58-7-160 through G.S. 58-7-200. Interest or other profits accrued or received from the securities shall be used to stabilize premium rates or provide other benefits for the insured employees on which the PEO and the Commissioner agree.

Authority G.S. 58-2-40; 58-89A-15; 58-89A-105; 58-89A-106.

11 NCAC 22 .0104 FILING REQUIREMENTS

- (a) All communications and filings required by this Chapter related to a trust shall be submitted to the Department's Life & Health Division and made pursuant to 11 NCAC 12 .0329.
- (b) During the pendency of the review of a submittal under this Chapter, the PEO shall keep all required information, statements, documents, and materials current and accurate.

(c) A submittal is not complete until the PEO has provided all information required by this Chapter. The Commissioner is not required to process an incomplete submittal.

(e) All financial information required by this Chapter shall be prepared in accordance with United States Generally Accepted Accounting Principles.

Authority G.S. 58-2-40; 58-89A-15; 58-89A-105; 58-89A-106.

11 NCAC 22 .0105 FINANCIAL REQUIREMENTS

(a) A trust may participate in a cash management program as long as the trust has direct access to its funds at all times and the depository or custodian maintains a separate accounting for each account. The depository or custodian must be a national or state bank, savings and loan association, or trust company.

(b) No surplus note or the interest from the note shall be paid or repaid without the written approval of the Commissioner. If there is more than one surplus note, each note shall have its own unique identification number in the upper left hand corner of each page of the document.

Authority G.S. 58-2-40; 58-89A-15; 58-89A-105; 58-89A-106.

11 NCAC 22 .0106 ADMINISTRATIVE, PROVIDER, AND MANAGEMENT CONTRACTS

(a) As used in this Rule, "fees" means any compensation that is transferred for either contracted or noncontracted services that are rendered to a trust or the PEO.

(b) A trust is prohibited from paying any fees, other than for reimbursement of specific expenses, to its sponsoring PEO unless the services rendered to the trust are available to the trust from persons other than the PEO.

(c) The fees for such services shall be determined by comparing those charged to MEWA's in North Carolina, as defined in G.S. 58-49-30(a).

(d) A PEO shall give the Commissioner written notification of any proposed change to the trust's management or administrative contract at least 45 days before the effective date of the change.

Authority G.S. 58-2-40; 58-89A-15; 58-89A-105; 58-89A-106.

11 NCAC 22 .0107 TRUST SUBMITTAL AND PLAN OF OPERATION

(a) In order to sponsor and maintain a trust pursuant to G.S. 58-89A-106, a PEO shall submit to the Commissioner a plan of operation as well as the following information:

- (1) Copy of the plan administrator's North Carolina TPA license.
- (2) Copy of the current contract between the PEO and the administrator.
- (3) Description of the marketing plan for the PEO's services and a list of PEO employees who solicit client employers for the PEO.
- (4) A list of all client employers contracted with the PEO, including a list of all insured employees who are not assigned by the PEO.
- (5) A copy of each optional plan of benefits summary plan description and evidence of the coverage and benefits offered by the trust.

- (6) The schedule of the premium rates or the base rates and factors that will be used to calculate the premiums for each trust.
- (7) Actuarial certifications to meet each of the following requirements:
 - (A) Actuarial soundness of the trust as required by G.S. 58-89A-106(a)(11);
 - (B) Adequacy of rates charged as provided in 11 NCAC 22 .0116 and 22 .0117.
 - (C) Provisions made for incurred but not reported claims as provided in 11 NCAC 22 .0116 and 22 .0117.
- (8) Report on Financial Condition of the trust, including:
 - (A) The Annual Statement of Condition and Affairs Exhibit;
 - (B) The Accident and Health Exhibit;
 - (C) The General Expense Exhibit;
 - (D) The Development of Incurred Losses Exhibit;
 - (E) Audited Financial Statements as outlined in Paragraph (b) of this Rule.
- (9) A copy of the stop-loss insurance agreement covering the trust along with a summary of the description of the agreement that explains the nature of the coverage and net retention limits.
- (10) A power of attorney, if required by G.S. 58-89A-150.

(b) After the initial submittal required by this Rule, every PEO shall, within 150 days after the end of each of the trust's fiscal years or within any such extension of time that the Commissioner grants, file a plan of operation, along with all information required by Paragraph (a) of this Rule, with the Commissioner, on forms prescribed by the Commissioner and verified by the oath of a member of the PEO's board of directors and by an administrative executive appointed by the board, showing the trust's financial condition on the last day of the preceding fiscal year. The plan shall contain an audited financial statement of the trust prepared in accordance with United States Generally Accepted Accounting Principles, including its balance sheet and a statement of the operations for the preceding fiscal year certified by an independent certified public accountant. The plan shall also include an analysis of the adequacy of reserves and contributions or premiums charged, based on a review of past and projected claims and expenses, pursuant to this Chapter.

(c) In addition to the information called for and furnished in connection with the plan of operation, the Commissioner may request information that summarizes paid and incurred expenses and contributions or premiums received, as well as evidence that the trust is actuarially sound. That information and evidence shall be furnished by the PEO not later than 30 days after the request, unless the Commissioner grants an extension.

(d) Annually the PEO shall submit an actuarial certification prepared by an independent qualified actuary that indicates:

- (1) The trust is actuarially sound, considering the rates, benefits, and expenses of, and any other funds available for the payment of obligations of, the trust;

- (2) The rates being charged and to be charged for the trust are actuarially adequate to the end of the period for which rates have been guaranteed to the covered persons;
- (3) Incurred but not reported claims and claims reported but not fully paid have been adequately provided for.

(e) For the first year, beginning with October 1, 2009, the Commissioner may require the PEO to file quarterly, within 45 days after the end of each of its fiscal quarters, an unaudited financial statement on a form prescribed by the Commissioner, verified by the oath of a member of the PEO's board of directors and an administrative executive appointed by the board, showing the trust's financial condition on the last day of the preceding quarter.

(f) Any PEO that fails to file a plan of operation and other information as required by this Rule is subject to G.S. 58-2-70; and after notice and opportunity for hearing, the Commissioner may suspend the PEO's authority to enroll new insured's or to do business in this State while the failure continues. Nothing in this subsection prohibits a PEO from continuing to operate a trust while the documentation required under this Rule is under review by the Department as long as the PEO operates the plan in accordance with this Chapter and G.S. 58-89A-106.

(g) A request for an extension of time to file the annual plan of operation and other information required by this Rule must be made in writing and filed with the Life & Health Division no later than 15 days before the due date of the plan. Any request for extension received less than 15 days before the due date of the plan shall be denied except in instances of death or disability of key personnel or destruction of records by fire or natural disaster declared a major disaster by the President of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, et. seq., as amended or a proclaimed disaster by the Governor of the State where the trust offices are located.

(h) All exhibits referenced in this Rule shall be in the format as prescribed by the Commissioner, and exhibit forms may be obtained from the Life & Health Division.

(i) Every submittal made pursuant to this Rule shall contain a certification that any changes to the information required by this Rule shall be reported to the Commissioner.

(j) Any change in the information required by this Rule shall, unless otherwise specified in this Rule, be reported to the Commissioner within two business days after the change.

Authority G.S. 58-2-40; 58-89A-15; 58-89A-105; 58-89A-106.

11 NCAC 22 .0108 POWER OF ATTORNEY

A power of attorney appointing an individual to receive service of legal process shall be submitted if required by G.S. 58-89A-150. The individual shall be a resident of North Carolina and shall be readily accessible and available for service. Both the residential and business addresses of the individual must be provided. Any change in the power of attorney after acceptance of the plan of operation of the trust shall be reported to the Commissioner within two business days after the effective date of the change.

Authority G.S. 58-2-40; 58-89A-15; 58-89A-105; 58-89A-106.

11 NCAC 22 .0109 CLAIMS PAYMENTS

A trust shall make payments in accordance with G.S. 58-3-225.

Authority G.S. 58-2-40; 58-89A-15; 58-89A-105; 58-89A-106.

11 NCAC 22 .0110 DISSOLUTION

Any request to dissolve a trust shall be made on Form PEO-5 entitled "Application for Dissolution".

Authority G.S. 58-2-40; 58-89A-15; 58-89A-105; 58-89A-106.

11 NCAC 22 .0111 MINIMUM RESERVE STANDARDS

(a) Claim reserves and premium reserves shall be established by every trust.

(b) The adequacy of reserves of a trust shall be determined on the basis of the two categories combined, but actuarially appropriate reserves for each category must be established separately.

(c) When a trust determines that the adequacy of its reserves necessitates a reserve amount greater than the minimum standards, the increased reserves shall be established and held as the minimum reserves for that trust.

Authority G.S. 58-2-40; 58-89A-15; 58-89A-105; 58-89A-106.

11 NCAC 22 .0112 CLAIM RESERVES

(a) Minimum claim reserves are required for all incurred but unpaid claims, which include claims accrued and claims unaccrued.

(b) For the current year exposures, where historical claim information is either not available or not credible as determined by an actuary, the minimum claim reserve shall be calculated in the following manner:

- (1) Calculate the total earned premium as of the end of a valuation period for each self funded plan of coverage in force under the trust.
- (2) Multiply the total earned premium by the expected incurred loss ratio for each self funded plan of coverage in force under the trust. The sum of the results of these multiplications is referred to as the "total incurred claims".
- (3) Subtract from the total incurred claims the total amount of claims paid as of the end of a valuation period. The result of this subtraction is the total "minimum" amount that shall be added to the claim reserves established at the beginning of the valuation period.
- (4) The calculations in Subparagraphs (b)(1) and (2) of this Rule may give recognition to duration.

(c) For later years of exposures, where historical claim information is available and credible as determined by an actuary, the minimum reserve shall be calculated using any generally accepted or reasonable actuarial claim runoff method. Claim runoff schedules shall be developed by using appropriate

incurred dates and paid dates for claims. Adequacy of the claim reserves shall be determined in the aggregate.

(d) Appropriate claim expense reserves are required with respect to the estimated expense of settlement of all incurred but unpaid claims. Claim settlement expenses shall include both allocated and unallocated expenses.

(e) All claim reserves for prior valuation periods shall be tested for adequacy and reasonableness in accordance with claim runoff schedules pursuant to the statutory financial statement including consideration of any residual unpaid liability.

(f) Each trust shall develop a follow-up study comparing its previous reserve estimates against subsequent claims actually paid together with the remaining estimated liability as of the valuation date. The results of this study shall be filed with the Actuarial Service Division of the Department by March 1 of each calendar year.

Authority G.S. 58-2-40; 58-89A-15; 58-89A-105; 58-89A-106.

11 NCAC 22 .0113 PREMIUM RESERVES

(a) Unearned premium reserves are required for each trust with respect to the period of coverage for which premiums, other than premiums paid in advance, have been paid beyond the date of valuation.

(b) If premiums due and unpaid are carried as an asset, such premiums must be treated as premiums in force, subject to unearned premium reserve determination. The value of the unpaid commissions and the cost of collection associated with due and unpaid premiums must be carried as an offsetting liability.

(c) The minimum unearned premium reserve with respect to any contract is the pro rata gross unearned modal premium that applies to the premium period beyond the valuation date.

(d) A trust may employ suitable approximations or estimates, including groupings, averages, and aggregate estimation, in computing premium reserves for all of the trust options it offers. Such approximations or estimates shall be tested periodically by the PEO to determine their continuing adequacy and reliability.

Authority G.S. 58-2-40; 58-89A-15; 58-89A-105; 58-89A-106.

11 NCAC 22 .0114 MAXIMUM NET RETENTION STANDARD

(a) The specific maximum net retention limit for any trust, associated with the period of time that the excess insurance coverage is in force, shall be calculated in the following manner:

- (1) Determine the total expected dollar value of claims;
- (2) Determine the total surplus at the beginning of the period of time that the excess insurance coverage is scheduled to be in force;
- (3) Multiply Subparagraph (a)(1) of this Rule by one percent and add that product to Subparagraph (a)(2) of this Rule;
- (4) Multiply the result of the calculation in Subparagraph (a)(3) of this Rule times itself;
- (5) Multiply Subparagraph (a)(1) of this Rule by the number 3.4; and

(6) Divide the product of the calculation in Subparagraph (a)(4) of this Rule by the product of the calculation in Subparagraph (a)(5) of this Rule.

(b) The specific maximum net retention limit shall not exceed the lesser of:

- (1) The amount in Subparagraph (a)(6) of this Rule;
- (2) Twenty-five thousand dollars (\$25,000); or
- (3) The specific maximum net retention limit determined by or for the trust in accordance with sound actuarial principles.

(c) The aggregate maximum net retention shall not exceed the lesser of:

- (1) One hundred twenty-five percent of Subparagraph (a)(1) of this Rule; or
- (2) The aggregate maximum net retention limit determined by or for the trust in accordance with sound actuarial principles.

(d) The Commissioner may approve a specific maximum net retention limit or an aggregate maximum net retention limit or both in excess of those calculated pursuant to this Rule, upon application to the Commissioner and the Commissioner's determination that the increase would not inhibit the ability of the trust to perform its present and future contractual obligations to insured employees under the trust.

Authority G.S. 58-2-40; 58-89A-15; 58-89A-105; 58-89A-106.

11 NCAC 22 .0115 "QUALIFIED ACTUARY"; MAXIMUM NET RETENTION FILING

(a) As used in this Rule and in 11 NCAC 22 .0116 and 11 NCAC 22 .0117, "qualified actuary" means an individual who is either an Associate or Fellow of the Society of Actuaries or a Member of the American Academy of Actuaries.

(b) Every year each PEO shall calculate its trust's maximum net retention limit in accordance with 11 NCAC 22 .0114. This calculation must be performed before the anniversary date of the PEO's stop-loss insurance contract and shall be filed, no later than 30 days before the anniversary date of the stop-loss insurance contract, with the Actuarial Services Division of the Department. This calculation shall include the numerical results of all steps in 11 NCAC 22 .0114 and shall be performed by a qualified actuary.

Authority G.S. 58-2-40; 58-89A-15; 58-89A-105; 58-89A-106.

11 NCAC 22 .0116 CERTIFICATION OF RESERVES FILING

Every year each PEO shall file the following actuarial certifications executed by a qualified actuary in the following manner:

"I (Name of Qualified Actuary) am a qualified actuary as defined by 11 NCAC 22 .0115 and I have reviewed:"

- (1) 11 NCAC 22 .0111 titled, "Minimum Reserve Standards," and I certify that if the adequacy of the trust reserves requires reserves in excess of the minimum standards described in 11

NCAC 22 .0112 and 11 NCAC 22 .0113, then such increased reserves will be held and considered the minimum reserves for (Name of PEO) trust.

(2) 11 NCAC 22 .0112 titled, "Claim Reserves," and I certify that the trust claim reserves are being calculated in an actuarially sound manner that produces reserves at least as great as those prescribed in 11 NCAC 22 .0112.

(3) 11 NCAC 22 .0113 titled, "Premium Reserves," and I certify that the trust premium reserves are being calculated in an actuarially sound manner that produces reserves at least as great as those prescribed in 11 NCAC 22 .0113.

(4) 11 NCAC 22 .0114 titled, "Maximum Net Retention Standard," and I certify that the trust maximum net retention limits are being calculated in an actuarially sound manner that produces maximum net retention limits no greater than those prescribed in 11 NCAC 22 .0114, unless the Commissioner has approved such higher limits as described in 11 NCAC 22 .0114(d).

Authority G.S. 58-2-40; 58-89A-15; 58-89A-105; 58-89A-106.

11 NCAC 22 .0117 DEFINITIONS AND CERTIFICATION OF RATES FILING

(a) As used in this Rule, the following terms have the meanings ascribed to them:

(1) "Rates are adequate" for a given block of policies or certificates means that the total payments collected now and in the future by the trust plus the investment earnings attributable to any net retained funds should be at least sufficient to fund the current and future benefits promised plus cover related expenses.

(2) "Block of plans" means all coverage plans or certificates issued by the trust under the same schedule of rates and on the same plan document or form.

(3) "Rates are not excessive" for a given block of plans means that the most recent calendar year incurred loss ratio is greater than or equal to one minus the expense ratio for that given block of policies or certificates.

(4) "Expense ratio" means the ratio of the trust's operating expenses for a block of plans or certificates to its earned premium for that block of plans or certificates.

(5) "Operating expense" means any combination of the following expenses:

- (A) Commissions;
- (B) Other acquisitions;
- (C) General administration;
- (D) Taxes, licenses, and fees; and
- (E) Profit and contingency margin.

(6) Rates are not "unfairly discriminatory" if they reflect equitably differences in expected risk.

(b) Every year each trust shall file the following actuarial certification executed by a qualified actuary in the following manner:

"I (Name of Qualified Actuary) am a qualified actuary as defined in 11 NCAC 22 .0115 and I certify that the rates developed for the trust of (Name of PEO) are calculated in an actuarially sound manner and that these rates are adequate, not excessive, and not unfairly discriminatory."

Authority G.S. 58-2-40; 58-89A-15; 58-89A-105; 58-89A-106.

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Alarm Systems Licensing Board intends to amend the rule cited as 12 NCAC 11 .0302.

Proposed Effective Date: April 1, 2010

Public Hearing:

Date: December 30, 2009

Time: 2:00 p.m.

Location: 1631 Midtown Place, Suite 104, Raleigh, NC 27609

Reason for Proposed Action: *The proposed amendment will allow an additional 30 days for the renewal of an alarm registration permit upon the payment of a twenty dollar (\$20.00) late fee.*

Procedure by which a person can object to the agency on a proposed rule: *Written comments shall be submitted prior to the expiration date of the comment period and shall be addressed to Director Terry Wright, ASLB, 1631 Midtown Place, Suite 104, Raleigh, NC 27609.*

Comments may be submitted to: Terry Wright, ASLB Director, 1631 Midtown Place, Suite 104, Raleigh, NC 27609

Comment period ends: February 15, 2010

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 after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule 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 919-431-3000.

Fiscal Impact:

- ☐ State
☐ Local
☐ Substantial Economic Impact (≥\$3,000,000)
☒ None

CHAPTER 11 - NORTH CAROLINA ALARM SYSTEMS LICENSING BOARD

SECTION .0300 - PROVISIONS FOR REGISTRANTS

12 NCAC 11 .0302 FEES FOR REGISTRATION

(a) Registration fees are as follows:

- (1) Forty dollars (\$40.00) non-refundable biennial registration fee;
- (2) Ten dollar (\$10.00) non-refundable re-issue fee for lost cards or for registration of an employee who changes employment to another licensee;
- (3) Ten dollar (\$10.00) non-refundable annual multiple registration fee.
- (4) Twenty dollar (\$20.00) late renewal fee to be paid within 30 days from the date the registration expires and to be paid in addition to the renewal fee.

(b) Fees shall be paid in the form of a check or money order made payable to the Alarm Systems Licensing Board.

Authority G.S. 74D-7.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to amend the rule cited as 15A NCAC 02B .0308.

Proposed Effective Date: July 1, 2010

Public Hearing:

Date: January 25, 2010

Time: 7:00 p.m.

Location: Old Fort Elementary School-Auditorium, 128 Mauney Avenue, Old Fort, NC 28762

Reason for Proposed Action: *15A NCAC 02B .0308 is proposed to be amended to reclassify the Catawba River, including its headwaters tributaries (Clover Patch Branch, Youngs Fork Creek, Springs Branch, Chestnut Branch and Left Prong Catawba River), from its source to the confluence with the Left Prong Catawba River in McDowell County from Class C Tr to Class C Tr HQW (High Quality Waters). DWQ's assessment of benthic macroinvertebrate communities in the river and the Left Prong Catawba River in 2007 shows that this*

portion of the Catawba River and its headwaters have excellent water quality, which qualifies these waters for the North Carolina Environmental Management Commission's HQW classification. This proposed rule change is needed to ensure that these subject waters receive supplemental protection for their excellent water quality. Approximately 39 stream miles are proposed for reclassification to HQW. If these waters are reclassified as HQW waters, regulations that affect wastewater discharges and new development would apply. HQW regulations: (a) do not allow wastewater discharges from new single family residences, (b) require stringent standards of treatment for new National Pollutant Discharge Elimination System wastewater discharges (except single family residences) and expanded National Pollutant Discharge Elimination System wastewater discharges, and (c) require new development activities that require an Erosion and Sediment Control Plan (for disturbances of one or more acres) to follow stormwater and erosion and sediment control management measures.

Procedure by which a person can object to the agency on a proposed rule: You may attend the public hearing and make relevant verbal comments, and/or submit written comments, data or other relevant information by February 15, 2010. The Hearing Officer may limit the length of time that you may speak at the public hearing so that all those who wish to speak may have an opportunity to do so. The EMC is very interested in all comments pertaining to the proposed reclassification. All persons interested and potentially affected by the proposal are strongly encouraged to read this entire notice and make comments on the proposed reclassification. The EMC may not adopt a rule that differs substantially from the text of the proposed rule published in this notice unless the EMC publishes the text of the proposed different rule and accepts comments on the new text (G.S. 150B-21.2(g)). Written comments on the proposed reclassification of the Catawba River headwaters area may be submitted to Adriene Weaver of the Water Quality Planning Section at the postal address DENR/Division of Water Quality/Planning Section, 1617 Mail Service Center, Raleigh, NC 27699-1617, adriene.weaver@ncdenr.gov, or by fax at (919) 807-6497.

Comments may be submitted to: Adriene Weaver, DENR/Division of Water Quality/Planning Section, 1617 Mail Service Center, Raleigh, NC 27699-1617; phone (919) 807-6414; fax (919) 807-6497; email adriene.weaver@ncdenr.gov

Comment period ends: February 15, 2010

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 after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule 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 919-431-3000.

Fiscal Impact:

- ☐ **State**
- ☐ **Local**
- ☐ **Substantial Economic Impact (\geq \$3,000,000)**
- ☒ **None**

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02B - SURFACE WATER AND WETLAND STANDARDS

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

15A NCAC 02B .0308 CATAWBA RIVER BASIN

(a) The Catawba River Basin Schedule of Classifications and Water Quality Standards may be inspected at the following places:

- (1) the Internet at <http://h2o.enr.state.nc.us/csu/>; and
- (2) the North Carolina Department of Environment and Natural Resources:
 - (A) Mooresville Regional Office
610 East Center Avenue, Suite 301
Mooresville, North Carolina
 - (B) Asheville Regional Office
2090 US Highway 70
Swannanoa, North Carolina
 - (C) Division of Water Quality
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed Streams. Such streams entering South Carolina are classified "C."

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

- (1) March 1, 1977;
- (2) August 12, 1979;
- (3) April 1, 1982;
- (4) January 1, 1985;
- (5) August 1, 1985;
- (6) February 1, 1986;
- (7) March 1, 1989;
- (8) May 1, 1989;
- (9) March 1, 1990;
- (10) August 1, 1990;
- (11) August 3, 1992;
- (12) April 1, 1994;
- (13) July 1, 1995;
- (14) September 1, 1996;
- (15) August 1, 1998;
- (16) April 1, 1999;
- (17) August 1, 2000;

- (18) August 1, 2004;
 (19) May 1, ~~2007~~, 2007;
 (20) July 1, 2010.
- (d) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective March 1, 1989 as follows:
- (1) Wilson Creek (Index No. 11-38-34) and all tributary waters were reclassified from Class B-trout and Class C-trout to Class B-trout ORW and Class C-trout ORW.
- (e) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective May 1, 1989 as follows:
- (1) Henry Fork [Index Nos. 11-129-1-(1) and 11-129-1-(2)] from source to Laurel Creek, including all tributaries, were reclassified from Class WS-I, C and C trout to Class WS-I ORW, C ORW and C trout ORW, except Ivy Creek and Rock Creek which will remain Class C trout and Class C.
 - (2) Jacob Fork [Index Nos. 11-129-2-(1) and 11-129-2-(4)] from source to Camp Creek, including all tributaries, were reclassified from Class WS-III trout and WS-III to WS-III trout ORW and WS-III ORW.
- (f) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective March 1, 1990 as follows:
- (1) Upper Creek [Index No. 11-35-2-(1)] from source to Timbered Branch including all tributaries except Timbered Branch (Index No. 11-35-2-9) was reclassified from Class C Trout to Class C Trout ORW.
 - (2) Steels Creek [Index No. 11-35-2-12(1)] from source to Little Fork and all tributaries was reclassified from Class C Trout to Class C Trout ORW.
- (g) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 2B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.
- (h) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective April 1, 1994 as follows:
- (1) Friday Lake (Index No. 11-125.5) from its source to Little Paw Creek was reclassified from Class C to Class B.
 - (2) The Linville River [Index No. 12-29-(1)] from Grandmother Creek to Linville Falls was reclassified from Class C Tr to Class B Tr.
- (i) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective July 1, 1995 with the reclassification of Clark Creek from a point 0.6 mile downstream of Catawba County SR 2014 to 0.4 mile upstream of Larkard Creek [Index No. 11-129-5-(4.5)], and Howards Creek from its source to 0.7 mile upstream of Lincoln County State Road 1200 [Index No. 11-129-4], including associated tributaries from Class WS-IV to Classes C and WS-IV.
- (j) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective September 1, 1996 as follows:
- (1) North Fork Catawba River [Index No. 11-24-(1)] from Laurel Branch to Armstrong Creek from Class C Tr to Class B Tr; and
 - (2) Catawba River (Lake Hickory) from Rhodhiss dam to highway 321 [Index No. 11-(51)] from Class WS-IV CA to Class WS-IV&B CA.
- (k) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective August 1, 1998 with the revision to the primary classification for portions of the South Fork Catawba River [Index No. 11-129-(0.5)] and Hoyle Creek [Index No. 11-129-15-(1)] from Class WS-IV to Class WS-V.
- (l) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective August 1, 1998 as follows:
- (1) Mill Creek [Index No. 11-7] from its source to Swannanoa Creek, including all tributaries, from Class C Tr to Class C Tr HQW; and
 - (2) Toms Creek [Index Nos. 11-21-(1) and 11-21-(2)] from its source to Harris Creek, including all tributaries, from Class C Tr to Class C Tr HQW and from Harris Creek to McDowell County SR 1434, including all tributaries, from Class C to Class C HQW.
- (m) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective April 1, 1999 with the reclassification of a portion of the Catawba River [Index Nos. 11-(27.5) and 11-(31)] from Class WS-IV & B and WS-IV to Class WS-V & B and WS-V.
- (n) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended effective April 1, 1999 with the reclassification of Armstrong Creek [Index Nos. 11-24-14-(1), 11-24-14-(13.5) and 11-24-14-(14)], and all tributaries from Classes WS-II Tr, WS-II, WS-II CA and C Tr to Classes C Tr HQW and C HQW.
- (o) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended April 1, 1999 as follows:
- (1) Lookout Shoals Lake from Oxford Dam to Island Creek [Index No. 11-(67)] from Class WS-V to Class WS-IV CA, from Island Creek to Elk Shoal Creek [Index No. 11-(70.5)] from Class WS-IV to Class WS-IV CA and from Elk Shoal Creek to a point one half mile upstream of Lookout Shoals Dam [Index No.

11-(72)] from Class WS-IV&B to Class WS-IV&B CA; and

- (2) The primary classifications of tributary streams that are within five miles and draining to the normal pool elevation of Lookout Shoals Lake (Protected Area) have been revised to Class WS-IV; and
- (3) The primary classifications of tributary streams that are within one half mile and draining to the normal pool elevation of Lookout Shoals Lake (Critical Area) have been revised to Class WS-IV CA.

(p) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended August 1, 2000 with the reclassification of Little Grassy Creek (Index No. 11-29-2), including all tributaries, from its source to the Linville River from Class C Tr to Class C Tr ORW.

(q) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended August 1, 2004 with the reclassification of a segment of three surface waters, more specifically Henry Fork [11-129-1-(1)], Jerry Branch [11-129-1-3-(1)], and He Creek [11-129-1-4-(1)], from source to a formerly used City of Morganton Water Intake from Class WS-I ORW to Class WS-V ORW.

(r) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended May 1, 2007 with the reclassification of the Catawba River [Index No. 11-(31.5)] from a point 0.6 mile upstream of Muddy Creek to a point 1.2 miles upstream of Canoe Creek from WS-IV to WS-IV Tr and Catawba River [Index No. 11-(32.3)] from a point 1.2 miles upstream of Canoe Creek to a point 0.7 mile upstream of Canoe Creek (Morganton water supply intake) from WS-IV CA to WS-IV Tr CA. Named and unnamed tributaries to this portion of the Catawba River are not classified as Trout. Between the last day of May and the first day of November the water quality standard for dissolved oxygen shall not be less than a daily average of 5.0 mg/l with a minimum instantaneous value of not less than 4.0 mg/l.

(s) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin was amended July 1, 2010 with the reclassification of the Catawba River [Index No. 11-(1)] and its named tributaries, Chestnut Branch (Fork) [Index No. 11-2], Clover Patch Branch [Index No. 11-3], Youngs Fork Creek [Index No. 11-4], Spring Branch [Index No. 11-5] and Left Prong Catawba River [Index No. 11-6] from C Tr to C Tr HQW.

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

Notice is hereby given in accordance with G.S. 150B-21.2 that the Sedimentation Control Commission intends to adopt the rule cited as 15A NCAC 04B .0131.

Proposed Effective Date: *October 1, 2010*

Public Hearing:

Date: *January 11, 2010*

Time: *10:00 a.m.*

Location: *Ground Floor Hearing Room, Archdale Building, 512 North Salisbury Street, Raleigh, NC 27604*

Reason for Proposed Action: *The proposed rule specifies the form of the records required by G.S. 113A-54.1 as being an annotated copy of the approved plan, that is initialed and dated by the inspector as erosion and sedimentation control measures are installed, or a self-monitoring form that is completed, signed and dated. The proposed rule specifies the documentation required in the records concerning the installation and maintenance of erosion and sedimentation control measures, including temporary or permanent ground cover. The SPCA requires self-inspections at the completion of each phase of the plan. The "phases of the plan" referenced in G.S. 113A-54.1 are listed to clarify when the inspections shall take place.*

Procedure by which a person can object to the agency on a proposed rule: *A person may file a written, signed objection or comment on the proposed rule by mail, delivery service, hand delivery, facsimile transmission, or an electronic scan of an original via electronic mail. Objections or comments must be received by 5:00 p.m. on February 15, 2010. Objections or comments should be addressed to T. Gray Hauser, Jr., PE, NC DENR Division of Land Resources, 1612 Mail Service Center, Raleigh, NC 27699-1612; fax (919) 733-2876; email gray.hauser@ncdenr.gov.*

Comments may be submitted to: *T. Gray Hauser, Jr., PE, 1612 Mail Service Center, Raleigh, NC 27699-1612; fax (919) 733-2876; email gray.hauser@ncdenr.gov*

Comment period ends: *February 15, 2010*

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 after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule 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 919-431-3000.

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

- ☒ **State**
- ☒ **Local**
- ☐ **Substantial Economic Impact** (\geq \$3,000,000)
- ☐ **None**

CHAPTER 04 - SEDIMENTATION CONTROL

SUBCHAPTER 04B - EROSION AND SEDIMENT CONTROL

15A NCAC 04B .0131 SELF-INSPECTIONS

Where inspections are required by G.S. 113A-54.1(e), the following apply:

(1) The person who performs the inspection shall make a record of the site inspection by documenting the following items:

(a) all of the erosion and sedimentation control measures, practices and devices, as called for in a construction sequence consistent with the approved erosion and sedimentation control plan, including but not limited to sedimentation control basins, sedimentation traps, sedimentation ponds, rock dams, temporary diversions, temporary slope drains, rock check dams, sediment fence or barriers, all forms of inlet protection, storm drainage facilities, energy dissipaters, and stabilization methods of open channels, have initially been installed and do not significantly deviate from the locations, dimensions and relative elevations shown on the approved erosion and sedimentation plan. Such documentation shall be accomplished by initialing and dating each measure and/or practice shown on a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report that lists each measure, practice and/or device shown on the approved erosion and sedimentation control plan. This documentation is only required upon the initial installation of the erosion and sedimentation control measures, practices and devices as set forth by the approved erosion and sedimentation control plan or if the measures, practices and devices are modified after initial installation.

(b) the completion of any phase of grading for all graded slopes and fills shown on the approved erosion and sedimentation control plan, specifically noting the location and condition of the graded slopes and fills. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report.

(c) the location of temporary or permanent ground cover, and that the installation of the ground cover does not significantly deviate from the approved erosion and sedimentation control plan. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report,

(d) that maintenance and repair requirements for all temporary and permanent erosion and sedimentation control measures, practices and devices have been performed. Such documentation shall be accomplished by completing, dating and signing an inspection report (the general storm water permit monitoring form may be used to verify the maintenance and repair requirements), and

(e) any significant deviations from the approved erosion and sedimentation control plan, corrective actions required to correct the deviation and completion of the corrective actions. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report.

The documentation, whether on a copy of the approved erosion and sedimentation control plan or an inspection report, shall include the name, address, affiliation, telephone number, and signature of the person conducting the inspection and the date of the inspection. Any relevant licenses and certifications may also be included. Any documentation of inspections that occur on a copy of the approved erosion and sedimentation control plan shall occur on a single copy of the plan and that plan should be made available on the site. Any inspection reports shall also be made available on the site.

(2) The inspection shall be performed during or after each of the following phases of a plan:

(a) installation of perimeter erosion and sediment control measures,

(b) clearing and grubbing of existing ground cover,

(c) completion of any phase of grading of slopes or fills that requires provision of temporary or permanent ground cover pursuant to G.S. 113A-57(2),

(d) completion of storm drainage facilities,

- (e) completion of construction or development, and
- (f) quarterly until the establishment of permanent ground cover sufficient to restrain erosion or until the financially responsible party has conveyed ownership and/or control of the tract of land for which the erosion and sedimentation control plan has been approved and the agency that approved the plan has been notified. If the financially responsible party has conveyed ownership and/or control of the tract of land for which the erosion and sedimentation control plan has been approved, the new owner or person in control shall conduct and document inspections quarterly until the establishment of permanent ground cover sufficient to restrain erosion.

Authority: G.S. 113A-54; 113A-54.1(e).

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Wildlife Resources Commission intends to amend the rules cited as 15A NCAC 10F .0332 and .0339.

Proposed Effective Date: May 1, 2010

Public Hearing:

Date: January 11, 2010

Time: 10:00 a.m.

Location: 5th floor, NCWRC Building, Centennial Campus, 1751 Varsity Drive, Raleigh, NC 27606

Reason for Proposed Action: Add one no-wake zone on Lake Hickory and make technical corrections to 15A NCAC 10F .0332; add one no-wake zone on Lake James in 15A NCAC 10F .0339.

Procedure by which a person can object to the agency on a proposed rule: Objections may be submitted in writing or via electronic mail during the comment period to C. Norman Young, Jr. at the North Carolina Department of Justice, SSA, 9001 Mail Service Center, Raleigh, NC 27699-9001 or nyoung@ncdoj.gov.

Comments may be submitted to: Betsy Foard, North Carolina Wildlife Resources Commission, 1701 Mail Service Center, NC 27699-1721; phone (919) 707-0013; email betsy.foard@ncwildlife.org

Comment period ends: February 15, 2010

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 after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule 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 919-431-3000.

Fiscal Impact:

- ☐ State
- ☐ Local
- ☐ Substantial Economic Impact (≥\$3,000,000)
- ☒ None

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

15A NCAC 10F .0332 ALEXANDER COUNTY

(a) Regulated Area. This Rule applies only to those waters of Lake Hickory set out in this Rule which are located in Alexander County.

- (1) the waters beginning 50 yards from the southeast end of the ~~marina~~ Rink Dam Marina and ending at Rink Dam;
- (2) the waters within 50 yards of the Taylorsville Beach Marina; ~~and~~
- (3) the waters within 50 yards of the ~~Bethlehem Marina~~ R&N Marina; ~~and~~
- (4) the waters within 50 yards of the Lakeside Marina.

(b) Speed Limit. No person shall operate any motorboat or vessel at greater than no-wake speed within 50 yards of any public boat launching ramp or while on the waters of any regulated areas designated in Paragraph (a) of this Rule.

(c) Placement and Maintenance of Markers. The Board of Commissioners of Alexander County is designated a suitable agency for placement and maintenance of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers, if applicable.

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

15A NCAC 10F .0339 MCDOWELL COUNTY

(a) Regulated Areas. This Rule applies to the following waters located on Lake James in McDowell County, as designated by the United States Aids to Navigation system:

- (1) that area adjacent to the shoreline of the McDowell Wildlife Club property;
- (2) that area adjacent to the shoreline of the Marion Moose Club property;
- (3) that area known as Morgan Cove;
- (4) that area within 50 yards of the shoreline at the New Manna Baptist Youth Camp;
- (5) that area within 50 yards of the shoreline at Burnett's Landing;
- (6) the cove area adjacent to the State Park swimming area;
- (7) the cove area adjacent to the State Park picnic area and dock;
- (8) that area within 50 yards of camping areas in the Lake James State Park;
- (9) that area within 50 yards of the boat launching ramp at the Marion Lake Club;
- (10) that area within 50 yards in either direction from the marina docks in Plantation Point Cove;
- (11) that area of Goodman's Landing Cove within 50 yards of the swimming area and boat docks of Goodman's Campground;
- (12) that area beginning at the rock shoals located at Deerfield Campground downstream for a distance of approximately 200 yards;
- (13) that area along the shoreline of the development known as Lakeview Pointe;
- (14) that area at the Waterglyn Subdivision Cove;
- (15) that area along the shoreline of the Lakeview Shoes Subdivision;
- (16) that area at the North Fork of the Catawba River where it enters Lake James; ~~and~~
- (17) that area within 50 yards of the Bear Creek ~~Marina, Marina; and~~
- (18) that cove which is bounded by Waterglyn Subdivision to the west beginning at the point of the shoreline known as the Island and extending in a straight line eastward to the boundary between the Carrier and Finger property within Lakeview Shores Subdivision.

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

(c) Restricted Swimming Areas. No person operating or responsible for the operation of any vessel, surfboard or waterskis shall permit the same to enter any marked swimming area located on the regulated area.

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

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

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Environment and Natural Resources intends

to adopt the rules cited as 15A NCAC 28 .0507, .0606 and .0704; amend the rules cited as 15A NCAC 28 .0103-.0105, .0107, .0201, .0203, .0301-.0302, .0401, .0403-.0404, .0501-.0506, .0602-.0605, .0701 and .0703; and repeal the rules cited as 15A NCAC 28 .0101-.0102, .0106, .0108, .0202 and .0405.

Proposed Effective Date: April 1, 2010

Public Hearing:

Date: January 12, 2010

Time: 2:00 p.m.

Location: 3125 Poplarwood Court, Suite 160, Raleigh, NC 27604

Reason for Proposed Action: *Most of the current rules were transferred from Title 1 effective August 1, 2007. The Aquarium Division had intended to then clean up these old rules by repealing, amending and adopting necessary rules to modernize them and, in some cases, cite the appropriate statute instead of a repealed statute in the history notes. The Aquarium Division considers these to be relatively minor technical, editorial and clarification changes. However, 15A NCAC 28 .0302 proposes a change to the categories of the current fee structure. In order to maintain current educational programs, exhibits and services offered by the three North Carolina Aquariums, to meet the Aquariums' lease/debt/construction obligations, and to bring the Aquariums' fees in line with the NC Zoo and other similar-sized U.S. aquariums it is necessary to increase or add admission fees on some age categories of visitors at the three Aquariums. The current rates of eight dollars (\$8.00), seven dollars (\$7.00) and six dollars (\$6.00), which have been in effect since 2006, are not changing.*

Procedure by which a person can object to the agency on a proposed rule: *Send written objections to David Griffin, Division Director, 3125 Poplarwood Court, Suite 160, Raleigh, NC 27604; fax (919) 981-5224; email david.griffin@ncaquariums.com.*

Comments may be submitted to: *David Griffin, Division Director, 3125 Poplarwood Court, Suite 160, Raleigh, NC 27604; phone (919) 877-5500; fax (919) 981-5224; email david.griffin@ncaquariums.com*

Comment period ends: February 15, 2010

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 after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule 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 919-431-3000.

Fiscal Impact:

- ☐ State
☐ Local
☐ Substantial Economic Impact (\geq \$3,000,000)
☒ None

CHAPTER 28 - NORTH CAROLINA AQUARIUMS

**SECTION .0100 - USE OF NORTH CAROLINA
AQUARIUMS**

15A NCAC 28 .0101 PURPOSE

~~Pursuant to the delegation of administrative responsibilities by the Secretary to each director of the three North Carolina Aquariums, and in order to provide guidelines consistent with applicable laws and policies and with the needs, resources, and general educational and advocacy mission of the Aquariums, these facility use rules are therefore promulgated and adopted.~~

Authority G.S. 143B-390.2(b).

15A NCAC 28 .0102 FACILITIES

~~The three facilities have been constructed for the purpose of housing public aquariums; carrying out marine and coastal resources programs including public information and education; providing space for activities associated with marine programs and fostering marine related applied research, extension education, and advisory services.~~

Authority G.S. 143B-390.2(b).

15A NCAC 28 .0103 USERS

~~It is the Secretary's policy that the The Aquariums and the grounds immediately surrounding them should be are available for use by appropriate public agencies and private groups and for non-commercial activities which are in the best interests of the state and the communities which they serve, providing such users and uses do not interfere with regularly-scheduled Aquarium functions or other approved scheduled uses.~~

Authority G.S. 143B-289.41(a)(1b)b.; 143B-289.41(b).

15A NCAC 28 .0104 PERMISSIBLE ACTIVITIES

~~Permissible uses shall be confined to non-profit, marine-related, charitable, or civic activities, activities conducted by tax-supported public agencies, and approved research activities. Activities may also be conducted by private, profit-making groups or individuals when such activities do not include actual sales or solicitations on state property; and when they provide significant public benefit, particularly when that benefit is marine related. Approved private activities may include sales or solicitations if approved by the Aquarium Director at least 10 days before the date of the activity. No other sales or solicitations by private groups and individuals will be allowed on Aquarium property.~~

Authority G.S. 143B-289.41(a)(1b)b.; 143B-289.41(b).

15A NCAC 28 .0105 PERMISSION FOR USE

~~All potential users other than applicants for research space shall obtain prior written permission from the Aquarium Director for use of the building or grounds. Applicants for research space must follow the procedures outlined in Section .0300 of this Subchapter. Approved researchers and users of the facilities outside of normal operating hours shall be required to sign a written contract.~~

Authority G.S. 143B-289.41(a)(1b)b.; 143B-289.41(b).

15A NCAC 28 .0106 SCHEDULING PERMISSIBLE ACTIVITIES

~~If the director determines that a proposed user or activity is consistent with the Facility Use Policy, he or she shall allow that activity to be scheduled. A permissible user or activity shall not conflict with regular Aquarium functions or programs and other approved uses of the Aquariums.~~

Authority G.S. 143B-390.2(b).

15A NCAC 28 .0107 AVAILABLE AREAS

Each facility has the following functional areas available for use:

- (1) auditorium,
- (2) classrooms,
- (3) ~~teaching laboratories,~~
- (4)(3) Aquarium galleries,
- (4) conference room, and
- (5) dry exhibit areas,
- (6) research laboratories,
- (7) library, and
- (8)(5) garden or nearby natural areas.

A group wishing to use the facility may request a specific functional area, but the Aquarium Director shall have final authority in assigning the use of any particular area.

Authority G.S. 143B-289.41(a)(1b)b.; 143B-289.41(b).

15A NCAC 28 .0108 LONG-TERM USE PROHIBITED

~~The facilities shall not be used on a continuing basis for long-term off hours use by any one private group.~~

Authority G.S. 143B-390.2(b).

**SECTION .0200 - SCHEDULING ACTIVITIES FOR
GROUP USE**

**15A NCAC 28 .0201 SCHEDULING ACTIVITIES FOR
REGULAR HOURS**

~~For proposed activities that are to take place during normal operating hours, a representative of the user group shall make a request to use the facility by contacting the director. Verification that the proposed user and activity are compatible with the Facility Use Policy and that the facility is available for the time and date requested shall be obtained from the director before the activity is scheduled.~~

The Aquarium Director must give written permission to outside groups wishing to use the Aquarium during normal operating hours. Outside groups shall be scheduled at a time and in a functional area that do not interfere with the normal operations of the Aquarium.

Authority G.S. 143B-289.41(a)(1b)b.; 143B-289.41(b).

15A NCAC 28 .0202 AQUARIUM RESPONSIBILITIES

The responsibilities of the Aquarium include the following:

- (1) ~~Provide a clean and safe facility;~~
- (2) ~~Provide an employee during the use of the facility;~~
- (3) ~~Arrange the facility for the expected use, within reason;~~
- (4) ~~Perform normal cleaning after the activity;~~
- (5) ~~Report any damage and provide detailed written description of damage to the individual in charge of the user group.~~

Authority G.S. 143B-390.2(b).

15A NCAC 28 .0203 SCHEDULING ACTIVITIES FOR NON-REGULAR HOURS

~~For proposed activities that are to take place outside of a facility's normal operating hours, a representative of a Any outside group wishing to use the facility before or after normal operating hours shall enter into a written agreement that includes the following requirements: follow these procedures:~~

- (1) ~~Obtain copies of the Facility Use Policy and the application for use of the facility from the director's office of a particular facility or the Office of Marine Affairs.~~
- (2) ~~Complete the application and return it to the director's office of the preferred facility. In extraordinary circumstances, the application may be completed by telephone.~~
- (3) ~~Application for use of the facility may be made no earlier than 90 days prior to the date of use and as late as 48 hours before the date of use. However, all requests are subject to availability of space and supervisory staff.~~
- (4) ~~Obtain verification from the director of that facility that the proposed user and activity are compatible with the Facility Use Policy and that the facility is available for the time and date requested. The director will complete and sign the contract upon his or her satisfaction that the above requirements have been met.~~
- (5) ~~Be prepared to meet these conditions upon execution of the contract:~~
 - (a)(1) ~~User provides Guarantee adequate supervision for the activity being planned;~~
 - (b)(2) ~~An Accept the requirement that employee of the facility must be present at all times;~~
 - (c)(3) ~~User leaves Leave the building and grounds in the same condition as before the activity;~~

(d)(4) ~~No illegal Accept the requirement that no controlled substances, no firearms (except those in the possession of law enforcement officials or certified safety instructor), and no or pets are permitted on the premises during the activity;~~

(e)(5) ~~User shall acquire prior Acquire permission from the secretary Division Director if alcoholic beverages not to exceed 14 percent alcohol are to be consumed on the property; property. (Alcohol exceeding 14 percent shall not be consumed on state property.)~~

(6) ~~Smoking is prohibited in all indoor areas and allowed only in designated outside areas; and~~

(7) ~~The Aquarium has the discretion to cancel a scheduled event due to a hurricane or other natural disaster or to move or terminate a scheduled event for the safety and well-being of the exhibits or captive animals.~~

Authority G.S. 143B-289.41(a)(1b)b.; 143B-289.41(b).

SECTION .0300 - UNAUTHORIZED USE OF FACILITIES: FEES

15A NCAC 28 .0301 UNAUTHORIZED ENTRY

No person shall enter or remain on Aquarium property during hours when the facility is not open to the public except for on-duty employees, contractors or agents of the Aquarium; law enforcement, fire and emergency personnel; and others authorized to use the property in connection with an Aquarium or Aquarium Society sponsored event, or unless accompanied by an authorized employee of the Aquarium or permission has been granted by the Aquarium Director.

Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b).

15A NCAC 28 .0302 FEE SCHEDULE

(a) The following schedule of fees shall be applicable to govern admission to the North Carolina Aquariums:

- (1) Roanoke Island:

| | |
|--|--------|
| Adults, 18 and over <u>Adult, 13 and over</u> | \$8.00 |
| Senior Citizens, Senior, 62 and over | \$7.00 |
| Ages 6-17 Child, 3 through 12 | \$6.00 |
- (2) Fort Fisher:

| | |
|--|--------|
| Adults, 18 and over <u>Adult, 13 and over</u> | \$8.00 |
| Senior Citizens, Senior, 62 and over | \$7.00 |
| Ages 6-17 Child, 3 through 12 | \$6.00 |
- (3) Pine Knoll Shores:

| | |
|--|--------|
| Adults, 18 and over <u>Adult, 13 and over</u> | \$8.00 |
| Senior Citizens, Senior, 62 and over | \$7.00 |

~~Ages 6-17~~ Child, 3 through 12

\$6.00

(b) Free admission is offered to the following groups:

- (1) Aquarium Society Members;
- (2) Preregistered North Carolina School groups;
- (3) ~~American Zoo and Aquarium Association~~ Association of Zoos and Aquariums' reciprocals; and
- (4) Children under the age of ~~six~~ three.

Free admission will be offered on the following ~~holidays~~ days: Martin Luther King, Jr. ~~Day~~ holiday and Veteran's ~~Day~~ Day on November 11.

Authority G.S. 143B-289.41(b); 143B-289.44.

SECTION .0400 - FIREARMS: FIRES: SMOKING

15A NCAC 28 .0401 LETHAL INSTRUMENTS

Carrying or possessing firearms, airguns, bows and arrows, slingshots or lethal instruments of any kind in the Aquarium or on Aquarium property, except by law enforcement officials with jurisdictional authority and certified safety instructors, is prohibited.

Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b).

15A NCAC 28 .0403 FIRES

All ~~fires~~ fires, including grills, are prohibited except in designated areas.

Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b).

15A NCAC 28 .0404 SMOKING

Smoking is prohibited in the ~~buildings except in designated areas. The director shall forbid smoking on the grounds when a fire hazard makes such action advisable.~~ buildings. Smoking is prohibited on Aquarium grounds within the paid perimeter and in other outside areas except where smoking is designated.

Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b).

15A NCAC 28 .0405 USES NOT COVERED BY POLICY

~~Use of the aquarium buildings or grounds in any manner not provided for in the Facility Use Policy shall be allowed only by permission of the secretary. Copies of the Facility Use Policy are available from any aquarium and from the Office of Marine Affairs. The Facility Use Policy is also codified as Rules .0801 through .1102 of this Subchapter.~~

Authority G.S. 143B-390.2(b).

SECTION .0500 - CONDUCT: ALCOHOLIC BEVERAGES: PETS: PROPER DRESS

15A NCAC 28 .0501 DISORDERLY CONDUCT

No person shall engage in disorderly conduct, be intoxicated, or be impaired by controlled or illegal substances while on

Aquarium property or while involved in an Aquarium-sponsored program that is conducted off the premises.

Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b).

15A NCAC 28 .0502 SALES OF ALCOHOL OR CONTROLLED SUBSTANCES

No person shall sell or attempt to sell ~~any beer, wine,~~ whiskey, controlled or illegal substances or any other intoxicating or impairing substance on Aquarium property. Beer and wine may be sold pursuant to a valid Alcohol Beverage Control permit at an event held at the Aquarium if written approval is given by the Division Director prior to the event.

Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b).

15A NCAC 28 .0503 CONSUMPTION OF ALCOHOL

Alcoholic beverages that do not exceed ~~14%~~ 14 percent alcohol may be served and consumed on Aquarium property upon prior written approval by the Secretary on the recommendation of the Division Director.

Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b).

15A NCAC 28 .0504 PETS

Pets are not allowed in the Aquarium ~~buildings but may be buildings. Service animals whose handlers attest to the animal's status are allowed inside the buildings.~~ Pets are allowed on the grounds provided they remain at all times under the owners' control and are restrained by a leash. Any animal causing a nuisance or left unattended on Aquarium property shall be removed immediately by the owner upon the request of the Aquarium Director. Pet owners shall comply with local ordinances to pick up their animal's waste from Aquarium grounds and dispose of it properly.

Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b).

15A NCAC 28 .0505 LOUD RADIOS

The playing of radios, tape players or other audio equipment in such a manner as to disturb others is ~~prohibited~~ prohibited inside the Aquarium and on Aquarium property.

Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b).

15A NCAC 28 .0506 PROPER DRESS

Any person using the facility or participating in programs must wear ~~shirts~~ shirts, pants or shorts and shoes at all times and safety equipment if required for a particular program. Uncovered or wet bathing suits are prohibited inside the Aquarium.

Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b).

15A NCAC 28 .0507 COASTER CONVEYANCES

Skateboards, roller blades, "heelie" shoes and other similar coaster conveyances are not allowed inside the buildings or in the gardens. These conveyances are allowed on Aquarium bicycle paths and parking lots.

Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b).

**SECTION .0600 - COMMERCIAL ACTIVITIES:
SOLICITATIONS: ETC.**

15A NCAC 28 .0602 ADVERTISING

~~Non-commercial notices~~ Notices or advertisements may be erected or displayed on Aquarium property, provided prior written permission has been granted by the Aquarium Director. ~~Notices or advertisements for commercial activities conducted off the Aquarium premises are prohibited on Aquarium property.~~

Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b).

15A NCAC 28 .0603 PHOTOGRAPHS

No person shall take photographs, video tapes or movies of the Aquarium facilities or on Aquarium property for commercial purposes without the permission of the Aquarium Director.

Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b).

15A NCAC 28 .0604 LOGOS: SLOGANS: ETC.

No person shall use, adopt or modify any logos, names or slogans of the N.C. Aquariums or the N.C. Aquarium Society without prior written permission of the ~~Office of Marine Affairs Division Director~~.

Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b).

15A NCAC 28 .0605 SOLICITATIONS

Only persons engaged in fundraising activities sponsored by the N.C. Aquarium Society for the purpose of supporting the Aquariums or Society shall be permitted to solicit contributions on Aquarium property. Non-profit users may engage in fundraising activities as part of an approved event held on Aquarium property provided prior written permission has been granted by the Aquarium Director.

Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b).

**15A NCAC 28 .0606 ACCEPTANCE OF DONATED
PERSONAL PROPERTY**

The Aquarium Division will accept donated personal property only if the donation is made through the N.C. Aquarium Society and meets the following requirements:

- (1) The personal property is clearly relevant to the purpose and mission of the N.C. Aquariums;
- (2) The donor provides evidence of lawful ownership of the property, including evidence that the donor possesses any current permit required to own or possess the property;
- (3) The donation is made without restrictions on the use and disposition of the property;
- (4) The N.C. Aquariums Division has identified storage space or a display venue for the property prior to acceptance of the property; and
- (5) If payment, such as shipping cost, is required to be made by the N.C. Aquariums Division as

a condition of the donation, the property will be accepted only if funds are available to make the payment prior to acceptance.

Authority G.S. 143B-289.41(b); 143B-289.42.

**SECTION .0700 - PRESERVATION OF AQUARIUM
PROPERTY**

**15A NCAC 28 .0701 FLOWERS: PLANTS: ANIMALS:
ETC.**

Only authorized Aquarium employees or agents acting in performance of their duties may feed, remove, dispose of or otherwise ~~harm-handle~~ any animal or plant life, whether marine or terrestrial, or remove sand or other minerals owned or controlled by the Aquarium.

Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b).

15A NCAC 28 .0703 PARKING

All privately-owned vehicles shall be parked in designated parking areas of the Aquarium property. All other vehicles shall be parked only as directed by the Aquarium Director. Visitors are not permitted to leave vehicles on Aquarium property overnight. Drivers of vehicles parked on Aquarium property shall turn off engines.

Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b).

**15A NCAC 28 .0704 FOOD AND BEVERAGES
PROHIBITED INSIDE**

Visitors shall not bring food or beverages, except bottled water, inside the Aquarium during normal operating hours.

Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b).

**TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND
COMMISSIONS**

**CHAPTER 14 – BOARD OF COSMETIC ART
EXAMINERS**

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Board of Cosmetic Art Examiners intends to adopt the rule cited as 21 NCAC 14F .0104.

Proposed Effective Date: *April 1, 2010*

Public Hearing:

Date: *December 30, 2009*

Time: *8:00 a.m.*

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

Reason for Proposed Action: *This rule adds requirements for all practitioners in a salon to be licensed by one of the NC regulatory Boards listed and separates salons via a separate entrance.*

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

Comments may be submitted to: *Stefanie Kuzdrall, 1201 Front Street, Suite 110, Raleigh, NC 27609*

Comment period ends: *February 15, 2010*

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 after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule 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 919-431-3000.

Fiscal Impact:

- ☐ State
☐ Local
☐ Substantial Economic Impact (≥\$3,000,000)
☒ None

**SUBCHAPTER 14F - RULES AND REGULATIONS
GOVERNING THE LICENSING OF BEAUTY SHOPS**

**SECTION .0100 - RULES AND REGULATIONS
GOVERNING THE LICENSING OF BEAUTY SHOPS**

21 NCAC 14F .0104 SEPARATION OF BEAUTY SALON

(a) A beauty salon, whether residential or non-residential, shall be separated from any building or room used for any other business or purpose by solid walls at least 7 ft. in ~~height.~~ height and shall have a separate entrance.

~~(b) The solid walls separating a beauty salon from other rooms in a building used for other purposes may be fitted with a doorway, provided that a solid full-length door is installed in the doorway and kept closed.~~

~~(c)(b)~~ An entrance to a beauty salon from a passageway, walkway or mall area used only for access to the salon, or to the salon and other businesses, may be open.

(c) Any practice in a licensed beauty salon must be either under the scope of practice of cosmetic art or another licensed profession as regulated by the North Carolina Board of Barber Examiners, the NC Board of Massage and Bodywork Therapy, NC Radiation Protection, or North Carolina Board of Electrolysis Examiners.

Authority G.S. 88-23.

**CHAPTER 14 – BOARD OF COSMETIC ART
EXAMINERS**

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Board of Cosmetic Art Examiners intends to adopt the rule cited as 21 NCAC 14A .0401 and amend the rules cited as 21 NCAC 14G .0103, .0107; 14I .0105, .0107, .0301, .0401; 14J .0208; 14L .0208, .0210; 14N .0110, .0113, .0115; 14P .0108, .0111, .0113, .0114; and 14R .0101.

Proposed Effective Date: *July 1, 2010*

Public Hearing:

Date: *December 30, 2009*

Time: *8:00 a.m.*

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

Reason for Proposed Action:

21 NCAC 14A .0401 – This rule adds requirements for license renewal waivers for armed forces created by recent legislation.

21 NCAC 14G .0103 – This rule adds requirements for natural hair care a new licensure created by recent legislation.

21 NCAC 14G .0107; 14I .0105, .0107, .0301, .0401; 14J .0208; 14L .0208, .0210; 14N .0110, .0113, .0115; 14P .0108, .0111, .0113, .0114; 14R .0101 – These rules add requirements for natural hair care a licensure created by recent legislation.

Procedure by which a person can object to the agency on a proposed rule: *Send written objections to 1201 Front Street, Suite 110, Raleigh, NC 27609.*

Comments may be submitted to: *Stefanie Kuzdrall, 1201 Front Street, Suite 110, Raleigh, NC 27609*

Comment period ends: *February 15, 2010*

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 after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule 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 919-431-3000.

Fiscal Impact:

- ☐ State
☐ Local
☐ Substantial Economic Impact (≥\$3,000,000)
☒ None

SUBCHAPTER 14A - DEPARTMENTAL RULES

SECTION .0400 - LICENSE RENEWAL WAIVER FOR ARMED FORCES

21 NCAC 14A .0401 LICENSE RENEWAL WAIVER FOR ARMED FORCES

Licensees in good stand and serving in the armed forces of the United States shall be allowed an extension on license renewal payment and required continuing education hours as permitted by G.S. 105-249.2 and U.S.G.S. 7508.

Authority G.S. 105-49.22; U.S.G.S. 7508.

SUBCHAPTER 14G - REQUIREMENTS FOR THE ESTABLISHMENT OF COSMETIC ART SCHOOLS

SECTION .0100 - PERMANENT FILES

21 NCAC 14G .0103 SPACE REQUIREMENTS

(a) The Cosmetic Art Board shall issue letters of approval only to cosmetic art schools that have at least 2,800 square feet of inside floor space for 20 stations or 4,200 square feet of inside floor space for 30 stations located within the same building. An additional 140 square feet of floor space shall be required for each station above 20 stations, up to and including a total of 30 stations. Thereafter, an additional 40 square feet shall be required for each station in excess of 30 stations. For purpose of this Rule, the day and night classes shall be counted as separate enrollments. A school may have a recitation room located in an adjacent building or another building within 500 feet of the main cosmetology building.

(b) Each cosmetic art school must have no less than 20 hairdressing stations, arranged to accommodate not less than 20 students and arranged so that the course of study and training cosmetology, as prescribed in 21 NCAC 14J .0306, may be given. All stations must be numbered numerically.

(c) Cosmetic art schools must have a beginner department containing sufficient space to comfortably accommodate at least 10 students and having at least 40 inches between mannequins.

(d) The Board shall issue a letter of approval only to manicurist schools that have at least 1,000 square feet of inside floor space located within the same building.

(e) Manicurist schools with 1,000 square feet of inside floor space shall enroll no more than 20 students at one time, and for each student enrolled in addition to 20 students, 40 square feet of inside floor space must be provided.

(f) Manicurist schools must have 10 manicurist tables and chairs a minimum of two feet apart, side to side, arranged to comfortably accommodate ten students.

(g) The Board shall issue a letter of approval only to esthetician schools that have at least 1,500 square feet of inside floor space located within the same building.

(h) Esthetician schools with 1,500 square feet of inside floor space shall enroll no more than 20 students at one time, and for each student enrolled in addition to 20 students, 50 square feet of inside floor space must be provided.

(i) The Board shall issue a letter of approval only to natural hair care school that have at least 2000 square feet of inside floor space located within the same building.

(j) Natural hair care schools with 2000 square feet of inside floor space shall enroll no more than 20 students at one time, and for each student enrolled in addition to 20 students, 50 square feet of inside floor space must be provided.

(k) Schools combining ~~both manicuring and esthetics~~ manicuring, esthetics and natural hair care training programs with ~~1,500~~ 2000 feet of inside floor space shall enroll no more than a total of 20 students at one time and for each student enrolled in addition to 20 students, 50 square feet of inside floor space must be provided. Equipment requirements for ~~both manicurist schools and esthetician~~ manicuring, esthetics and natural hair care schools shall be followed.

Authority G.S. 88B-4.

21 NCAC 14G .0107 EQUIPMENT AND TEACHERS

(a) A cosmetic art school shall have the necessary classrooms and equipment for teaching as required by Subchapters 14I, 14J, 14K and 14O and shall provide a staff of cosmetic art teachers licensed by the Board.

(b) The Board shall not accept an application for a letter of approval until all furniture, supplies and equipment as prescribed by the Rules in this Chapter have been installed and the entire school is complete.

(c) All courses in a cosmetic art school must be taught by a licensed cosmetology teacher, except that manicuring courses may be taught by either a licensed cosmetology teacher or a licensed manicurist teacher natural hair care courses may be taught by either a licensed cosmetology teacher or a licensed natural hair care teacher, and esthetics courses may be taught by either a licensed cosmetology teacher or a licensed esthetician teacher.

(d) Notwithstanding Paragraph (c) of this Rule, a licensed cosmetologist not licensed to teach cosmetic art may substitute for a cosmetology, esthetician, natural hair care or manicurist teacher and a licensed manicurist not licensed as a manicurist teacher may substitute for a manicurist teacher, a licensed natural hair care specialist not licensed as a natural natural hair care teacher may substitute for a natural hair care teacher, and ~~an esthetic teacher and a registered~~ a licensed esthetician not licensed as an esthetic teacher may substitute for an esthetician teacher. In no event may such a substitution last for more than 15 working days per year per teacher.

Authority G.S. 88B-4; 88B-11; 88B-16; 88B-23.

SUBCHAPTER 14I - OPERATIONS OF SCHOOLS OF COSMETIC ART

SECTION .0100 - RECORD KEEPING

21 NCAC 14I .0105 TRANSFER OF CREDIT

(a) In order that hours may be transferred from one cosmetic art school to another, a student must pass an entrance examination given by the school to which the student is transferring.

(b) A cosmetology student must complete at least 500 hours in the cosmetic art school certifying his or her application for the state board examination.

(c) Upon written petition by the student, the Board shall make an exception to the requirements set forth in Paragraph (b) of this Rule if the student shows that circumstances beyond the student's control prohibited him or her from completing 500 hours at the school that certifies his or her application.

(d) A student who transfers from a cosmetology curriculum to a ~~manicurist~~ manicuring, natural hair care or an esthetics curriculum shall not receive credit for hours received in the cosmetology curriculum.

(e) A student who transfers from a ~~manicurist~~ manicuring, natural hair care or an esthetic curriculum to a cosmetology curriculum shall not receive credit for hours received in the ~~manicurist~~ manicuring, natural hair care or an esthetic curriculum.

(f) If a student is transferring from another state, the student shall submit certification of hours and performances to the cosmetic art school in which they are enrolled.

(g) Licensed ~~manicurist~~ manicuring, natural hair care or estheticians may apply up to 50 percent of required hours earned toward another cosmetic art curriculum.

(h) Up to 50 percent of all credit earned in an approved esthetician natural hair care or manicurist teacher training program may be transferred to a cosmetology teacher training program. A maximum of 160 hours earned in either an ~~esthetician~~ esthetician, natural hair care or manicurist teacher training program may be transferred between programs.

Authority G.S. 88B-4; 88B-7; 88B-8; 88B-9; 88B-10.

21 NCAC 141 .0107 REPORT OF ENROLLMENT

(a) A cosmetic art school shall report cosmetology enrollments to the Board not later than 30 working days after a student enrolls in school. A cosmetic art school shall report ~~manicurist~~ manicurist, natural hair care specialist and esthetician enrollments to the Board not later than 15 working days after a student enrolls in school. If a student's enrollment is not reported within 30 working days for cosmetology and 15 working days for ~~esthetician~~ esthetician, natural hair care specialist and manicurist, the cosmetic art school shall file a copy of the student's daily time records when it reports the student's enrollment.

(b) The school must report the enrollment of students prior to the student applying for the cosmetologist, ~~manicurist~~, manicurist, natural hair care specialist or esthetician examination and before any hours can be credited.

Authority G.S. 88B-4; 88B-9.

SECTION .0300 - CLASSROOMS

21 NCAC 141 .0301 RECITATION ROOM

(a) Each cosmetic art school shall have a recitation room, ~~large enough to accommodate~~ of no less than 300 square feet with a minimum one-side width or depth of 12 feet and shall accommodate no more than 20 students, which shall be equipped with desks or chairs suitable for classroom work, chair(s)

suitable for demonstrating cosmetology practices, a dry erase board, and charts, except that the demonstration chair(s) in a manicurist school need be suitable only for demonstrating manicuring and pedicuring practices.

(b) Charts in the recitation room shall include those with illustrations of the skin, bones, muscles, and nerves of the head, neck, feet, and hands, except that the set of charts in a manicurist school need not include those illustrating the head and neck. The set of charts in a natural hair care school need not include those illustrating the feet and hands.

Authority G.S. 88-23; 88-30.

SECTION .0400 - LICENSURE OF INDIVIDUALS WHO HAVE BEEN CONVICTED OF A FELONY

21 NCAC 141 .0401 APPLICATION / LICENSURE/ INDIVIDUALS WHO HAVE BEEN CONVICTED OF FELONY

(a) Any applicant convicted of a felony or charged with a felony that is still pending may apply for Board approval upon enrollment in a cosmetic art school. All documentation submitted shall have no effect on an individual's ability to attend a cosmetic art school, take an examination administered by the Board, or apply for a license; is not binding on the Board with respect to any future application from the individual reviewed; and is not a final agency decision.

(b) The applicant shall supply the following;

- (1) A statement of facts of the crime accompanied by a certified copy of the indictment (or, in the absence of an indictment, a copy of the "information" that initiated the formal judicial process), the judgment and any commitment order for each felony for which there has been a conviction;
- (2) A copy of the applicant's restoration of rights certificate, if applicable;
- (3) At least three letters attesting to the applicant's character from individuals unrelated by blood or marriage. If available, one of these letters must be from someone familiar with the applicant's cosmetology training and experience, one from the applicant's probation or parole officer, and one from the applicant's vocational rehabilitation officer. If letters from persons in these positions are unavailable, the applicant shall submit an explanatory statement as to why they are unavailable;
- (4) The name and address of the applicant's current employer;
- (5) A summary of the applicant's personal history since conviction including, if applicable, date of release, parole or probation status, employment, and military service;
- (6) Records of any ~~cosmetology~~ cosmetology, esthetics, natural hair care or manicurist school disciplinary actions;

- (7) A description of any pending criminal charges with a copy of the indictment or, if there is not yet an indictment, the arrest warrant for each pending charge; and
- (8) The applicant may supply any other information which in the opinion of the applicant would be useful or pertinent to the consideration by the Board of the applicant's request;

(c) If a conviction was for an offense involving habitual drug or alcohol abuse, the applicant shall also provide evidence showing that he or she is drug/alcohol free. Examples of evidence which will be considered are:

- (1) enrollment in an on-going licensed treatment program;
- (2) drug analysis test results; and
- (3) certification of completion of a licensed treatment program.

Authority G.S. 88B-4; 88B-24(1).

SUBCHAPTER 14J - COSMETOLOGY CURRICULUM

SECTION .0200 - ADVANCED DEPARTMENT

21 NCAC 14J .0208 INTERNSHIPS

Schools and cosmetic art shops desiring to implement an internship program shall follow these requirements:

- (1) Schools wishing to participate in an internship program must notify the Board of intent to implement a program before credit for an internship may be granted. Cosmetic art shops and student selection criteria must be submitted along with the notification.
- (2) Schools shall report to the Board all cosmetic art shops contracted and students selected to participate in the program.
- (3) Internships may be arranged in various time frames but shall never exceed 10% of a student's training period.
- (4) Credit for an internship shall be granted upon submission of student hours verification based on a daily attendance record. Hours must be recorded on a form approved by the school.
- (5) Students may be assigned a variety of duties, but client services are restricted. Cosmetology and natural hair care students may only provide shampoo services, manicurist students may only remove nail polish and esthetician students may only drape and prep clients. Cosmetic art shop violation of restrictions or school requirements may result in the termination of the internship contract and the possible loss of student training hours.
- (6) Students must follow all cosmetic art shop employee rules and regulations. Violations of cosmetic art shop rules or any misconduct may result in dismissal of the intern or loss of training hours.

- (7) A licensed teacher need not be in attendance during this internship.
- (8) Students participating in the program shall not receive compensation for duties performed in the cosmetic art shop.

Authority G.S. 88B-4.

SUBCHAPTER 14L - COSMETIC ART TEACHERS

SECTION .0200 - TEACHER PROGRAM AND CURRICULUM

21 NCAC 14L .0208 SUPERVISION OF COSMETIC ART TEACHER TRAINEE

- (a) A cosmetic art teacher trainee shall be supervised by a cosmetic art teacher at all times when the trainee is at a cosmetic art except as set out in Paragraph (b) of this Rule.
- (b) A ~~manicurist~~ manicurist, natural hair care or esthetician teacher may not supervise a cosmetologist teacher trainee with regard to any cosmetic art other than manicuring or esthetics, as appropriate.
- (c) Violation of this Rule is just cause to revoke the Board's approval of the cosmetic art school's teacher trainee program for a period of one year.

Authority G.S. 88B-11.

21 NCAC 14L .0210 EFFECT ON STUDENT-TEACHER RATIO

- (a) A student who is either a cosmetology, natural hair care, esthetics or manicurist teacher trainee need not be counted as a student in computing the allowable student-teacher ratio set by 21 NCAC 14G .0113. However, a cosmetic art school must have at least:

- (1) One cosmetology teacher for every five cosmetology teacher trainees, or cosmetologist, natural hair care, manicurist, and esthetician trainees combined; or
- (2) For manicurist teacher trainees only, one cosmetology or manicurist teacher for every five manicurist teacher trainees.

- (b) A cosmetic art school may not count a teacher trainee as a cosmetic art teacher in computing the allowable student-teacher ratio set by 21 NCAC 14G .0113. Teachers included in the ratio determined under 21 NCAC 14G .0113 may be included in computing the ratio required by this Rule.

Authority G.S. 88B-4.

SUBCHAPTER 14N - EXAMINATIONS

SECTION .0100 - GENERAL PROVISIONS

21 NCAC 14N .0110 PASSING GRADES FOR EXAMINATION

Candidates shall make the following grades on both the practical and theory sections of the examination:

- (1) For licensure as a cosmetologist, 75 percent;

- (2) For licensure as an apprentice cosmetologist, 70 percent;
- (3) for licensure as a cosmetology teacher, 85 percent;
- (4) For licensure as a manicurist teacher, 85 percent;
- (5) For licensure as a manicurist, 75 percent;
- (6) For licensure as a an esthetician, 75 percent; and
- (7) For licensure as a an esthetician teacher, 85 percent.
- (8) For licensure as a natural hair care specialist, 75 percent.
- (9) For licensure as a natural hair care teacher, 85 percent.

Authority G.S. 88B-4; 88B-7(2); 88B-8(2); 88B-9(2); 88B-10(2); 88B-11(b)(3); 88B-11(c)(3); 88B-11(d)(3).

21 NCAC 14N .0113 RE-EXAMINATION

(a) Notwithstanding any other provision of the rules in this Subchapter, pursuant to G.S. 88B-18(d) a cosmetologist, esthetician, manicurist, natural hair care specialist or teacher candidate who has failed either section of the examination three times, shall complete the following amounts of study at an approved cosmetic art school before reapplication for examination shall be accepted by the Board:

- (1) Cosmetologist 200 hours,
- (2) Esthetician 80 hours,
- (3) Manicurist 40 hours,
- (4) Natural Hair Care Specialist 40 hours,
- ~~(4)(5)~~ Teacher:
 - (A) cosmetology 100 hours,
 - (B) esthetician 80 hours,
 - (C) manicurist 40 ~~hours~~ hours,
 - (D) natural hair care 40 hours.

(b) Teacher candidates with no prior cosmetic art teacher training program experience shall be required to complete at least a minimum of the hours required for the teacher curriculum in the discipline in which they hold a license. The required minimums for teacher curriculums are 800 hours of a cosmetology teacher curriculum, 650 hours of an esthetician teacher curriculum, 320 hours of a natural hair care teacher curriculum or 320 hours of a manicurist teacher curriculum.

(c) The school in which the student has enrolled pursuant to G.S. 88B-18(d) shall design a course of study for that student in order to correct the student's deficiencies.

(d) A candidate for licensure as an apprentice cosmetologist who:

- (1) passes the examination with a score of 75 percent or more on both sections; and
- (2) subsequently completes an additional 300 hours of cosmetology curriculum within one year of the examination date shall be licensed as a cosmetologist under G.S. 88B-7 without retaking the examination.

Authority G.S. 88B-4; 88B-18.

21 NCAC 14N .0115 FULL TIME AND PART TIME EQUIVALENCY

Candidates for cosmetology teacher exams must work a minimum of 10,400 hours in the cosmetic arts industry to be eligible for Board examination. Candidates for manicurist and natural hair care teacher exams must work a minimum of 4,160 hours in the cosmetic arts industry to be eligible for Board examination. Candidates for esthetician teacher exams must work a minimum of 6,240 hours in the cosmetic art industry. Applicants cannot receive credit for more than 2,080 hours per year for full-time work or less than 1,040 per year for part-time work.

Authority G.S. 88B-11.

SUBCHAPTER 14P - CIVIL PENALTY

SECTION .0100 - CIVIL PENALTY

21 NCAC 14P .0108 REVOCATION OF LICENSES AND OTHER DISCIPLINARY MEASURES

(a) The presumptive civil penalty for allowing unlicensed practitioners to practice in a licensed cosmetic art shop is:

- | | |
|-----------------|-----------|
| (1) 1st offense | \$250.00 |
| (2) 2nd offense | \$500.00 |
| (3) 3rd offense | \$1000.00 |

(b) The presumptive civil penalty for practicing cosmetology, natural hair care, manicuring or esthetics with a license issued to another person is:

- | | |
|-----------------|------------|
| (1) 1st offense | \$300.00 |
| (2) 2nd offense | \$500.00 |
| (3) 3rd offense | \$1,000.00 |

(c) The presumptive civil penalty for altering a license, permit or authorization issued by the Board is:

- | | |
|-----------------|----------|
| (1) 1st offense | \$300.00 |
| (2) 2nd offense | \$400.00 |
| (3) 3rd offense | \$500.00 |

(d) The presumptive civil penalty for submitting false or fraudulent documents is:

- | | |
|-----------------|------------|
| (1) 1st offense | \$500.00 |
| (2) 2nd offense | \$800.00 |
| (3) 3rd offense | \$1,000.00 |

(e) The presumptive civil penalty for refusing to present photographic identification is:

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

(f) The presumptive civil penalty for advertising by means of knowingly false or deceptive statement is:

- | | |
|-----------------|--------------------|
| (1) 1st offense | warning (\$300.00) |
| (2) 2nd offense | \$400.00 |
| (3) 3rd offense | \$500.00 |

(g) The presumptive civil penalty for permitting an individual to practice cosmetic art with an expired license is:

- | | |
|-----------------|----------|
| (1) 1st offense | \$300.00 |
| (2) 2nd offense | \$400.00 |
| (3) 3rd offense | \$500.00 |

(h) The presumptive civil penalty for practicing or attempting to practice by fraudulent misrepresentation is:

- | | | |
|-----|-------------|-----------|
| (1) | 1st offense | \$500.00 |
| (2) | 2nd offense | \$800.00 |
| (3) | 3rd offense | \$1000.00 |
- (i) The presumptive civil penalty for the illegal use or possession of equipment or Methyl Methacrylate Monomer (MMA) in a cosmetic art shop or school is:
- | | | |
|-----|-------------|-----------|
| (1) | 1st offense | \$300.00 |
| (2) | 2nd offense | \$500.00 |
| (3) | 3rd offense | \$1000.00 |
- (j) The presumptive civil penalty for failure to maintain footspa sanitation records is:
- | | | |
|-----|-------------|----------|
| (1) | 1st offense | \$100.00 |
| (2) | 2nd offense | \$200.00 |
| (3) | 3rd offense | \$300.00 |

Authority G.S. 88B-4; 88B-24; 88B-29.

21 NCAC 14P .0111 ESTABLISHMENT OF COSMETIC ART SCHOOLS

- (a) The presumptive civil penalty for failure to provide minimum floor space or equipment and supplies as required by Subchapters 14G, 14I, 14J, ~~14K and 14L~~, 14O and 14S is:
- | | | |
|-----|-------------|----------|
| (1) | 1st offense | \$200.00 |
| (2) | 2nd offense | \$350.00 |
| (3) | 3rd offense | \$500.00 |
- (b) The presumptive civil penalty for failure to provide instruction at a ratio of one teacher for every 20 students is:
- | | | |
|-----|-------------|--------------------|
| (1) | 1st offense | warning (\$100.00) |
| (2) | 2nd offense | \$250.00 |
| (3) | 3rd offense | \$500.00 |
- (c) The presumptive civil penalty for failure to report a change in the teaching staff is:
- | | | |
|-----|-------------|-------------------|
| (1) | 1st offense | warning (\$50.00) |
| (2) | 2nd offense | \$100.00 |
| (3) | 3rd offense | \$200.00 |
- (d) The presumptive civil penalty for failure to submit an application for the approval of a school in the case of a change of location or ownership is:
- | | | |
|-----|-------------|----------|
| (1) | 1st offense | \$100.00 |
| (2) | 2nd offense | \$200.00 |
| (3) | 3rd offense | \$500.00 |

Authority G.S. 88B-4(2); 88B-16; 88B-29.

21 NCAC 14P .0113 OPERATIONS OF SCHOOLS OF COSMETIC ART

- (a) The presumptive civil penalty for failure to record student's hours of daily attendance is:
- | | | |
|-----|-------------------------|--------------------|
| (1) | 1 st offense | warning (\$100.00) |
| (2) | 2 nd offense | \$200.00 |
| (3) | 3 rd offense | \$300.00 |
- (b) The presumptive civil penalty for failure to report withdrawal or graduation of a student within 30 working days is:
- | | | |
|-----|-------------|-------------------|
| (1) | 1st offense | warning (\$50.00) |
| (2) | 2nd offense | \$100.00 |
| (3) | 3rd offense | \$200.00 |
- (c) The presumptive civil penalty for failure to submit cosmetology enrollments within 30 working days or ~~manicurist~~

manicurist, natural hair care specialist and esthetician enrollments within 15 working days is:

- | | | |
|-----|-------------|-------------------|
| (1) | 1st offense | warning (\$50.00) |
| (2) | 2nd offense | \$100.00 |
| (3) | 3rd offense | \$200.00 |
- (d) The presumptive civil penalty for failure to display a copy of the sanitation rules is:
- | | | |
|-----|-------------------------|-------------------|
| (1) | 1 st offense | warning (\$50.00) |
| (2) | 2 nd offense | \$100.00 |
| (3) | 3 rd offense | \$200.00 |
- (e) The presumptive civil penalty for failure to post consumer sign "Cosmetic Art School - Work Done Exclusively by Students" is:
- | | | |
|-----|-------------------------|-------------------|
| (1) | 1 st offense | warning (\$50.00) |
| (2) | 2 nd offense | \$100.00 |
| (3) | 3 rd offense | \$200.00 |
- (f) The presumptive civil penalty for allowing a cosmetic art shop to operate within a cosmetic art school is:
- | | | |
|-----|-------------------------|----------|
| (1) | 1 st offense | \$200.00 |
| (2) | 2 nd offense | \$400.00 |
| (3) | 3 rd offense | \$600.00 |
- (g) The presumptive civil penalty for a cosmetic art school that is not separated from a cosmetic art shop or other business by a solid wall, floor to ceiling, with an separate entrance and a door that stays closed at all times is:
- | | | |
|-----|-------------------------|----------|
| (1) | 1 st offense | \$200.00 |
| (2) | 2 nd offense | \$400.00 |
| (3) | 3 rd offense | \$600.00 |

Authority G.S. 88B-4; 88B-16; 88B-29.

21 NCAC 14P .0114 COSMETOLOGY CURRICULUM

- (a) The presumptive civil penalty for a school allowing cosmetology students with less than 300 hours credit to work on the public. (Shampoo and scalp manipulations are exempt) is:
- | | | |
|-----|-------------|----------|
| (1) | 1st offense | \$100.00 |
| (2) | 2nd offense | \$200.00 |
| (3) | 3rd offense | \$300.00 |
- (b) The presumptive civil penalty for a school for manicurist students with less than 16 hours credit working on the public is:
- | | | |
|-----|-------------|----------|
| (1) | 1st offense | \$100.00 |
| (2) | 2nd offense | \$200.00 |
| (3) | 3rd offense | \$300.00 |
- (c) The presumptive civil penalty for a school for esthetician students with less than 60 hours credit working on the public is:
- | | | |
|-----|-------------|----------|
| (1) | 1st offense | \$100.00 |
| (2) | 2nd offense | \$200.00 |
| (3) | 3rd offense | \$300.00 |
- (d) The presumptive civil penalty for a school for natural hair care students with less than 16 hours credit working on the public is:
- | | | |
|-----|-------------|----------|
| (1) | 1st offense | \$100.00 |
| (2) | 2nd offense | \$200.00 |
| (3) | 3rd offense | \$300.00 |

Authority G.S. 88B-4; 88B-29.

SUBCHAPTER 14R - CONTINUING EDUCATION

SECTION .0100 - CONTINUING EDUCATION

21 NCAC 14R .0101 CONTINUING EDUCATION REQUIREMENTS

- (a) The continuing education requirement for all licensees is eight hours per year. Cosmetologists may complete the 24 hours of continuing education any time within the cosmetologist's three-year licensing cycle. No licensee shall receive credit for course duplication completed during the licensing cycle.
- (b) Courses completed prior to an individual being licensed by the Board shall not qualify for continuing education credit. A licensee shall not receive continuing education credit for any course given in North Carolina that does not have the prior approval of the Board.
- (c) ~~Estheticians~~ Estheticians, natural hair care specialists and manicurists must complete courses in their subject area. Only licensed teachers may complete courses in teacher training techniques.
- (d) All providers shall allow any representative or employee of the Board entrance into any Board approved continuing education requirement course at no cost to the Board.
- (e) The Board shall keep a current roster of approved continuing education courses. Copies of the roster shall be posted to the Board's website and updated monthly. Additional copies of the roster shall be available to licensees and the public upon request to the Board. Requesting individuals shall provide stamped, self-addressed envelopes.
- (f) Out-of-state continuing education hours shall be submitted for approval to the Board within 30 days of completing the course in order to be acceptable in meeting the annual requirements.
- (g) Licensees shall be exempt from 8 hours of continuing education requirements until the licensing period commencing after their initial licensure.
- (h) CE Course instructors shall receive credit for any approved CE class taught once during the renewal period.
- (i) Licensees may take internet and correspondence courses not to exceed 12 hours per renewal period for cosmetologists, four hours per renewal period for manicurists and estheticians and eight hours per renewal period for teachers.

Authority G.S. 88B-4; 88B-21(e).

TITLE 23 – DEPARTMENT OF COMMUNITY COLLEGES

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina State Board of Community Colleges intends to amend the rule cited as 23 NCAC 02C .0505.

Proposed Effective Date: May 1, 2010

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): To demand a public hearing please send the written demand to Q. Shanté Martin, Rule-making Coordinator, NC Community College System, 200 West Jones Street, 5001 Mail Service Center,*

Raleigh, NC, 27699-5001 or by emailing the demand to publiccomments@nccommunitycolleges.edu. Demands must be received within 15 days of the publication of the proposed rule in the North Carolina Register.

Reason for Proposed Action: 23 NCAC 02C .0505 "Noncertified Source Purchases" is proposed for amendment to comply with House Bill 490/Session Law 2009-132.

Procedure by which a person can object to the agency on a proposed rule: *Written objections shall be addressed to President, NC Community College System Office, 5001 Mail Service Center, Raleigh, NC 27699-5001 within the comment period and must be postmarked by 11:59 p.m. on the last day of the comment period.*

Comments may be submitted to: Q. Shanté Martin, Rule-making Coordinator, 200 West Jones Street, 5001 Mail Service Center, Raleigh, NC 27699-5001; email publiccomments@nccommunitycolleges.edu

Comment period ends: February 15, 2010

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 after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule 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 919-431-3000.

Fiscal Impact:

- ☐ State
- ☐ Local
- ☐ Substantial Economic Impact (≥\$3,000,000)
- ☒ None

CHAPTER 02 - COMMUNITY COLLEGES

SUBCHAPTER 02C - COLLEGES: ORGANIZATION AND OPERATIONS

SECTION .0500 - EQUIPMENT

23 NCAC 02C .0505 NONCERTIFIED SOURCE PURCHASES

- (a) Community colleges ~~and the Center for Applied Textile Technology~~ may purchase the same or substantially similar supplies, equipment, and materials from noncertified sources as provided in G.S. ~~445D-58.5(b)-115D-58.5(b)~~ and G.S. 115D-

58.14. "Substantially similar" is defined as having comparable, but not identical characteristics in terms of quality, service and performance as items available under State term contracts.

(b) Each college ~~or center~~ shall submit to the ~~Department System Office~~ ~~a~~ an ~~semi-annual~~ annual report showing the number of purchases made from noncertified sources for supplies, equipment, or materials; the amount of funds expended for each purchase; and the amount of funds that would have been expended under state contract. When exercising the purchasing authority granted by G.S. 115D-58.14, each college shall also document the use of this authority on the purchase order.

(c) The ~~Department~~ System Office shall monitor the use of noncertified source purchases and shall make an annual report to the State Board. The report shall include the number of noncertified source purchases made by the colleges ~~and the Center for Applied Textile Technology~~ and the amount of funds expended.

Authority G.S. 115D-5; 115D-20; 115D-58.14.

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 .0101*

Effective Date: *January 1, 2010*

Date Approved by the Rules Review Commission: *November 19, 2009*

Reason for Action: *This temporary amendment is necessary in order to implement effective monitoring requested by CDC of Pandemic A (H1N1) Influenza (commonly known as "Swine Flu") during the period of the national pandemic of this disease. Adoption of this amendment will extend the period of reporting of deaths caused by this disease that was required October 1, 2009 by a Temporary Order issued pursuant to G.S. 130A-141.1 by the State Health Director, which will expire on January 1, 2010.*

CHAPTER 41 - HEALTH: EPIDEMIOLOGY

SUBCHAPTER 41A - COMMUNICABLE DISEASE CONTROL

SECTION .0100 - REPORTING OF COMMUNICABLE DISEASES

10A NCAC 41A .0101 REPORTABLE DISEASES AND CONDITIONS

(a) The following named diseases and conditions are declared to be dangerous to the public health and are hereby made reportable within the time period specified after the disease or condition is reasonably suspected to exist:

- | | |
|---|--|
| <ul style="list-style-type: none"> (1) acquired immune deficiency syndrome (AIDS) - 24 hours; (2) anthrax - immediately; (3) botulism - immediately; (4) brucellosis - 7 days; (5) campylobacter infection - 24 hours; (6) chancroid - 24 hours; (7) chlamydial infection (laboratory confirmed) - 7 days; (8) cholera - 24 hours; (9) Creutzfeldt-Jakob disease – 7 days; (10) cryptosporidiosis - 24 hours; (11) cyclosporiasis - 24 hours; (12) dengue - 7 days; | <ul style="list-style-type: none"> (13) diphtheria - 24 hours; (14) Escherichia coli, shiga toxin-producing - 24 hours; (15) ehrlichiosis - 7 days; (16) encephalitis, arboviral - 7 days; (17) foodborne disease, including Clostridium perfringens, staphylococcal, Bacillus cereus, and other and unknown causes - 24 hours; (18) gonorrhea - 24 hours; (19) granuloma inguinale - 24 hours; (20) Haemophilus influenzae, invasive disease - 24 hours; (21) Hantavirus infection – 7 days; (22) Hemolytic-uremic syndrome – 24 hours; (23) Hemorrhagic fever virus infection – immediately; (24) hepatitis A - 24 hours; (25) hepatitis B - 24 hours; (26) hepatitis B carriage - 7 days; (27) hepatitis C, acute - 7 days; (28) human immunodeficiency virus (HIV) infection confirmed - 24 hours; (29) influenza virus infection causing death in persons less than 18 years of age 24 hours; (30) legionellosis - 7 days; (31) leprosy – 7 days; (32) leptospirosis - 7 days; (33) listeriosis – 24 hours; (34) Lyme disease - 7 days; (35) lymphogranuloma venereum - 7 days; (36) malaria - 7 days; (37) measles (rubeola) - 24 hours; (38) meningitis, pneumococcal - 7 days; (39) meningococcal disease - 24 hours; (40) monkeypox – 24 hours; (41) mumps - 7 days; (42) nongonococcal urethritis - 7 days; (43) novel influenza virus infection – immediately; (44) plague - immediately; (45) paralytic poliomyelitis - 24 hours; (46) pelvic inflammatory disease – 7 days; (47) psittacosis - 7 days; (48) Q fever - 7 days; (49) rabies, human - 24 hours; (50) Rocky Mountain spotted fever - 7 days; (51) rubella - 24 hours; (52) rubella congenital syndrome - 7 days; (53) salmonellosis - 24 hours; (54) severe acute respiratory syndrome (SARS) – 24 hours; |
|---|--|

- (55) shigellosis - 24 hours;
- (56) smallpox –immediately;
- (57) *Staphylococcus aureus* with reduced susceptibility to vancomycin – 24 hours;
- (58) streptococcal infection, Group A, invasive disease - 7 days;
- (59) syphilis - 24 hours;
- (60) tetanus - 7 days;
- (61) toxic shock syndrome - 7 days;
- (62) trichinosis - 7 days;
- (63) tuberculosis - 24 hours;
- (64) tularemia - immediately;
- (65) typhoid - 24 hours;
- (66) typhoid carriage (*Salmonella typhi*) - 7 days;
- (67) typhus, epidemic (louse-borne) - 7 days;
- (68) vaccinia – 24 hours;
- (69) vibrio infection (other than cholera) - 24 hours;
- (70) whooping cough - 24 hours;
- (71) yellow fever - 7 days.

(b) For purposes of reporting confirmed human immunodeficiency virus (HIV) infection is defined as a positive virus culture, repeatedly reactive EIA antibody test confirmed by western blot or indirect immunofluorescent antibody test, positive nucleic acid detection (NAT) test, or other confirmed testing method approved by the Director of the State Public Health Laboratory conducted on or after February 1, 1990. In selecting additional tests for approval, the Director of the State Public Health Laboratory shall consider whether such tests have been approved by the federal Food and Drug Administration, recommended by the federal Centers for Disease Control and Prevention, and endorsed by the Association of Public Health Laboratories.

(c) In addition to the laboratory reports for *Mycobacterium tuberculosis*, *Neisseria gonorrhoeae*, and syphilis specified in G.S. 130A-139, laboratories shall report:

- (1) Isolation or other specific identification of the following organisms or their products from human clinical specimens:
 - (A) Any hantavirus or hemorrhagic fever virus.
 - (B) Arthropod-borne virus (any type).
 - (C) *Bacillus anthracis*, the cause of anthrax.
 - (D) *Bordetella pertussis*, the cause of whooping cough (pertussis).
 - (E) *Borrelia burgdorferi*, the cause of Lyme disease (confirmed tests).
 - (F) *Brucella* spp., the causes of brucellosis.
 - (G) *Campylobacter* spp., the causes of campylobacteriosis.
 - (H) *Chlamydia trachomatis*, the cause of genital chlamydial infection, conjunctivitis (adult and newborn) and pneumonia of newborns.
 - (I) *Clostridium botulinum*, a cause of botulism.

- (J) *Clostridium tetani*, the cause of tetanus.
- (K) *Corynebacterium diphtheriae*, the cause of diphtheria.
- (L) *Coxiella burnetii*, the cause of Q fever.
- (M) *Cryptosporidium parvum*, the cause of human cryptosporidiosis.
- (N) *Cyclospora cayetanensis*, the cause of cyclosporiasis.
- (O) *Ehrlichia* spp., the causes of ehrlichiosis.
- (P) Shiga toxin-producing *Escherichia coli*, a cause of hemorrhagic colitis, hemolytic uremic syndrome, and thrombotic thrombocytopenic purpura.
- (Q) *Francisella tularensis*, the cause of tularemia.
- (R) Hepatitis B virus or any component thereof, such as hepatitis B surface antigen.
- (S) Human Immunodeficiency Virus, the cause of AIDS.
- (T) *Legionella* spp., the causes of legionellosis.
- (U) *Leptospira* spp., the causes of leptospirosis.
- (V) *Listeria monocytogenes*, the cause of listeriosis.
- (W) Monkeypox.
- (X) *Mycobacterium leprae*, the cause of leprosy.
- (Y) *Plasmodium falciparum*, *P. malariae*, *P. ovale*, and *P. vivax*, the causes of malaria in humans.
- (Z) Poliovirus (any), the cause of poliomyelitis.
- (AA) Rabies virus.
- (BB) *Rickettsia rickettsii*, the cause of Rocky Mountain spotted fever.
- (CC) Rubella virus.
- (DD) *Salmonella* spp., the causes of salmonellosis.
- (EE) *Shigella* spp., the causes of shigellosis.
- (FF) Smallpox virus, the cause of smallpox.
- (GG) *Staphylococcus aureus* with reduced susceptibility to vanomycin.
- (HH) *Trichinella spiralis*, the cause of trichinosis.
- (II) Vaccinia virus.
- (JJ) *Vibrio* spp., the causes of cholera and other vibrioses.
- (KK) Yellow fever virus.
- (LL) *Yersinia pestis*, the cause of plague.

- (2) Isolation or other specific identification of the following organisms from normally sterile human body sites:
- (A) Group A *Streptococcus pyogenes* (group A streptococci).
 - (B) *Haemophilus influenzae*, serotype b.
 - (C) *Neisseria meningitidis*, the cause of meningococcal disease.
- (3) Positive serologic test results, as specified, for the following infections:
- (A) Fourfold or greater changes or equivalent changes in serum antibody titers to:
 - (i) Any arthropod-borne viruses associated with meningitis or encephalitis in a human.
 - (ii) Any hantavirus or hemorrhagic fever virus.
 - (iii) *Chlamydia psittaci*, the cause of psittacosis.
 - (iv) *Coxiella burnetii*, the cause of Q fever.
 - (v) Dengue virus.
 - (vi) *Ehrlichia* spp., the causes of ehrlichiosis.
 - (vii) Measles (rubeola) virus.
 - (viii) Mumps virus.
 - (ix) *Rickettsia rickettsii*, the cause of Rocky Mountain spotted fever.
 - (x) Rubella virus.
 - (xi) Yellow fever virus.
 - (B) The presence of IgM serum antibodies to:
 - (i) *Chlamydia psittaci*
 - (ii) Hepatitis A virus.
 - (iii) Hepatitis B virus core antigen.
 - (iv) Rubella virus.
 - (v) Rubeola (measles) virus.
 - (vi) Yellow fever virus.
- (4) Laboratory results from tests to determine the absolute and relative counts for the T-helper (CD4) subset of lymphocytes that have a level below that specified by the Centers for Disease Control and Prevention as the criteria used to define an AIDS diagnosis.

Temporary Amendment Eff. November 1, 2003; May 16, 2003; Amended Eff. January 1, 2005; April 1, 2004; Temporary Amendment Eff. June 1, 2006; Amended Eff. April 1, 2008; November 1, 2007; October 1, 2006; Temporary Amendment Eff. January 1, 2010.

Rule-making Agency: *State Registrar*

Rule Citation: *10A NCAC 41H .0701, .0702*

Effective Date: *December 1, 2009*

Date Approved by the Rules Review Commission: *November 19, 2009*

Reason for Action:

All state funding for Vital Records was eliminated by Session Law 2009-451, SB 202 current Operations and Capital Improvements Appropriations Act of 2009 based upon projected receipts from an immediate maximum fee increase. This requires an immediate fee increase if Vital Records is to remain funded properly. This temporary rules change will be followed by a permanent version of the same rules change.

CHAPTER 41 - HEALTH: EPIDEMIOLOGY

SUBCHAPTER 41H - VITAL RECORDS

SECTION .0700 - FEES AND REFUNDS

10A NCAC 41H .0701 ROUTINE REQUESTS FOR CERTIFIED COPIES

(a) The fee for searching for a certificate of birth, death, marriage or divorce shall be fifteen twenty-four dollars (\$15.00), (\$24.00), which shall include includes the cost of a search of the year indicated and if necessary the year immediately prior to and subsequent to the indicated year. This fee also covers issuance of a copy if the record is found. If the record is not located, the fee shall be retained for providing the search.

(b) If expedited service is specifically requested, an additional fee of fifteen dollars (\$15.00) for in-state requests and twenty dollars (\$20.00) for out-of-state requests, in addition to all shipping and commercial charges, shall be charged in accordance with G.S. 130A-93.1(a)(2).

History Note: Authority G.S. 130A-92(a)(7); 130A-93; 130A-93.1; Eff. February 1, 1976; Amended Eff. October 1, 1977; Readopted Eff. November 15, 1977; August 24, 2009; June 1, 2005; January 1, 1992; October 1, 1985; Emergency Amendment Eff. September 14, 2009; Temporary Amendment Eff. December 1, 2009.

History Note: Authority G.S. 130A-134; 130A-135; 130A-139; 130A-141; Temporary Rule Eff. February 1, 1988, for a period of 180 days to expire on July 29, 1988; Eff. March 1, 1988; Amended Eff. October 1, 1994; February 1, 1990; Temporary Amendment Eff. July 1, 1997; Amended Eff. August 1, 1998; Temporary Amendment Eff. February 13, 2003; October 1, 2002; February 18, 2002; June 1, 2001; Amended Eff. April 1, 2003;

10A NCAC 41H .0702 RESEARCH REQUESTS

(a) The State Registrar may permit the use of data from vital records for research purposes. The State Registrar shall require the applicant to specify in writing the conditions under which the records or data will be used, stored, and disposed of; the purpose of the research; the research protocol; access limitations; and security precautions.

(b) The State Registrar may determine fees charged for preparing, searching or providing information from, or non-certified copies of the vital records based on the estimated cost of rendering the service. An hourly rate or charge per name searched may be imposed. The fee shall be ~~fifteen~~ twenty-four dollars ~~(\$15.00)~~ (\$24.00) per name searched. If expedited service is specifically requested, an additional fee of fifteen dollars ~~(\$15.00)~~ (\$15.00) for in-state requests and twenty dollars (\$20.00) for out-of-state requests, in addition to all shipping and commercial charges, shall be charged in accordance with G.S. 130A-93.1(a)(2).

(c) Vital records or data provided under this Rule shall be used only for the purposes described in the application.

History Note: Authority G.S. 130A-92(a)(7); 130A-93; 130A-93.1;

Eff. February 1, 1976;

Readopted Eff. November 15, 1977;

Amended Eff. August 24, 2009; June 1, 2005; February 1, 1994; February 1, 1992; September 1, 1990; October 1, 1985;

Emergency Amendment Eff. September 14, 2009;

Temporary Amendment Eff. December 1, 2009.

TITLE 26 – OFFICE OF ADMINISTRATIVE HEARINGS

Rule-making Agency: *Office of Administrative Hearings*

Rule Citation: 26 NCAC 03 .0101, .0103, .0106

Effective Date: *December 1, 2009*

Date Approved by the Rules Review Commission: *November 19, 2009*

Reason for Action:

To establish by rule the procedure and filing fees for contested case hearings before the Office of Administrative Hearings pursuant to Senate bill 202 (Appropriations Act 2009), Section 21.A.1(a)(b)(c).[Session Law 2009-451] The agency had specific authority to adopt emergency rules as provided in Senate Bill 202 (Appropriations Act 2009), section 6.4(b).

CHAPTER 03 - HEARINGS DIVISION

SECTION .0100 - HEARING PROCEDURES

26 NCAC 03 .0101 GENERAL

(a) The Rules of Civil Procedure as contained in G.S. 1A-1, the General Rules of Practice for the Superior and District Courts as authorized by G.S. 7A-34 and found in the Rules Volume of the

North Carolina General Statutes shall apply in contested cases in the Office of Administrative Hearings (OAH) unless another specific statute or rule of the Office of Administrative Hearings provides otherwise.

(b) The Office of Administrative Hearings shall supply forms for use in contested cases. These forms shall conform to the format of the Administrative Office of the Courts' Judicial Department Forms Manual.

(c) The Office of Administrative Hearings shall permit the filing of contested case documents and other pleadings by facsimile (fax) or electronic mail by an attached file either in PDF format or a document that is compatible with or convertible to the most recent version of Microsoft Word. Electronic mail with attachment shall be sent by electronic transmission to: oah.clerks@oah.nc.gov. The faxed or electronic documents shall be deemed a "filing" within the meaning of 26 NCAC 03 .0102(a)(2) provided the original signed ~~document and document~~, one copy and the appropriate filing fee (if a fee is required by G.S. 150B-23.2) is received by OAH within seven business days following the faxed or electronic transmission. Other electronic transmissions, for example, electronic mail without attached file as specified in this Paragraph, shall not constitute a valid filing with the Office of Administrative Hearings.

(d) Every pleading and other documents filed with OAH shall be signed by the attorney who prepared the document, if it was prepared by an attorney, and shall contain his name, address, telephone number, and North Carolina State Bar number. An original and one copy of each document shall be filed.

(e) Except as otherwise provided by statutes or by rules adopted under G.S. 150B-38(h), the rules contained in this Chapter shall govern the conduct of contested case hearings under G.S. 150B-40 when an Administrative Law Judge has been assigned to preside in the contested case.

History Note: Authority G.S. 7A-750; 7A-751(a); 150B-23.2; 150B-40(c);

Eff. August 1, 1986;

Amended Eff. May 1, 2009; January 1, 2006; April 1, 2004; April 1, 2001; August 1, 2000; February 1, 1994; July 1, 1992; May 1, 1989; January 1, 1989;

Emergency Amendment Eff. October 1, 2009;

Temporary Amendment Eff. December 1, 2009.

26 NCAC 03 .0103 COMMENCEMENT OF CONTESTED CASE: NOTICE AND FILING FEE

(a) A contested case in the Office of Administrative Hearings is commenced by the filing of a petition as required by ~~G.S. 150B-23~~, G.S. 150B-23 and payment of the appropriate filing fee (if a fee is required by G.S. 150B-23.2).

(b) Within five days of filing a petition to commence a contested case, the Chief Administrative Law Judge shall assign an administrative law judge to the case. Within ten days of the filing of a petition commencing a contested case, the chief hearings clerk of the Office of Administrative Hearings shall serve a Notice of Contested Case Filing and Assignment upon all who are parties to the dispute. The notice shall contain the following:

- (1) Name of case and date of filing;

- (2) Name, address, and telephone number of the administrative law judge; and
- (3) A request that the party send within 30 days a copy of the document constituting the agency action that caused the filing of the petition.

~~(a)(c)~~ In contested cases commenced by a person aggrieved involving the following causes of action, the petitioner shall pay a filing fee of one hundred twenty-five dollars (\$125.00):

- (1) Contested cases challenging certificate ~~Certificate~~ of need cases filed pursuant to G.S. 131E-188;
- ~~(2) Clean Water and Clean Air environmental permitting cases, and all other environmental cases filed pursuant to G.S. 150B when the amount of the civil penalties is fifty thousand dollars (\$50,000) or greater;~~
- (2) Contested cases challenging permit actions under G.S. 143-215.1, G.S. 143-215.10C, G.S. 143-215.15, and G.S. 143-215.108;
- (3) Contested cases Department of Revenue cases filed pursuant to G.S. 150B-31.4 where the amount in controversy is fifty thousand dollars (\$50,000) or greater; or greater.
- ~~(4) Applications submitted pursuant to G.S. 150B-40(e).~~

~~(b)(d)~~ In contested cases commenced by a person aggrieved which do not involve the causes of action listed in Paragraph ~~(a)(c)~~ of this Rule, the petitioner shall pay a fee of twenty dollars (\$20.00).

~~(e)(e)~~ The filing fee shall be waived in a contested case in which the petition is filed in forma pauperis and supported by such proofs as are required in G.S. 1-110. A petitioner seeking to have the filing fee waived under this Paragraph shall make the request by filing the appropriate OAH form with the chief hearings clerk prior to filing the petition for a contested case.

~~(d)(f)~~ The filing fee shall be waived in a contested case involving a mandated federal cause of action.

~~(e)(g)~~ The method of payment shall be:

- (1) cash;
- (2) money order;
- (3) certified check; or
- (4) check drawn on an attorney's trust or operating account.

History Note Authority G.S. 150B-23; 150B-23.2; 150B-33; Eff. August 1, 1986;
Amended Eff. October 1, 1991; November 1, 1987; September 1, 1986;
Emergency Amendment Eff. October 1, 2009;
Temporary Amendment Eff. December 1, 2009.

26 NCAC 03 .0106 DUTIES OF THE ADMINISTRATIVE LAW JUDGE

In conjunction with the powers of administrative law judges prescribed by G.S. 150B-33 and G.S. 150B-36, the administrative law judge shall perform the following duties, consistent with law:

- (1) Hear and rule on motions;
- (2) Grant or deny continuances;
- (3) Issue orders regarding prehearing matters, including directing the appearance of the parties at a prehearing conference;
- (4) Examine witnesses when deemed necessary to make a complete record and to aid in the full development of material facts in the case;
- (5) Make preliminary, interlocutory, or other orders as deemed appropriate;
- (6) Grant dismissal when the case or any part thereof has become moot or for other reasons; ~~and~~
- (7) Order the State of North Carolina, when it is the losing party as determined by the presiding Administrative Law Judge, to reimburse the filing fee to the petitioner; and
- ~~(7)(8)~~ Apply sanctions in accordance with Rule .0114 of this Section.

History Note Authority G.S. 7A-751(a); 8C-1, Rule 614; 150B-23.2; 150B-33; 150B-36;
Eff. August 1, 1986;
Amended Eff. April 1, 2001; February 1, 1994; November 1, 1987;
Emergency Amendment Eff. October 1, 2009;
Temporary Amendment Eff. December 1, 2009.

This Section contains information for the meeting of the Rules Review Commission on Thursday, November 19, 2009 9:00 a.m. at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-431-3100. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS**Appointed by Senate**

Jim R. Funderburk - 1st Vice Chair
David Twiddy - 2nd Vice Chair
Ralph A. Walker
Jerry R. Crisp
Jeffrey P. Gray

Appointed by House

Jennie J. Hayman - Chairman
John B. Lewis
Clarence E. Horton, Jr.
Daniel F. McLawhorn
Curtis Venable

COMMISSION COUNSEL

Joe Deluca (919)431-3081
Bobby Bryan (919)431-3079

RULES REVIEW COMMISSION MEETING DATES

December 17, 2009 January 21, 2010
February 18, 2010 March 18, 2009

RULES REVIEW COMMISSION**November 19, 2009****MINUTES**

The Rules Review Commission met on Thursday, November 19, 2009, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Jerry Crisp, Jim Funderburk, Jeff Gray, Jennie Hayman, Clarence Horton, Dan McLawhorn, Curtis Venable and Ralph Walker.

Staff members present were: Joseph DeLuca and Bobby Bryan, Commission Counsel; Tammara Chalmers and Molly Masich.

The following people were among those attending the meeting:

| | |
|--------------------|---|
| Lisa Johnson | Social Services Commission |
| Carolyn Edmonds | DHHS/Division of Services for the Deaf and Hard of Hearing |
| Michael Huffman | DENR/Division of Forest Resources |
| Nick Fountain | Young Moore |
| Patrick Knowlson | DENR/Division of Air Quality |
| John Hoomani | Department of Labor |
| Chris Yenrick | Smith Phillips Bldg Supply/SBMA |
| Wayne Carver | Stephens Supply/SBMA |
| Jennifer Chrisohon | Department of Labor |
| Everette Greene | Mebane Lumber |
| Kevin Pittman | DENR/Division of Forest Resources |
| Jan Withers | DHHS/Division of Services for the Deaf and Hard of Hearing |
| Jennifer Johnson | DHHS/Division of Services for the Deaf and Hard of Hearing |
| Christina Apperson | NC Medical Board |
| Bobbie Brooks | Board of Examiners for Electrical Contractors |
| Stephen Lair | Home Instead Senior Care |
| Anna Choi | Board of Nursing |
| Barry Gupton | DOI/Building Code Council |
| Jean Stanley | Board of Nursing |
| Barbara Williams | Board of Occupational Therapy and Board of Massage and Bodywork Therapy |

Linda Brinkley

DHHS/Public Health/Vital Records

APPROVAL OF MINUTES

The meeting was called to order at 9:07 a.m. with Ms. Hayman presiding. She reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts as required by NCGS 138A-15(e). Chairman Hayman asked for any discussion, comments, or corrections concerning the minutes of the October 15, 2009 meeting. There were none and the minutes were approved as distributed.

FOLLOW-UP MATTERS

10A NCAC 17D .0205, .0206 – Division of Services for the Deaf and Hard of Hearing. The Commission approved the rewritten rules submitted by the agency.

10A NCAC 27G .0810, .0811, .0812 – Division of Mental Health. The Commission approved the rewritten rules submitted by the agency.

10A NCAC 70E .0708 – Social Services Commission. The Commission approved the rewritten rule submitted by the agency.

15A NCAC 02Q .0521 – Environmental Management Commission. The Commission approved the rewritten rule submitted by the agency.

15A NCAC 09C .1249, .1253, .1257, .1260 – Department of Environment and Natural Resources. The Commission approved the rewritten rules submitted for Rules .1249, .1253 and .1257. Rule .1260 was returned to the agency at the agency's request.

15A NCAC 13B .0835, .0836, .0841, .0842 – Commission for Public Health. No rewritten rules have been submitted and no action was taken.

21 NCAC 50 .0505 – Board of Examiners for Plumbing, Heating and Fire Sprinkler Contractors. The Commission approved the rewritten rule submitted by the agency.

LOG OF FILINGS

Chairman Hayman presided over the review of the log of permanent rules.

All permanent rules were approved unanimously with the following exceptions:

12 NCAC 07D .0109: Private Protective Services Board – This rule was withdrawn by the agency.

12 NCAC 09B .0203: Criminal Justice Education and Training Standards Commission - The Commission objected to the rule based on lack of statutory authority and ambiguity. There is no authority cited for the restriction in Paragraph (b) for a school to admit anyone younger than 20 years of age as a trainee in any non-academic basic criminal justice training course. While G.S. 17C-6(a)(4) gives the Commission the power to establish standards for certifying criminal justice training schools and courses of instruction, and G.S. 17C-10(c) requires the Commission to set qualifications for training of criminal justice officers including minimum age, G.S. 93B-9 prohibits any occupational licensing board from requiring that an individual be more than 18 years of age as a requirement before an individual can engage in a particular profession or occupation. "Occupational licensing board" means any "...Commission...which is established for the primary purpose of regulating the entry of persons into, and/or the conduct of persons within, a particular profession or occupation" which is authorized to issue licenses. While the term does not include State agencies, staffed by full-time State employees, which as part of their regular functions may issue licenses, this would not eliminate this Commission even though it is staffed by Department of Justice employees since this is the primary function and not just a part of the regular functions. 12 NCAC 09D .0203 requires an applicant for the Basic Criminal Justice Certificate to have completed the basic training course. Before a criminal justice officer can commence active services as an officer, he is required to at least have a probationary certification that is only valid for one year. (See 12 NCAC 09C .0303.) The training course must be completed by the end of that one year period. (See 12 NCAC 09B .0401.) The effect of these rules read together is that an individual 18 years of age is prohibited from being certified as a law enforcement officer in violation of G.S. 93B-9. In (e), it is not clear what is meant by "nationally standardized test." This objection applies to existing language in the rule.

Commissioners Crisp, Funderburk, Gray, Horton, Venable and Walker voted for the motion to approve 12 NCAC 09B .0203. Commissioner McLawhorn voted against the motion.

13 NCAC 07F .0901: Department of Labor – This rule was returned to the agency at the agency's request. Chris Yenrick, Smith Phillips Building Supply and Everette Greene, Mebane Lumber spoke in opposition to this rule. John Hoomani spoke for the Department of Labor.

21 NCAC 18B .0804: Board of Examiners for Electrical Contractors - The Commission objected to this rule based on ambiguity. Subparagraph (a)(5) is unclear because the term "burglar alarm system" is not defined in G.S. 74D as the rule says it is.

21 NCAC 18B .0805: Board of Examiners for Electrical Contractors - The Commission objected to this rule based on ambiguity. In (b), it is not clear what is meant by systems "in question." It is not clear if this means to respond to a request for a declaratory ruling pursuant to G.S. 150B-4, to take action against a person violating G.S. 87, Article 4, or for some other purpose. This objection applies to existing language in the rule.

21 NCAC 18B .1101 and .1102: Board of Examiners for Electrical Contractors - The Commission objected to these rules based on lack of statutory authority. While the Board has cited authority for it to approve courses of continuing education, there is no authority cited for it to approve instructors as Rule .1101 implies in Paragraphs (a)(3), (c) and (f). There is no authority cited for the Board to approve instructors as Rule .1102 references in Paragraph (c). These objections apply to existing language in the rules.

TEMPORARY RULES

Chairman Hayman presided over the review of the log of temporary rules.

All temporary rules were unanimously approved by the Commission.

Prior to the review of the rules from the Office of Administrative Hearings, Commissioner Gray recused himself and did not participate in any discussion or vote concerning these rules because he served as staff attorney for the review of these rules.

COMMISSION PROCEDURES AND OTHER BUSINESS

The Commission voted to keep the officers that are currently in the positions of Chairman, 1st Vice-chairman and 2nd Vice-chairman through August 30, 2010.

Commissioner McLawhorn proposed that the Commission create an Ad hoc Committee to look into the RRC officer elections bylaws.

The meeting adjourned at 10:35 a.m.

The next scheduled meeting of the Commission is Thursday, December 17 at 9:00 a.m.

Respectfully Submitted,

Dana Vojtko
Publications Coordinator

LIST OF APPROVED PERMANENT RULES November 19, 2009 Meeting

HHS - DEAF AND HARD OF HEARING, DIVISION OF SERVICES FOR THE

Application Information and Procedures

10A NCAC 17D .0205

Eligibility

10A NCAC 17D .0206

HHS - MENTAL HEALTH, DIVISION OF

State MH/DD/SA Appeals Panel Administrative Review Proced...

10A NCAC 27G .0810

State MH/DD/SA Appeals Panel Hearing Procedures

10A NCAC 27G .0811

State MH/DD/SA Appeals Panel Hearing Decisions

10A NCAC 27G .0812

SOCIAL SERVICES COMMISSION

Revocation and Denial 10A NCAC 70E .0708

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

Criminal Justice Instructor Training 12 NCAC 09B .0209
Specialized Subject Control Arrest Techniques 12 NCAC 09B .0232
Specialized Physical Fitness Instructor Training 12 NCAC 09B .0233
Required Annual In-Service Training Topics 12 NCAC 09E .0102
Minimum Training Specifications: Annual In-Service Training 12 NCAC 09E .0105
Instructors 12 NCAC 09H .0103

ALCOHOL LAW ENFORCEMENT

Duties of Promoters and Matchmakers 14A NCAC 12 .0404

ENVIRONMENTAL MANAGEMENT COMMISSION

Public Participation 15A NCAC 02Q .0521

ENVIRONMENT AND NATURAL RESOURCES, DEPARTMENT OF

Noise Regulations 15A NCAC 09C .1249
Expulsion 15A NCAC 09C .1253
Fees and Charges 15A NCAC 09C .1257

ELECTRICAL CONTRACTORS, BOARD OF EXAMINERS FOR

Requirements for All Examination Applicants 21 NCAC 18B .0201
Experience 21 NCAC 18B .0202
General Provisions 21 NCAC 18B .0801
Applicants Convicted of Crimes 21 NCAC 18B .0901

MASSAGE AND BODYWORK THERAPY, BOARD OF

License by Reciprocity 21 NCAC 30 .0304

MEDICAL BOARD

Definitions 21 NCAC 32M .0101
Process for Approval to Practice 21 NCAC 32M .0104
Education and Certification Requirements for Registration... 21 NCAC 32M .0105
Annual Renewal 21 NCAC 32M .0106
Continuing Education 21 NCAC 32M .0107
Inactive Status 21 NCAC 32M .0108
Quality Assurance Standards for a Collaborative Practice ... 21 NCAC 32M .0110
Practice During a Disaster 21 NCAC 32M .0116

NURSING, BOARD OF

Definitions 21 NCAC 36 .0801
Process for Approval to Practice 21 NCAC 36 .0804
Education and Certification Requirements for Registration... 21 NCAC 36 .0805

RULES REVIEW COMMISSION

| | | | |
|---|----|---------|-------|
| <u>Annual Renewal</u> | 21 | NCAC 36 | .0806 |
| <u>Continuing Education (CE)</u> | 21 | NCAC 36 | .0807 |
| <u>Inactive Status</u> | 21 | NCAC 36 | .0808 |
| <u>Quality Assurance Standards for a Collaborative Practice ...</u> | 21 | NCAC 36 | .0810 |
| <u>Practicing During a Disaster</u> | 21 | NCAC 36 | .0814 |

OCCUPATIONAL THERAPY, BOARD OF

| | | | |
|---|----|---------|-------|
| <u>Code of Ethics</u> | 21 | NCAC 38 | .0308 |
| <u>Delineation of Clinical Responsibilities</u> | 21 | NCAC 38 | .0905 |

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

| | | | |
|---|----|---------|-------|
| <u>General Supervision and Standard of Competence</u> | 21 | NCAC 50 | .0505 |
|---|----|---------|-------|

BUILDING CODE COUNCIL

| | |
|--|---------|
| <u>NC Building Code - Stairway to Roof</u> | 1009.11 |
| <u>NC Fire Code - Group R</u> | 903.2.7 |
| <u>NC Fuel Gas Code - CSST Bonding</u> | 310.2 |

LIST OF APPROVED TEMPORARY RULES
November 19, 2009 Meeting**PUBLIC HEALTH, COMMISSION FOR**

| | | |
|---|--------------|-------|
| <u>Reportable Diseases and Conditions</u> | 10A NCAC 41A | .0101 |
|---|--------------|-------|

STATE REGISTRAR

| | | |
|--|--------------|-------|
| <u>Routine Requests for Certified Copies</u> | 10A NCAC 41H | .0701 |
| <u>Research Requests</u> | 10A NCAC 41H | .0702 |

ADMINISTRATIVE HEARINGS, OFFICE OF

| | | | |
|--|----|---------|-------|
| <u>General</u> | 26 | NCAC 03 | .0101 |
| <u>Commencement of Contested Case: Notice and Filing Fee</u> | 26 | NCAC 03 | .0103 |
| <u>Duties of the Administrative Law Judge</u> | 26 | NCAC 03 | .0106 |

AGENDA
RULES REVIEW COMMISSION
Thursday, December 17, 2009, 9:00 A.M.

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-Up Matters:
 - A. Criminal Justice Education and Training Standards Commission – 12 NCAC 09B .0203 (Bryan)
 - B. Commission for Public Health – 15A NCAC 13B .0835, .0836, .0841, .0842 (DeLuca)
 - C. Board of Examiners for Electrical Contractors – 21 NCAC 18B .0804, .0805, .1101, .1102 (Bryan)
- IV. Review of Log of Permanent Rule filings for rules filed between October 21, 2009 and

November 20, 2009 (attached)

V. Review of Temporary Rules

1. Commission for Public Health – 10A NCAC 41C .0901, .0902, .0903, .0904, .0905, .0906, .0907
2. NC Board of Pharmacy – 21 NCAC 46 .2507 (Bryan)
3. NC State Board of Community Colleges – 23 NCAC 02D .0329 (Bryan)

VI. Commission Business

- Next meeting: January 21, 2010

Commission Review
Log of Permanent Rule Filings
October 21, 2009 through November 20, 2009

MEDICAL CARE COMMISSION

The rules in Chapter 13 are from the Medical Care Commission.

The rules in Subchapter 13J deal with the licensing of home care agencies including general provisions (.0900); administration (.1000); scope of services (.1100), case review and plan of care (.1200); pharmaceuticals and medical treatment orders (.1300); service records (.1400); and companion, sitter and respite services (.1500).

| | | |
|---|--------------|-------|
| <u>Definitions</u> | 10A NCAC 13J | .0901 |
| Amend/** | | |
| <u>Personnel</u> | 10A NCAC 13J | .1003 |
| Amend/* | | |
| <u>In-Home Aide Services</u> | 10A NCAC 13J | .1107 |
| Amend/* | | |
| <u>Definitions</u> | 10A NCAC 13J | .1501 |
| Adopt/* | | |
| <u>Scope of Services</u> | 10A NCAC 13J | .1502 |
| Adopt/* | | |
| <u>Agency Management and Supervision</u> | 10A NCAC 13J | .1503 |
| Adopt/* | | |
| <u>Supervision and Competency of Companion, Sitter, and Resp...</u> | 10A NCAC 13J | .1504 |
| Adopt/* | | |

The rules in Subchapter 13K concern hospice licensing rules including general information (.0100); license (.0200); administration (.0300); personnel (.0400); scope of services (.0500); patient/family care (.0600); patient/family care plan (.0700); pharmaceutical and medical treatment orders and administration (.0800); medical records (.0900); evaluation (.1000); hospice residential care (.1100); and hospice inpatient care (.1200).

| | | |
|--|--------------|-------|
| <u>Additional Staffing Requirement for Hospice Inpatient Units</u> | 10A NCAC 13K | .1202 |
| Amend/* | | |

PUBLIC HEALTH, COMMISSION FOR

The rules in Chapter 39 concern adult health.

The rules in Subchapter 39C concern the prohibition of smoking in restaurants and bars.

| | | |
|--------------------------------|--------------|-------|
| <u>General Provisions</u> | 10A NCAC 39C | .0101 |
| Adopt/* | | |
| <u>Exemption of Cigar Bars</u> | 10A NCAC 39C | .0102 |
| Adopt/* | | |

Posting Signs 10A NCAC 39C .0103
 Adopt/*

SHERIFFS EDUCATION AND TRAINING STANDARDS COMMISSION

Rules in Subchapter 10B are from the N. C. Sheriffs' Education and Training Standards Commission. These rules govern the commission organization and procedure (.0100); enforcement rules (.0200); minimum standards for employment as a justice officer (deputy or jailer) (.0300); certification of justice officers (.0400); standards and accreditation for justice officers schools, training programs, and the instructors (.0500-.0900); certificate and awards programs for sheriffs, deputies, justice officers, jailers, reserve officers, and telecommunicators (.1000-.1700); in-service training (.2000); and firearms in-service training and re-qualification (.2100).

Background Investigation 12 NCAC 10B .0305
 Amend/*

Basic Law Enforcement Training Course for Deputies 12 NCAC 10B .0502
 Amend/*

Minimum Training Requirements 12 NCAC 10B .2005
 Amend/*

In-Service Training Program Specifications 12 NCAC 10B .2006
 Amend/*

Sheriff/Agency Head Responsibilities 12 NCAC 10B .2007
 Amend/*

ENVIRONMENTAL MANAGEMENT COMMISSION

The rules in Chapter 2 concern environmental management and are promulgated by the Environmental Management Commission or the Department of Environment and Natural Resources.

The rules in Subchapter 2D are air pollution control requirements including definitions and references (.0100); air pollution sources (.0200); air pollution emergencies (.0300); ambient air quality standards (.0400); emission control standards (.0500); air pollutants monitoring and reporting (.0600); complex sources (.0800); volatile organic compounds (.0900); motor vehicle emission control standards (.1000); control of toxic air pollutants (.1100); control of emissions from incinerators (.1200); oxygenated gasoline standard (.1300); nitrogen oxide standards (.1400); transportation conformity (.1500); general conformity for federal actions (.1600); emissions at existing municipal solid waste landfills (.1700); control of odors (.1800); open burning (.1900); transportation conformity (.2000); risk management program (.2100); special orders (.2200); emission reduction credits (.2300); clean air interstate rules (.2400); mercury rules for electric generators (.2500); and source testing (.2600).

Lead 15A NCAC 02D .0408
 Amend/*

Particulates from Fugitive Dust Emission Sources 15A NCAC 02D .0540
 Amend/*

Toxic Air Pollutant Guidelines 15A NCAC 02D .1104
 Amend/*

Applicability 15A NCAC 02D .1402
 Amend/*

The rules in Subchapter 2Q are from the EMC and relate to applying for and obtaining air quality permits and include general information (.0100); fees (.0200); application requirements (.0300); acid rain program requirements (.0400); establishment of an air quality permitting program (.0500); transportation facility requirements (.0600); toxic air pollutant procedures (.0700); exempt categories (.0800); and permit exemptions (.0900).

Emission Rates Requiring a Permit 15A NCAC 02Q .0711
 Amend/*

COASTAL RESOURCES COMMISSION

The rules in Chapter 7 are coastal management rules.

The rules in Subchapter 7H are from the CRC and are the state guidelines for areas of environmental concern including introduction and general comments (.0100); the estuarine system (.0200); ocean hazard areas (.0300); public water supplies (.0400); natural and cultural resource areas (.0500); development standards (.0600); general permits for construction or maintenance of bulkheads and the placement of riprap for shoreline protection in estuarine and public trust waters (.1100); piers, docks and boat houses in estuarine and public trust waters (.1200); boat ramps along estuarine shorelines and into estuarine and public trust waters (.1300); wooden groins in estuarine and public trust waters (.1400); excavation within or connecting to existing canals, channels, basins, or ditches in estuarine waters, public trust waters, and estuarine shoreline AECs (.1500); aerial and subaqueous utility lines with attendant structures in coastal wetlands, estuarine waters, public trust waters and estuarine shorelines (.1600); emergency work requiring a CAMA or a dredge and fill permit (.1700); beach bulldozing landward of the mean high-water mark in the ocean hazard AEC (.1800); temporary structures within the estuarine and ocean hazard AECs (.1900); general permit for authorizing minor modifications and repair to existing pier/mooring facilities in estuarine and public trust waters and ocean hazard areas (.2000); marsh enhancement breakwaters for shoreline protection in estuarine and public trust waters (.2100); general permits for construction of freestanding moorings in established waters and public trust areas (.2200); general permits for replacement of existing bridges and culverts in estuarine waters, estuarine shorelines, public trust areas and coastal wetlands (.2300); general permit for placement of riprap for wetland protection in estuarine and public trust waters (.2400); emergency general permit, to be initiated at the discretion of the secretary of the Department of Environment and Natural Resources for replacement of structures, the reconstruction of primary or frontal dune systems, and the maintenance excavation of existing canals, basins, channels, or ditches, damaged, destroyed, or filled in by hurricanes or tropical storms, provided all replacement, reconstruction and maintenance excavation activities conform to all current standards (.2500); general permit for construction of wetland, stream and buffer mitigation sites by the North Carolina Ecosystem Enhancement Program or the North Carolina Wetlands Restoration Program (.2600); and general permit for the construction of riprap sills for wetland enhancement in estuarine and public trust waters (.2700).

AECS Within Ocean Hazard Areas
Amend/*

15A NCAC 07H .0304

DENTAL EXAMINERS, BOARD OF

The rules in Chapter 16 cover the licensing of dentists and dental hygienists.

The rules in Subchapter 16B concern licensure examination for dentists including examination required (.0100); qualifications (.0200); application (.0300); Board conducted examinations (.0400); licensure by credentials (.0500); limited volunteer dental license (.0600); instructor's license (.0700); and temporary volunteer dental license (.0800).

Dental Licensure by Credentials
Amend/*

21 NCAC 16B .0501

The rules in Subchapter 16C are dental hygienist licensure rules including general provision (.0100); qualifications (.0200); application (.0300); Board conducted examinations (.0400); and licensure by credentials (.0500).

Dental Hygiene Licensure by Credentials
Amend/*

21 NCAC 16C .0501

HEARING AID DEALERS AND FITTERS BOARD

The rules in Chapter 22 are from the hearing aid dealers and fitters board.

The rules in Subchapter 22L concern administrative hearings and contested cases.

Committee on Investigations
Amend/**

21 NCAC 22L .0101

LICENSED PROFESSIONAL COUNSELORS, BOARD OF

The rules in Chapter 53 are from the Board of Licensed Professional Counselors and include general information (.0100); definitions and clarification of terms (.0200); how to obtain licensure (.0300); disciplinary procedures (.0400); fees (.0500); renewal of license (.0600); rules specific to licensed professional counselor associates (.0700); and licensed professional counselor supervisors (.0800).

Professional Ethics

21 NCAC 53 .0102

| | | | |
|---|----|---------|-------|
| Amend/* | | | |
| <u>Professional Disclosure Statement</u> | 21 | NCAC 53 | .0204 |
| Amend/* | | | |
| <u>Counseling Experience</u> | 21 | NCAC 53 | .0205 |
| Amend/* | | | |
| <u>Graduate Counseling Experience</u> | 21 | NCAC 53 | .0206 |
| Amend/* | | | |
| <u>Supervised Professional Practice</u> | 21 | NCAC 53 | .0208 |
| Amend/* | | | |
| <u>Qualified Clinical Supervisor</u> | 21 | NCAC 53 | .0209 |
| Amend/* | | | |
| <u>Individual Clinical Supervision</u> | 21 | NCAC 53 | .0210 |
| Amend/* | | | |
| <u>Group Clinical Supervision</u> | 21 | NCAC 53 | .0211 |
| Amend/* | | | |
| <u>Face to Face Supervision Defined</u> | 21 | NCAC 53 | .0212 |
| Amend/* | | | |
| <u>Mental Health Professional</u> | 21 | NCAC 53 | .0213 |
| Adopt/* | | | |
| <u>Applications</u> | 21 | NCAC 53 | .0301 |
| Amend/* | | | |
| <u>Transcripts</u> | 21 | NCAC 53 | .0302 |
| Amend/* | | | |
| <u>Examination</u> | 21 | NCAC 53 | .0305 |
| Amend/* | | | |
| <u>Reporting of Scores</u> | 21 | NCAC 53 | .0306 |
| Repeal/* | | | |
| <u>Receipt of Applications</u> | 21 | NCAC 53 | .0308 |
| Amend/* | | | |
| <u>Agreement to Abide by NCBLPC Ethical Standards</u> | 21 | NCAC 53 | .0309 |
| Amend/* | | | |
| <u>Rule of Procedure</u> | 21 | NCAC 53 | .0401 |
| Repeal/* | | | |
| <u>Alleged Violations</u> | 21 | NCAC 53 | .0403 |
| Amend/* | | | |
| <u>Formal Complaints</u> | 21 | NCAC 53 | .0404 |
| Repeal/* | | | |
| <u>Disciplinary Actions</u> | 21 | NCAC 53 | .0405 |
| Repeal/* | | | |
| <u>Application Fee</u> | 21 | NCAC 53 | .0501 |
| Amend/* | | | |
| <u>Examination Fee</u> | 21 | NCAC 53 | .0502 |
| Repeal/* | | | |
| <u>Fund Suspension</u> | 21 | NCAC 53 | .0504 |
| Adopt/* | | | |
| <u>Continuing Education</u> | 21 | NCAC 53 | .0603 |
| Amend/** | | | |
| <u>Failure to Secure Sufficient Continuing Education/Renewal...</u> | 21 | NCAC 53 | .0604 |
| Amend/* | | | |
| <u>Licensed Professional Counselor Associate</u> | 21 | NCAC 53 | .0701 |
| Adopt/* | | | |
| <u>Supervised Practice for Licensed Professional Counselor A...</u> | 21 | NCAC 53 | .0702 |

Adopt/*

| | | | |
|---|----|---------|-------|
| <u>Licensed Professional Counselor Supervisor</u> | 21 | NCAC 53 | .0801 |
| Adopt/* | | | |

SUBSTANCE ABUSE PROFESSIONAL PRACTICE BOARD

The rules in Chapter 68 include general provisions (.0100); certification (.0200); clinical addictions specialist (.0300); education (.0400); ethical principles of conduct (.0500); grounds for discipline and disciplinary procedures (.0600); and appeals process (.0700).

| | | | |
|---|----|---------|-------|
| <u>Registration Process for Board Credential</u> | 21 | NCAC 68 | .0202 |
| Amend/* | | | |
| <u>Supervised Practicum for Certified Substance Abuse Counse...</u> | 21 | NCAC 68 | .0204 |
| Amend/* | | | |
| <u>Certified Substance Abuse Counselor Certification</u> | 21 | NCAC 68 | .0205 |
| Amend/* | | | |
| <u>Certification or Licensure Period</u> | 21 | NCAC 68 | .0207 |
| Amend/* | | | |
| <u>Continuing Education Required for Counselor, Criminal Justi...</u> | 21 | NCAC 68 | .0208 |
| Amend/* | | | |
| <u>Conversion</u> | 21 | NCAC 68 | .0210 |
| Repeal/* | | | |
| <u>Process for Clinical Supervisor Certification</u> | 21 | NCAC 68 | .0211 |
| Amend/* | | | |
| <u>Process for Residential Facility Director Certification</u> | 21 | NCAC 68 | .0212 |
| Amend/* | | | |
| <u>Continuing Education Approval Policy</u> | 21 | NCAC 68 | .0213 |
| Amend/* | | | |
| <u>University Substance Abuse Specialty Curricula</u> | 21 | NCAC 68 | .0214 |
| Amend/* | | | |
| <u>Verification</u> | 21 | NCAC 68 | .0215 |
| Amend/* | | | |
| <u>Background Investigation</u> | 21 | NCAC 68 | .0216 |
| Amend/* | | | |
| <u>Supervised Practicum for Criminal Justice Addictions Prof...</u> | 21 | NCAC 68 | .0217 |
| Adopt/* | | | |
| <u>Notice to Applicant of Failure to Satisfy Board</u> | 21 | NCAC 68 | .0220 |
| Amend/* | | | |
| <u>Applicant Hearing</u> | 21 | NCAC 68 | .0221 |
| Amend/* | | | |
| <u>Ethics Inquiry</u> | 21 | NCAC 68 | .0222 |
| Amend/* | | | |
| <u>Standards Committee Action</u> | 21 | NCAC 68 | .0223 |
| Amend/* | | | |
| <u>Credentialing Status Denied if Serving Sentence</u> | 21 | NCAC 68 | .0224 |
| Amend/* | | | |
| <u>Purpose and Scope</u> | 21 | NCAC 68 | .0501 |
| Amend/* | | | |
| <u>Competence</u> | 21 | NCAC 68 | .0503 |
| Amend/* | | | |
| <u>Legal Standards and Ethical Standards</u> | 21 | NCAC 68 | .0504 |
| Amend/* | | | |
| <u>Education and Training Standards</u> | 21 | NCAC 68 | .0505 |

| | | | |
|---|----|---------|-------|
| <u>Client Welfare</u> | 21 | NCAC 68 | .0507 |
| Amend/* | | | |
| <u>Confidentiality</u> | 21 | NCAC 68 | .0508 |
| Amend/* | | | |
| <u>Client Relationships</u> | 21 | NCAC 68 | .0509 |
| Amend/* | | | |
| <u>Remuneration</u> | 21 | NCAC 68 | .0511 |
| Amend/* | | | |
| <u>Responsibility of Supervisor to Supervisee</u> | 21 | NCAC 68 | .0512 |
| Amend/* | | | |

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) 431-3000. Also, the Contested Case Decisions are available on the Internet at <http://www.ncoah.com/hearings>.

OFFICE OF ADMINISTRATIVE HEARINGS

Chief Administrative Law Judge
JULIAN MANN, III

Senior Administrative Law Judge
FRED G. MORRISON JR.

ADMINISTRATIVE LAW JUDGES

| | |
|------------------------|-----------------|
| Beecher R. Gray | Randall May |
| Selina Brooks | A. B. Elkins II |
| Melissa Owens Lassiter | Joe Webster |
| Don Overby | |

| <u>AGENCY</u> | <u>CASE NUMBER</u> | <u>ALJ</u> | <u>DATE OF DECISION</u> | <u>PUBLISHED DECISION REGISTER CITATION</u> |
|--|------------------------|------------|-----------------------------|---|
| <u>ALCOHOL BEVERAGE CONTROL COMMISSION</u> | | | | |
| NC Alcoholic Beverage Control Commission v. Ciro Maya Maya, T/A Carolina Sports Arena | 08 ABC 2411 | Overby | 06/29/09 | |
| N.C. Alcoholic Beverage Control Commission v. Du Cong Phan T/A Good Food Market | 09 ABC 0565 | May | 05/18/09 | |
| North Carolina Alcoholic Beverage Control Commission v. Mayra Leticia Rodriguez, T/A La Perla Del Pacifico | 09 ABC 0975 | Gray | 07/28/09 | |
| N.C. Alcoholic Beverage Control Commission v. Roberta White Bridges T/A Christina Restaurant and Catering | 09 ABC 1899 | May | 07/28/09 | |
| NC Alcoholic Beverage Control Commission v. La Tienda Mexicana Corp. T/A Tienda La Unica | 09 ABC 4379 | Brooks | 09/17/09 | |
| NC Alcoholic Beverage Control Commission v. Uwem Eyo Equan, T/A Sahara Restaurant and Lounge | 09 ABC 4682 | May | 11/13/09 | |
| NC Alcoholic Beverage Control Commission v. KAM Properties Inc. T/A Grays Creek Superette | 09 ABC 4686 | Gray | 10/19/09 | |
| <u>CRIME VICTIMS COMPENSATION</u> | | | | |
| Mary D. Malone v. State of North Carolina, Department of Crime Control., Victims Compensations Services | 08 CPS 2463 | Gray | 07/09/09 | |
| Ricky F. Smith v. Crime Control and Public Safety | 08 CPS 2582 | May | 08/06/09 | |
| Robert Melvin v. Janice Carmichael, NC Crime Victim Compensation | 08 CPS 2634 | Elkins | 06/01/09 | |
| B-Red Enterprises, Inc., Linda Parrish v. Secretary of Crime Control and Public Safety | 08 CPS 3043 | Webster | 06/23/09 | |
| Spencer's Incorporated of Mount Airy, NC d/b/a Ararat Rock Products Company and Jim Crossingham, III v. North Carolina Highway Patrol | 08 CPS 3399 | May | 08/25/09 | 24:11 NCR 908 |
| Apex PTO & Trailer, Inc. Morris F. Purdy v. NC Dept. of Crime Control & Public Safety, Division of State Highway Patrol, Carrier Enforcement Section | 09 CPS 0010 | Lassiter | 08/17/09 | |
| Peggy Gulley, Gulley's Backhoe Service v. Crime Control and Public Safety | 09 CPS 0085 | Overby | 06/04/09 | |
| Peter Thomas, Southeast Forest Works, LLC v. NC State Highway Patrol | 09 CPS 1257 | Gray | 05/19/09 | |
| Allen Bender, AB's Gravel Driveways, LLC v. North Carolina State Highway Patrol, Motor Carrier Enforcement Section | 09 CPS 1259 | Gray | 06/29/09 | |
| Bruce E. Tyndall v. NC Dept. of Crime Control & Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section | 09 CPS 1494 | Webster | 07/29/09 | |
| Cape Romain Contractors, Inc., Andrew Dupre v. North Carolina Department of Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section | 09 CPS 1599 | Gray | 07/02/09 | |
| John Emiliani, Jr., v. N.C. Division of Motor Vehicles | 09 CPS 1604 | Brooks | 06/15/09 | |
| Alexander Rybak v. NC DMV, State Highway Patrol | 09 CPS 1834 | Brooks | 08/11/09 | |
| Shelby T. Wallace v. Motor Carrier Enforcement, NC State Highway Patrol | 09 CPS 1840 | Brooks | 08/11/09 | |
| Rowland L. Simmons v. North Carolina State Highway Patrol | 09 CPS 2087 | Brooks | 05/19/09 | |
| Covenant Trucking Company, Inc. v. NC Dept. of Crime Control & Public Safety | 09 CPS 2361 | Cella | 08/11/09 | |
| SEKO-Charlotte, Inc. v. NC State Highway Patrol | 09 CPS 2380 | May | 07/28/09 | |

CONTESTED CASE DECISIONS

| | | | |
|--|-------------|----------|----------|
| James Christian Laubach and the Auto Barn, Inc. v. NC State Highway Patrol | 09 CPS 2385 | Mann | 07/28/09 |
| George Allen Cook (Case #08-35780), v. N.C. Department of Crime Control and Public Safety, Victim Compensation Services Division | 09 CPS 2391 | May | 07/29/09 |
| Cynthia K. Shreve v. Victims Compensation Program | 09 CPS 2404 | May | 06/23/09 |
| Allen Robinson v. NCSHP | 09 CPS 2449 | Overby | 06/17/09 |
| Walter D. Cochran v. NC Dept. of Crime Control and Public Safety | 09 CPS 2458 | Cella | 08/14/09 |
| Gregory Vett Arnold v. NC State Highway Patrol | 09 CPS 2509 | Gray | 08/25/09 |
| Jeffrey Andrew Kennedy v. NC State Highway Patrol, Citation and Notice of Assessment | 09 CPS 2511 | May | 07/09/09 |
| George M. Gause v. NC Dept. of Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section | 09 CPS 2551 | Webster | 09/30/09 |
| Rowland L. Simmons v. North Carolina State Highway Patrol | 09 CPS 2885 | May | 06/11/09 |
| Derik Core V. NCHP | 09 CPS 3500 | Overby | 07/29/09 |
| Randy Stewart v. State Highway Patrol | 09 CPS 3646 | Brooks | 10/09/09 |
| D&D Auto Transport, Jimmy Donald v. NC State Highway Patrol | 09 CPS 3690 | Cella | 10/30/09 |
| Jennifer Elizabeth Bollinger v. NC Dept. of Crime Control & Public Safety, Division of Victims Compensation Commission | 09 CPS 3765 | Gray | 10/07/09 |
| CL Hill Hauling, LLC, Christopher Hill v. NC Dept. of Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section | 09 CPS 3784 | Gray | 09/08/09 |
| KJ Logistics, LLC v. NC State Highway Patrol | 09 CPS 3876 | Gray | 09/08/09 |
| Jorge Rodriguez v. Secretary of Crime Control & Public Safety | 09 CPS 3921 | Gray | 09/10/09 |
| TMC Transportation Inc. v. NC State Highway Patrol, Motor Carrier Enforcement Section | 09 CPS 3996 | Lassiter | 09/17/09 |
| Douglas Harris v. NC Dept. of Crime Control and Public Safety | 09 CPS 4023 | Brooks | 11/23/09 |
| Antonio LeGrande v. Victim Compensation Service Division | 09 CPS 4065 | Lassiter | 10/07/09 |
| Andrew S. McJunkin v. NC Victim and Justice Services | 09 CPS 4206 | Brooks | 10/07/09 |
| Shirley Wilson v. State Highway Patrol | 09 CPS 4332 | Gray | 10/07/09 |
| Darryl Tyrone Davis, D&G Excavating Services | 09 CPS 4363 | Gray | 10/07/09 |
| Ronald William Duke v. NC State Highway Patrol | 09 CPS 4366 | Lassiter | 10/13/09 |
| Triad Solutions, Inc., Gene Petty v. NC State Highway Patrol Motor Carrier Enforcement Division | 09 CPS 4455 | Brooks | 10/20/09 |
| Chrystal N. Clark v. NC Victims Compensation Commission v. Respondent | 09 CPS 4451 | Lassiter | 10/15/09 |
| Lowell Thomas Blue v. NC State Highway Patrol | 09 CPS 4509 | Gray | 10/07/09 |
| Lindsey Carol Bollinger v. NC Dept. of Crime Control & Public Safety, Division of Victims Compensation Services | 09 CPS 4514 | May | 09/27/09 |
| Palmetto Sealing Co., Inc. v. NC Secretary of Crime Control and Public Safety | 09 CPS 4632 | Gray | 11/30/09 |
| Eddy L. Check v. NC Dept. of Crime Control & Public Safety, State Highway Patrol | 09 CPS 4633 | May | 10/09/09 |
| Yurry Demyanchuk v. RR Sheets, NC State Highway Patrol | 09 CPS 4799 | Lassiter | 09/29/09 |
| Piedmont Cheerwine Bottling Co. v. NC Dept. of Crime Control and Public Safety | 09 CPS 4852 | Brooks | 11/09/09 |
| Phillip J. Evans v. Highway Motor Carrier | 09 CPS 4953 | Overby | 10/28/09 |

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES

| | | | | |
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| Patricia L. Tiller v. NC Dept. of Health & Human Ser., Health Care Personnel Registry Sec | 07 DHR 0302 | Lassiter | 07/14/09 | |
| Envisions of Life LLC v. Hearing Office – 05 Division of Medical Assistance | 08 DHR 0967 | Lassiter | 07/01/09 | |
| Cynthia Curtis v. Department of Health and Human Services, Division of Health Service Regulation | 08 DHR 1485 | Brooks | 05/07/09 | 24:07 NCR 408 |
| Lilieth P. Brown v. Office of Administrative Hearings | 08 DHR 1807 | Morrison | 08/13/09 | |
| Blue Ridge Healthcare Surgery Center-Morganton, LLC & Grace Hospital, Inc. v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Certificate of Need Section & Carolina Digestive Care, PLLC and HMB Properties, LLC | 08 DHR 2216 | Brooks | 06/19/09 | 24:11 NCR 913 |
| Bethlehem Center of Charlotte v. Child and Adult Care Food Program, Division of Public Health, NC Dept. of Health and Human Services | 08 DHR 2284 | Brooks | 05/26/09 | |
| Edward A. Patterson v. Division of Child Development | 08 DHR 2364 | Webster | 06/02/09 | |
| Choices Group Home Inc., Victor Vega v. N.C. Department of Health and Human Services | 08 DHR 2404 | Gray | 07/16/09 | |
| MJKM, LLC d/b/a Pueblo Supermarket v. NC Dept. of Health and Human Services, Division of Public Health, Women and Children's Health Section | 08 DHR 2443 | Gray | 09/03/09 | |
| Jasper Tyson v. Dept. of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry | 08 DHR 2444 | May | 05/21/09 | |
| Choices Group Home Inc, Victor Vega v. Office of Administrative Hearings, Department of Health and Human Services | 08 DHR 2512 | Gray | 07/16/09 | |
| Pepper Dawn Kirk-McLendon Peppermint Daycare v. N.C Department of Health and Human Services, Division of Child Development | 08 DHR 2571 | Mann | 07/07/09 | 24:07 NCR 416 |
| Edward Royal, Dept. of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry | 08 DHR 2698 | Overby | 05/27/09 | |
| Abundant Life Child Care Center, Tiffany D. Monroe v. Division of Child Development, June Locklear, Brenda Faircloth | 08 DHR 2954 | Elkins | 06/03/09 | |
| Outreach Home v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Mental Health Licensure and Certification Section | 08 DHR 2981 | Gray | 09/17/09 | |
| L&J Group Homes, Inc. v. NC DHHS/Div. of Health Service Regulation, Mental Health | 08 DHR 3108 | Lassiter | 10/06/09 | |
| Amy G. Poteat v. Health Care Personnel Registry | 08 DHR 3489 | May | 06/03/09 | |
| Freedom House Recovery Center, Inc. v. NC Division of Health Service Regulation | 08 DHR 3674 | Gray | 10/13/09 | |
| Kathy Dunning Bright v. Health Care Personnel Registry | 09 DHR 0057 | Overby | 08/04/09 | |
| Marie Jagne v. NC Dept. of Health and Human Services, Division of Health Service Regulation, | 09 DHR 0444 | Lassiter | 07/27/09 | |

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| Health Care Registry Section | | | | |
| Brenda V. Patterson v. Division of Child Development | 09 DHR 0667 | Webster | 06/02/09 | |
| Sonya C. Ragland, Joseph K. Ragland, Barbara Washington, and The Seed of Abraham Learning Center v. NC Dept. of Health and Human Services | 09 DHR 1261 | Gray | 06/08/09 | |
| Sonya C. Ragland, Joseph K. Ragland, Barbara Washington, and The Seed of Abraham Learning Center v. NC Dept. of Health and Human Services | 09 DHR 1262 | Gray | 06/08/09 | |
| Sonya C. Ragland, Joseph K. Ragland, Barbara Washington, and The Seed of Abraham Learning Center v. NC Dept. of Health and Human Services | 09 DHR 1263 | Gray | 06/08/09 | |
| Sonya C. Ragland, Joseph K. Ragland, Barbara Washington, and The Seed of Abraham Learning Center v. NC Dept. of Health and Human Services | 09 DHR 1264 | Gray | 06/08/09 | |
| Genesis Family Health Care Inc. c/o James Collins v. NC Dept. of Health and Human Services, Division of Medical Assistance | 09 DHR 1413 | Gray | 08/18/09 | |
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| Spring House Residential Facility v. N.C. Dept. of Health and Human Services DHSR MHLC | 09 DHR 1482 | May | 06/19/09 | |
| Victoria Martin v. Surry County Dept of Health and Human Services AFDC/Work First | 09 DHR 1533 | May | 06/04/09 | |
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| David E. Fornes v. NC Dept. of Health and Human Services | 09 DHR 1730 | Overby | 08/24/09 | |
| Regina T. Jones v. N.C. Department of Health and Human Services | 09 DHR 1859 | Webster | 06/23/09 | |
| Sharay C. Vinson v. North Carolina Department of Health and Human Services, Division of Health Service Regulation | 09 DHR 1884 | Brooks | 07/10/09 | |
| Rae'gan Smith v. NC Dept. of Health and Human Services | 09 DHR 1974 | Brooks | 09/14/09 | |
| Chreatha Alston v. NC Dept. of Health and Human Services | 09 DHR 1980 | Elkins | 08/06/09 | |
| Vickie Hovis Abernethy v. Third Party Recovery | 09 DHR 1984 | Brooks | 08/24/09 | |
| Jason M. Paris (petitioner, Christine O. Jacobs (representing petitioner) v. N.C. Department of Health and Human Services (DHHS) | 09 DHR 2296 | May | 07/10/09 | |
| Bernice Taylor v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry | 09 DHR 2297 | May | 08/07/09 | |
| Gerald A. Harper v. NC Dept. of Health and Human Services | 09 DHR 2349 | Gray | 10/07/09 | |
| Contour Service, Inc., (MHL #090-101) v. Department of Health Services, Division of Health Service Regulation | 09 DHR 2350 | May | 07/21/09 | |
| Community Alternative Resources, Inc. Wayne L. Burch and Michelle M. Dolphus v. Dept. of Health and Human Services | 09 DHR 2456 | May | 08/28/09 | |
| Charlene M. Hatfield v. NC Dept. of Health and Human Services, Division of Health Service Regulation | 09 DHR 2503 | Gray | 08/31/09 | |
| Helen Webb v. Department of Health and Human Dept. of Child Dept | 09 DHR 2589 | Webster | 07/17/09 | |
| Lanika Ortega v. North Carolina Department of Health and Human Services | 09 DHR 2637 | Lassiter | 07/27/09 | |
| Ndeye Ngone Diene v. DHHS-Health Care Registry | 09 DHR 2640 | Webster | 08/27/09 | |
| Brenda V. Patterson v. State Department of Social Services | 09 DHR 2654 | Webster | 07/17/09 | |
| Brenda V. Patterson v. State Department of Social Services | 09 DHR 2655 | Webster | 07/17/09 | |
| Rose Boyd v. NC Dept. of Health and Human Services | 09 DHR 2706 | Brooks | 08/17/09 | |
| John Okoroma v. Mecklenburg County Dept. of Social Services | 09 DHR 2710 | May | 07/24/09 | |
| Angela Conner Tawes, Conner's Cape Hatteras Supermarket, Inc v. North Carolina Department of Health and Human Services | 09 DHR 2717 | Gray | 06/15/09 | |
| Melonie L. Keith, John David Keith v. Central Billing DHHS Controllers Office | 09 DHR 2779 | Webster | 10/22/09 | |
| Sharon M. Hill v. NC Department of Health and Human Services | 09 DHR 2809 | Lassiter | 07/27/09 | |
| Cipriano Mendez Chiquito v. NC Dept. of Health and Human Services, Division of Public Health | 09 DHR 2824 | May | 08/12/09 | |
| Trinia E. McCorkle v. North Carolina Department of Health and Human Services | 09 DHR 2829 | Brooks | 07/10/09 | |
| Kashina L. Davis v. North Carolina Department of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry Section | 09 DHR 2832 | Gray | 07/01/09 | |
| Brenda V. Patterson v. N.C. State Department of Social Services | 09 DHR 2836 | Webster | 07/17/09 | |
| Brenda Patterson v. Division of Child Development | 09 DHR 2837 | Webster | 07/17/09 | |
| Edward A. Patterson v. Division of Child Development | 09 DHR 2838 | Webster | 07/17/09 | |
| Brenda V. Patterson v. Division of Child Development | 09 DHR 2839 | Webster | 07/17/09 | |
| Edward A. Patterson v. Division of Child Development | 09 DHR 2841 | Webster | 07/17/09 | |
| John and Candice Danner v. NC Dept. of Health and Human Services | 09 DHR 2936 | Brooks | 08/28/09 | |
| Rickie Annas v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry | 09 DHR 2962 | Brooks | 08/10/09 | |
| Berta Spencer v. NC Dept. of Health and Human Services | 09 DHR 3000 | Cella | 10/07/09 | |
| Brenda V. Patterson v. State Department of Social Services | 09 DHR 3002 | Webster | 07/17/09 | |
| Brenda V. Patterson v. State Department of Social Services | 09 DHR 3003 | Webster | 07/17/09 | |
| Brenda V. Patterson v. State Department of Social Services | 09 DHR 3004 | Webster | 07/17/09 | |
| Mary's House, Inc., MHL #041-288, Craig Thomas, Executive Director v. Ms. Emery Milliken, General Counsel, Department of Health and Human Services, Office of Legal Affairs | 09 DHR 3008 | Mann | 07/22/09 | |
| Keshea Montgomery v. Randolph County Dept. of Health and Human Services | 09 DHR 3012 | Mann | 08/27/09 | |
| Shawanda Ann Barnes V. Cherry Hospital | 09 DHR 3076 | Lassiter | 09/28/09 | |
| St. Francis of Charlotte, Inc. Francis Ford Provider #83022329B and 83022329H v. NC Dept. of Health and Human Services, Div. of Medical Assistance | 09 DHR 3101 | Brooks | 09/23/09 | |
| Edward A. Patterson v. Division of Child Development | 09 DHR 3113 | Webster | 07/17/09 | |
| Brenda V. Patterson v. Division of Child Development | 09 DHR 3114 | Webster | 07/17/09 | |
| Ernest Hines v. Cherry Hospital | 09 DHR 3266 | Gray | 09/17/09 | |
| Sandra Wright v. Division of Child Development | 09 DHR 3434 | Elkins | 08/24/09 | |
| Carolyn Diane Ragin v. Health Care Personnel Registry | 09 DHR 3502 | Gray | 08/31/09 | |

CONTESTED CASE DECISIONS

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| Edward A. Patterson v. Division of Child Development | 09 DHR 3503 | Webster | 07/17/09 |
| Tamekia Cain v. Athena Foreman, HCPR Investigator, NC Dept. of Health and Human Services | 09 DHR 3536 | Elkins | 10/01/09 |
| Amanda L. Brewer v. DHHS | 09 DHR 3541 | Elkins | 08/21/09 |
| Kenneth and Kimberly Thomason v. NC Dept. of Health and Human Services | 09 DHR 3592 | Gray | 10/08/09 |
| Tommy G. Davis v. NC Dept. of Revenue | 09 DHR 3647 | Gray | 09/02/09 |
| Heather C. Briggs v. NC Dept. of Health and Human Services, Division of Health Service Regulation | 09 DHR 3651 | May | 07/29/09 |
| Dr. Ann Markiewioz, Gaston Memorial Hospital v. The Carolinas Center for Medical Excellence | 09 DHR 3660 | Webster | 09/28/09 |
| Julian E. Cameron, Jr. DDS v. NC Dept. of Health and Human Services, Division of Medical Assistance | 09 DHR 3663 | Gray | 08/12/09 |
| Katonia L. Davis v. Office of Administrative Hearings, Ms. Emery Edwards Milliken | 09 DHR 3683 | Elkins | 10/08/09 |
| Angel's Childcare, Treva Richardson v. Division of Child Development, Dept. of Health and Human Services | 09 DHR 3688 | Elkins | 10/08/09 |
| Brenda Fay Simmons v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry | 09 DHR 3752 | Brooks | 08/12/09 |
| Lloyd K. Howell v. NC Dept. of Health and Human Services | 09 DHR 3756 | Lassiter | 09/14/09 |
| Pamela Ann Hedgecock v. NC Dept. of Health and Human Services, Division of Health Service Regulation | 09 DHR 3763 | Brooks | 10/30/09 |
| TLC Adult Home, Sonja Hazelwood v. NC Dept. of Health and Human Services, Division of Health Service Regulation | 09 DHR 3776 | Gray | 09/16/09 |
| Lesia Hammonds DBA Sampsons Family Care Home v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Adult Care Licensure Section | 09 DHR 3872 | Gray | 11/13/09 |
| Alvester Miller, III v. NC Dept. of Health and Human Services | 09 DHR 4003 | Overby | 10/26/09 |
| Omnicare of Hickory, Jackie Knight | 09 DHR 4069 | Brooks | 10/07/09 |
| Charles D. Harris v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry Section | 09 DHR 4107 | Brooks | 10/29/09 |
| St. Mary's Home Care Agency v. NC Dept. of Health and Human Services | 09 DHR 4170 | Gray | 10/23/09 |
| Higher Development, LLC Robert Waters v. Division of Medical Assistance | 09 DHR 4235 | Overby | 10/15/09 |
| Vickie Blair v. Office of Administrative Hearings | 09 DHR 4236 | May | 09/27/09 |
| Leilani Michelle Adames v. Linda Waugh, RN, BSN HCPR Investigator Health Care Personnel Registry Investigations | 09DHR 4275 | May | 09/22/09 |
| Erica M. Small v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry Section | 09 DHR 4299 | Brooks | 09/11/09 |
| Elite Care Service, Inc. Barsheem Chapman Executive Director v. NCDHHS Division of Health Service Regulation | 09 DHR 4331 | Gray | 10/19/09 |
| Rebecca Leigh Sadowski v. Dept. of Health and Human Services, Division of Health Service Registry | 09 DHR 4362 | May | 08/26/09 |
| Target Pharmacy v. NC Dept. of Health and Human Services | 09 DHR 4397 | May | 10/05/09 |
| Erie R. Washington v. Dept. of Health and Human Services | 09 DHR 4399 | May | 10/01/09 |
| Erica Moore v. Dept. of Health and Human Services, Division of Health Service Regulation | 09 DHR 4429 | Brooks | 10/09/09 |
| Lesia Hammonds DBA Sampsons Family Care Home v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Adult Care Licensure Section | 09 DHR 3872 | Gray | 11/13/09 |
| Vametoa L. Deal v. North Carolina Health Care Services | 09 DHR 4497 | Brooks | 10/16/09 |
| Valley Hospital Medical Center v. NC Dept. of Health and Human Services, Division of Medical Assistance | 09 DHR 4548 | Overby | 09/14/09 |
| Anthony Hosea Wiseman v. Dept. of Health and Human Services | 09 DHR 4567 | May | 09/02/09 |
| Ward Life Outreach of Cape Fear v. Division of Health Service Regulation Health Care Personnel Registry | 09 DHR 4711 | Gray | 11/18/09 |
| A Positive Life, Inc. v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Mental Health Licensure and Certification Section | 09 DHR 4956 | Lassiter | 10/22/09 |
| Charlene Gray v. Dept. of Health and Human Services | 09 DHR 5154 | Overby | 11/04/09 |
| Brenda Faye Simmons v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry | 09 DHR 5364 | May | 11/23/09 |
| Devon J. Artis v. NC Dept. of Health and Human Services, Health Care Personnel Registry Section | 09 DHR 5667 | May | 11/16/09 |

DEPARTMENT OF ADMINISTRATION

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|--|---------|-----|----------|----------|
| Meherrin Indian Tribe, a/k/a Meherrin Tribe of North Carolina and Meherrin Tribe of North Carolina, a/k/a Meherrin Indian Tribe v. NC State Commission of Indian Affairs | 08 2068 | DOA | Morrison | 06/15/09 |
| Meherrin Tribe of North Carolina by and through Douglas Patterson v. North Carolina Commission of Indian Affairs | 09 2367 | DOA | Morrison | 06/15/09 |
| Battlecat Productions, Inc., D/B/A Battlecat Marine v. East Carolina University and State of NC Dept. of Purchase and Contract | 09 4788 | DOA | Gray | 10/08/09 |
| NC Indian Cultural Center, Inc. v. NC State Commission of Indian Affairs | 09 4809 | DOA | Overby | 11/19/09 |

DEPARTMENT OF CORRECTION

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| Rufus Thomas Blackwell, III, v. (N.C. Department of Correction) Department of Payroll & Overpayment Manager | 09 DOC 1296 | Overby | | 07/08/09 |
| Robert Allen Sartori v. K Dufault, C. Bray WCI Mail Staff, Department of Correction | 09 DOC 3121 | Gray | | 07/01/09 |
| Charles W. Johnson v. Supt. David Mitchell and Mt. View Administrative Authority | 09 DOC 4883 | May | | 11/03/09 |

DEPARTMENT OF JUSTICE

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| Danny Earl Keel v. NC Criminal Justice Education and Training Standards Commission | 07 DOJ 1711 | Cella | 07/30/09 | 24:07 NCR 437 |
| Tamika Richardson v. North Carolina Sheriff's Education and Training Standards Commission | 08 DOJ 2403 | Elkins | 05/07/09 | |
| Bruce A. White v. NC Sheriff's Education and Training Standards Commission | 08 DOJ 2490 | Brooks | 08/14/09 | |
| Weston Samuels v. NC Dept. of Justice, Campus Police Program | 08 DOJ 3312 | Elkins | 08/24/09 | |
| Jackie Marie Daniels v. N.C. Criminal Justice Education and Training Standards Commission | 09 DOJ 0218 | Elkins | 07/24/09 | |
| Darlene Fure v. NC Criminal Justice Education and Training Standards Commission | 09 DOJ 0466 | Lassiter | 07/22/09 | |
| Tyrone Scott v. North Carolina Private Protective Services Board | 09 DOJ 0658 | Gray | 05/28/09 | |
| Ronald Wynn v. NC Criminal Justice Education and Training Standards Commission | 09 DOJ 0949 | Overby | 07/15/09 | |
| Donald Koons, Jr. v. NC Criminal Justice Education and Training Standards Commission | 09 DOJ 0956 | Gray | 07/27/09 | |
| Peggy Sue Shipp v. NC Criminal Justice Education and Training Standards Commission | 09 DOJ 1782 | Webster | 08/28/09 | |
| Jaime Patrick Clayborne v. Department of Justice Company Police Program | 09 DOJ 1949 | Webster | 05/27/09 | |
| Ross Patton Gilmore v. NC Alarm Systems Licensing Board | 09 DOJ 2452 | Morrison | 06/04/09 | |
| William Marquis Davis v. North Carolina Private Protective Services Board | 09 DOJ 2506 | Morrison | 06/04/09 | |
| Ross Patton Gilmore v. North Carolina Alarm Licensing Board | 09 DOJ 2452 | Morrison | 06/04/09 | |
| William Marquis Davis v. NC Private Protective Services Board | 09 DOJ 2506 | Morrison | 06/04/09 | |
| John D. Dykes v. NC Dept. of Justice Company Police Program | 09 DOJ 2639 | May | 06/18/09 | |
| Jimmie Ray Edmondson, Jr. v. NC Criminal Justice Education and Training Standards Commission | 09 DOJ 2823 | Lassiter | 08/04/09 | |
| Edward A. Patterson v. Attorney General Office | 09 DOJ 2840 | Webster | 07/17/09 | |
| Shonda Lavette Higgins v. NC Private Protective Services Board | 09 DOJ 3009 | Overby | 08/13/09 | |
| Bobby Brown v. NC Private Protective Services Board | 09 DOJ 3028 | Webster | 11/19/09 | |
| Timothy Mark Masters v. NC Alarm Systems Licensing Board | 09 DOJ 3037 | Morrison | 09/14/09 | |
| Nighee Von Superville v. NC Criminal Justice Education and Training Standards Commission | 09 DOJ 3073 | Gray | 08/10/09 | |
| Elizabeth Marie Lancaster v. NC Private Protective Services Board | 09 DOJ 3189 | Webster | 11/13/09 | |
| Kenneth Gray Forcum v. NC Alarm Systems Licensing Board | 09 DOJ 3300 | Webster | 11/12/09 | |
| Heath Dwayne Kinney v. NC Alarm Systems Licensing Board | 09 DOJ 3301 | Webster | 11/12/09 | |
| Anthony Lyle Gentry v. NC Sheriff's Education and Training Standards Commission | 09 DOJ 3865 | Gray | 08/05/09 | |
| Edward A. Patterson v. Attorney General Office | 09 DOJ 4025 | Webster | 08/28/09 | |
| Edward A. Patterson v. Attorney General Office | 09 DOJ 4108 | Webster | 08/28/09 | |
| Amanda Watson Whitaker v. NC Sheriff's Education and Training Standards Commission | 09 DOJ 4126 | Overby | 10/02/09 | |
| Walter Armand Bedard v. NC Sheriff's Education and Training Standards Commission | 09 DOJ 4127 | Lassiter | 11/05/09 | |
| Edward A. Patterson v. Attorney General's Office | 09 DOJ 4146 | Webster | 08/28/09 | |
| Luther Daniel Stidham v. NC Criminal Justice Education and Training Standards Commission | 09 DOJ 4219 | May | 10/01/09 | |
| Antonio Garcia v. NC Sheriff's Education and Training Standards Commission | 09 DOJ 4365 | Gray | 10/07/09 | |
| Clyde Devon Boger v. NC Sheriff's Education and Training Standards Commission Re: Richard Squires | 09 DOJ 4853 | Lassiter | 09/29/09 | |
| Melvin Downing, Triton Special Police Dept. v. Company Police Program | 09 DOJ 5316 | May | 11/10/09 | |

DEPARTMENT OF LABOR

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|---|-------------|-----|----------|
| Duane J. Thomas v. NC Dept. of Labor, NC Board of Funeral Service, Forest Lawn Mortuary | 09 DOL 4348 | May | 11/02/09 |
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DEPARTMENT OF TRANSPORTATION

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|---|-------------|--------|----------|
| Alvin J. Smith v. NC Div of Motor Vehicles, Driver Ass't Branch | 09 DOT 2616 | Brooks | 06/09/09 |
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DEPARTMENT OF STATE TREASURER

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|--|-------------|--------|----------|
| Donna F. Levi v. Department of State Treasurer | 09 DST 0161 | Gray | 07/17/09 |
| Hilda Harris Member ID: 1725605 v. Department of State Treasurer Retirement Systems Division | 09 DST 1290 | Overby | 05/27/09 |
| Linda Duane Stalvey v. NC Dept. of Treasury | 09 DST 4073 | May | 11/09/09 |

EDUCATION, STATE BOARD OF

| | | | | |
|---|-------------|----------|----------|---------------|
| John R. Hall v. State Board of Education Licensure | 08 EDC 1750 | Brooks | 07/09/09 | 24:11 NCR 969 |
| John David Erwin v. NC Dept. of Public Instruction | 08 EDC 1827 | Brooks | 05/27/09 | |
| Michelle Sara Rodriguez v. National Board Certification Appeals Panel/Division of Talent Management and Development | 08 EDC 3219 | Brooks | 08/21/09 | |
| Courtney M. Sears, Petitioner v. Department of Public Instruction Licensure Section | 08 EDC 3644 | Morrison | 06/08/09 | |
| Jennifer Satinsky v. North Carolina State Board of Education | 08 EDC 3650 | Morrison | 06/05/09 | |
| Kenneth H. Leftwich v. June Atkinson, Superintendent of Public Instruction | 08 EDC 3690 | May | 06/29/09 | |
| Lindsey Forde-Smith v. North Carolina State Board of Education | 09 EDC 1848 | Gray | 07/09/09 | |
| Provisions Community Development Corporation dba Provisions Academy v. State Board of Education | 09 EDC 2081 | Elkins | 07/27/09 | |
| Sandra Chesser v. State Board of Education | 09 EDC 4435 | May | 10/01/09 | |
| Ashley Chrisp v. NC Dept. of Public Instruction | 09 EDC 5160 | Brooks | 10/23/09 | |

DEPT. OF ENVIRONMENT AND NATURAL RESOURCES

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|---|-------------|----------|----------|---------------|
| Robert Taylor, Grier Fleischauer, Sue Bankes, and Carol Faley v. NC Dept. of Environment and Natural Resources, Division of Coastal Management and TP, Inc. | 07 EHR 1765 | Gray | 06/19/09 | 24:11 NCR 881 |
| The Town of Franklin Government of NC v. NC Dept. of Environment and Natural Resources, Division of Water Quality and Duke Energy Carolinas, LLC | 07 EHR 2201 | Brooks | 09/24/09 | |
| The Jackson County Government of NC v. NC Dept. of Environment and Natural Resources, Division of Water Quality and Duke Energy Carolinas, LLC | 08 EHR 0019 | Brooks | 09/24/09 | |
| Old Mill Forestry, LLC v. N.C. Department of Environment and Natural Resources, Division of Water Quality | 08 EHR 1806 | Lassiter | 05/08/09 | |

CONTESTED CASE DECISIONS

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|--|-------------|--------|----------|---------------|
| Cherokee County Health Department James Pann(managing member, Creek Ridge Holdings, LLC) v. N.C. Department of Environment and Natural Resources | 08 EHR 2986 | Gray | 05/27/09 | |
| Olde Beau General Partnership v. NC Dept. of Environment and Natural Resources, Division of Land Resources | 09 EHR 0122 | Gray | 08/18/09 | 24:11 NCR 983 |
| Saint Gobain Containers, Inc. v. NC Dept. of Environment and Natural Resources, Division of Air Quality | 09 EHR 1616 | Overby | 10/23/09 | |
| John C Campbell Folk School, John M Clarke, Bldgs & Ground Mgr v. NCDENR Public Water Supply Section | 09 EHR 1852 | Overby | 06/03/09 | |
| Doug Jernigan v. NC Dept. of Environment and Natural Resources, Division of Air Quality | 09 EHR 3118 | Elkins | 10/16/09 | |
| Appalachian Stove Fab, Inc., James Rice v. Western North Carolina Regional Air Quality Agency | 09 EHR 3785 | Gray | 08/06/09 | |
| Woodfield Gardens Apartments, Loretta Sims, v. NC Dept. of Environment and Natural Resources, Division of Envir Health | 09 EHR 4330 | May | 10/09/09 | |
| Kyle D. Page v. NC Dept. of Environment and Natural Resources | 09 EHR 4623 | Gray | 10/07/09 | |
| Sidney Bruton, III v. NC Dept. of Environment and Natural Resources, Division of Air Quality | 09 EHR 5351 | Gray | 11/05/09 | |

BOARD OF EXAMINERS FOR ENGINEERS AND SURVEYORS

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|---|-------------|----------|----------|--|
| NC Board of Examiners for Engineers and Surveyors v. Mr. Michael J. Dykes, PE | 08 ELS 2275 | Webster | 06/10/09 | |
| Linda R. Sharp v. NC Board of Examiners for Engineers and Surveyors | 09 ELS 3268 | Lassiter | 09/01/09 | |

DEPARTMENT OF INSURANCE

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|--|-------------|----------|----------|--|
| Gary L. Childers v. NC Teachers' and State Employees' Comprehensive Major Medical Plan | 08 INS 2251 | Brooks | 06/18/09 | |
| John Randolph Ingram v. NC Teachers' and State Employees' Comprehensive Major Medical Plan | 08 INS 2952 | Gray | 09/08/09 | |
| Elizabeth M. Bailey v. NC Teachers' and State Employees' Comprehensive Major Medical Plan | 09 INS 0661 | Lassiter | 08/03/09 | |
| Erin Tapley v. Blue Cross Blue Shield | 09 INS 2393 | Gray | 10/07/09 | |
| Lucy J. Lagnese v. NC State Health Plan | 09 INS 2812 | Brooks | 08/14/09 | |
| David M. Jordan v. NC Teachers' and State Employees' Comprehensive Major Medical Plan | 09 INS 3005 | Cella | 09/14/09 | |
| Barbara A Evans v. State Health Plan | 09 INS 3067 | Lassiter | 07/27/09 | |
| Sandra Hunter v. BCBS of North Carolina | 09 INS 3183 | Lassiter | 09/14/09 | |
| Patricia Sharp v. NC State Health Plan Blue Cross/Blue Shield | 09 INS 3192 | Gray | 08/31/09 | |

MISCELLANEOUS

| | | | | |
|---|-------------|--------|----------|--|
| Rodney Dale v. Judge Angela Hoyle | 09 MIS 2704 | May | 06/09/09 | |
| Benjamin Pace v. Wake County Superior-District Court and Information Center | 09 MIS 5188 | Elkins | 11/13/09 | |

OFFICE OF STATE PERSONNEL

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|---|-------------|----------|----------|---------------|
| C.W. McAdams v. NC Dept. of Transportation | 05 OSP 0626 | Morrison | 08/14/09 | |
| Alvita C. Byers v. Elizabeth Cox, The office of Human Resources and The North Carolina School of the Arts | 07 OSP 1514 | Brooks | 05/20/09 | 24:07 NCR 396 |
| Edward Alan Roper v. Broughton Hospital, Dept. of Health and Human Services | 07 OSP 2186 | Brooks | 05/18/09 | |
| Fatima Akhtar v. NC Dept of Commerce | 08 OSP 0171 | Gray | 08/05/09 | |
| Julie Norris Watson v. NC DPI | 08 OSP 0541 | Brooks | 05/22/09 | |
| Kathleen Hardiman v. NC Aquarium at Pine Knoll Shores, Jay Barnes, Director, James Lewis and Lonnie Burke | 08 OSP 0868 | Gray | 11/10/09 | |
| Simon Camara v. NC Central University | 08 OSP 1345 | Lassiter | 10/07/09 | |
| Janice F. Stokes v. NC Dept. of Correction, Division of Community Corrections | 08 OSP 2150 | Gray | 11/16/09 | |
| Isaac T. Perkins v. NC Dept. of Corrections | 08 OSP 2242 | Overby | 09/16/09 | 24:11 NCR 939 |
| Sharon Annette Mercer v. N.C. Division of Motor Vehicles | 08 OSP 2293 | Webster | 08/14/09 | 24:07 NCR 447 |
| Jacqueline H. Davis v. NC Dept. of Correction | 08 OSP 2342 | Overby | 08/19/09 | |
| Jody Lynn Hinson v. N.C. Department of Crime Control and Public Safety, N.C. Highway Patrol | 08 OSP 2409 | Overby | 06/03/09 | |
| Tonya M. Jones v. NC Dept. of Health and Human Services | 08 OSP 2418 | Webster | 06/12/09 | 24:11 NCR 955 |
| Richard C. Foy v. NC Dept. of Insurance | 08 OSP 2581 | Gray | 05/21/09 | |
| Denise Vee v. Cumberland County Department of Public Health | 08 OSP 2955 | Elkins | 07/22/09 | 24:07 NCR 465 |
| Darryll Williams v. NC Dept. of Health and Human Services, Murdoch Developmental Center | 08 OSP 3661 | Cella | 09/18/09 | |
| Jerry Lewis Monroe, Sr. v. Fayetteville State University | 09 OSP 0098 | Gray | 09/03/09 | |
| Annie L. Gadson v. NC A&T University | 09 OSP 0261 | May | 09/11/09 | |
| Timothy Strong v. Central Regional Hospital, NC DHHS | 09 OSP 2401 | Elkins | 05/27/09 | |
| Benjamin Hicks v. Central Regional Hospital, NC DHHS | 09 OSP 2399 | Elkins | 05/27/09 | |
| Felicia D. McClain v. DENR/Soil & Water Conservation | 09 OSP 2550 | Webster | 08/12/09 | |
| Ronald Gene Ezzell, Jr. v. NC State Highway Patrol | 09 OSP 2588 | Morrison | 08/05/09 | 24:11 NCR 998 |
| Thomas E. Freeman, Jr. v. NC DHHS/Central Regional Hospital And Whitaker School | 09 OSP 2826 | Webster | 07/17/09 | |
| Cecil L. Glaze v. UNC Charlotte | 09 OSP 2884 | Mann | 07/29/09 | |
| Vickye Williams Herring, NC Employment Security Commission | 09 OSP 3501 | Elkins | 07/30/09 | |
| Hope C. Freeman v. Bladen County Department of, Social Services | 09 OSP 3504 | Elkins | 07/24/09 | |
| Tiajuana Evans v. O'Berry Neuro-Medical Treatment Center | 09 OSP 3530 | Lassiter | 08/31/09 | |
| Francisa Okafor v. NC Dept. of Health and Human Services | 09 OSP 3533 | Gray | 09/30/09 | |
| Charles Nathan v. Robeson Co. DSS Foster Care Unit | 09 OSP 3543 | Elkins | 10/08/09 | |
| Wilbert Riggan v. Scotland County Public Schools | 09 OSP 3653 | Elkins | 10/05/09 | |
| Marcus Lamont Hill, Sr. v. Wayne Correctional Center | 09 OSP 3790 | Lassiter | 09/18/09 | |
| Sarah M. Brake v. State Board of Elections | 09 OSP 4061 | Lassiter | 10/06/09 | |
| Cynthia Bizzell v. Durham Public Schools | 09 OSP 4070 | Lassiter | 08/24/09 | |

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|--|-------------|----------|----------|
| Glenn Hodge v. NC Dept. of Transportation | 09 OSP 4094 | Lassiter | 08/18/09 |
| Randall S. Smith v. Carolina Copy c/o UNC at Chapel Hill | 09 OSP 4109 | Lassiter | 08/31/09 |
| Clifton Cox v. Caswell Center | 09 OSP 4241 | Overby | 10/29/09 |
| Virginia (Gin) Ivey Leggett v. Pathways LME | 09 OSP 4498 | Lassiter | 08/31/09 |
| Tina McMillian v. Employment Security Commission of NC | 09 OSP 4568 | Gray | 11/20/09 |
| Ruby H. Cox v. Tim Davis, Employment Security Commission | 09 OSP 4774 | Overby | 10/05/09 |
| Argy R. Crowe v. Charlotte Mecklenburg Schools/UI | 09 OSP 4786 | Lassiter | 10/20/09 |
| Thomas E. Freeman, Jr. v. The people associated with NC Dept. of Health and Human Services and Whitaker School | 09 OSP 4795 | Overby | 09/18/09 |
| Harriette E. Smith v. UNC General Administration | 09 OSP 5189 | Elkins | 10/30/09 |

OFFICE OF SECRETARY OF STATE

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|--|-------------|----------|----------|---------------|
| Sarah D. Larson v. N.C. Department of the Secretary of State | 08 SOS 1200 | Overby | 06/04/09 | 24:07 NCR 478 |
| Robert Lee Evans v. NC Office of Administrative Hearings | 09 SOS 2300 | Lassiter | 06/03/09 | |
| Asali J. Howard v. North Carolina Department of The Secretary Of State | 09 SOS 2707 | May | 07/16/09 | |
| Pamela Nickles v. Dept. of Secretary of NC State | 09 SOS 3120 | Brooks | 10/16/09 | |
| Stanley Young v. The Notary Public Section | 09 SOS 4001 | Brooks | 09/18/09 | |
| Jeremy Glen Blow v. NC Office of the Secretary of State | 09 SOS 4245 | Overby | 09/14/09 | |
| Martha C. Graybeal v. NC Dept. of the Secretary of State Certification Filing Division | 09 SOS 4273 | Brooks | 10/07/09 | |
| Brandi Alexis Meeker v. Dept. of the Secretary of State | 09 SOS 4580 | Overby | 10/29/09 | |

UNC HOSPITALS

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|--|-------------|----------|----------|
| Carlos A Perez-Sanchez v. UNC Hospitals | 09 UNC 1294 | Overby | 06/03/09 |
| Bobbie Perlow v. UNC Hospitals | 09 UNC 1606 | Brooks | 07/15/09 |
| Nicole Bryant v. UNC Hospitals | 09 UNC 2022 | Lassiter | 06/16/09 |
| Jennifer Thompson Stewart v. UNC Hospitals | 09 UNC 2147 | Mann | 08/07/09 |
| Cynthia K. Yellock v. UNC Hospitals | 09 UNC 2298 | Mann | 07/21/09 |
| Jennifer Jacobs v. UNC Hospitals | 09 UNC 2409 | Mann | 07/21/09 |
| Ryan Rockey v. UNC Hospitals | 09 UNC 2587 | May | 07/15/09 |
| Mary Ann Strickland v. UNC Hospitals | 09 UNC 2712 | Overby | 06/04/09 |
| James Tyler Utt v. UNC Hospitals | 09 UNC 2892 | May | 09/22/09 |
| Alan Greene v. UNC Hospitals | 09 UNC 2894 | Overby | 08/04/09 |
| Angela M. Aldridge v. UNC Hospitals | 09 UNC 3338 | Elkins | 10/08/09 |
| Kathleen G. Finch v. UNC Hospitals | 09 UNC 3418 | Gray | 08/31/09 |
| R. Michael Pearson v. UNC Hospitals | 09 UNC 3423 | Gray | 08/31/09 |
| Darice Witherspoon v. UNC Hospitals | 09 UNC 3428 | Gray | 07/30/09 |
| Timothy H. Keck v. UNC Hospitals | 09 UNC 3528 | Gray | 08/06/09 |
| Marion Munn v. UNC Hospitals | 09 UNC 3531 | Gray | 08/31/09 |
| Cynthia D. Baker v. UNC Hospitals | 09 UNC 3680 | Gray | 09/02/09 |
| Eilene Renee Alston v. UNC Hospitals | 09 UNC 3926 | Gray | 08/31/09 |
| Karen E. Current v. UNC Hospitals | 09 UNC 4019 | Gray | 09/08/09 |
| John C. Presley v. UNC Hospitals | 09 UNC 4020 | Gray | 07/21/09 |
| Richard F. Shoe v. UNC Hospitals | 09 UNC 4396 | Elkins | 11/24/09 |
| Alberto Berri v. UNC Hospitals | 09 UNC 4718 | Overby | 10/06/09 |