

NORTH CAROLINA REGISTER

VOLUME 24 • ISSUE 13 • Pages 1061 - 1103

January 4, 2010

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Contact List for Rulemaking Questions or Concerns

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

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

Office of Administrative Hearings
Rules Division
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Fiscal Notes & Economic Analysis

Office of State Budget and Management
116 West Jones Street (919) 807-4700
Raleigh, North Carolina 27603-8005 (919) 733-0640 FAX
Contact: Anca Grozav, Economic Analyst osbmruleanalysis@osbm.nc.gov (919)807-4740

NC Association of County Commissioners
215 North Dawson Street (919) 715-2893
Raleigh, North Carolina 27603
contact: Jim Blackburn jim.blackburn@ncacc.org
Rebecca Troutman rebecca.troutman@ncacc.org

NC League of Municipalities (919) 715-4000
215 North Dawson Street
Raleigh, North Carolina 27603
contact: Erin L. Wynia ewynia@nclm.org

Governor's Review

Edwin M. Speas, Jr. edwin.speas@nc.gov
General Counsel to the Governor (919) 733-5811
116 West Jones Street
20301 Mail Service Center
Raleigh, North Carolina 27699-0301

Legislative Process Concerning Rule-making

Joint Legislative Administrative Procedure Oversight Committee
545 Legislative Office Building
300 North Salisbury Street (919) 733-2578
Raleigh, North Carolina 27611 (919) 715-5460 FAX

contact: Karen Cochrane-Brown, Staff Attorney Karen.cochrane-brown@ncleg.net
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NORTH CAROLINA REGISTER
 Publication Schedule for January 2010 – December 2010

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
24:13	01/04/10	12/09/09	01/19/10	03/05/10	03/22/10	05/01/10	05/12/10	10/01/10
24:14	01/15/10	12/22/09	01/30/10	03/16/10	03/22/10	05/01/10	05/12/10	10/12/10
24:15	02/01/10	01/08/10	02/16/10	04/05/10	04/20/10	06/01/10	01/26/11	10/29/10
24:16	02/15/10	01/25/10	03/02/10	04/16/10	04/20/10	06/01/10	01/26/11	11/12/10
24:17	03/01/10	02/08/10	03/16/10	04/30/10	05/20/10	07/01/10	01/26/11	11/26/10
24:18	03/15/10	02/22/10	03/30/10	05/14/10	05/20/10	07/01/10	01/26/11	12/10/10
24:19	04/01/10	03/11/10	04/16/10	06/01/10	06/21/10	08/01/10	01/26/11	12/27/10
24:20	04/15/10	03/24/10	04/30/10	06/14/10	06/21/10	08/01/10	01/26/11	01/10/11
24:21	05/03/10	04/12/10	05/18/10	07/02/10	07/20/10	09/01/10	01/26/11	01/28/11
24:22	05/17/10	04/26/10	06/01/10	07/16/10	07/20/10	09/01/10	01/26/11	02/11/11
24:23	06/01/10	05/10/10	06/16/10	08/02/10	08/20/10	10/01/10	01/26/11	02/26/11
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25:02	07/15/10	06/23/10	07/30/10	09/13/10	09/20/10	11/01/10	01/26/11	04/11/11
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25:04	08/16/10	07/26/10	08/31/10	10/15/10	10/20/10	12/01/10	01/26/11	05/13/11
25:05	09/01/10	08/11/10	09/16/10	11/01/10	11/22/10	01/01/11	01/26/11	05/29/11
25:06	09/15/10	08/24/10	09/30/10	11/15/10	11/22/10	01/01/11	01/26/11	06/12/11
25:07	10/01/10	09/10/10	10/16/10	11/30/10	12/20/10	02/01/11	05/2012	06/28/11
25:08	10/15/10	09/24/10	10/30/10	12/14/10	12/20/10	02/01/11	05/2012	07/12/11
25:09	11/01/10	10/11/10	11/16/10	01/03/11	01/20/11	03/01/11	05/2012	07/29/11
25:10	11/15/10	10/22/10	11/30/10	01/14/11	01/20/11	03/01/11	05/2012	08/12/11
25:11	12/01/10	11/05/10	12/16/10	01/31/11	02/21/11	04/01/11	05/2012	08/28/11
25:12	12/15/10	11/22/10	12/30/10	02/14/11	02/21/11	04/01/11	05/2012	09/11/11

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.

**NARROW THERAPEUTIC INDEX DRUGS DESIGNATED BY THE NORTH
CAROLINA SECRETARY OF HUMAN RESOURCES**

Pursuant to G.S. 90-85.27(4a), this is a revised publication from the North Carolina Board of Pharmacy of narrow therapeutic index drugs designated by the North Carolina Secretary of Human Resources upon the advice of the State Health Director, North Carolina Board of Pharmacy, and North Carolina Medical Board.

Carbamazepine:	all oral dosage forms
Cyclosporine:	all oral dosage forms
Digoxin:	all oral dosage forms
Ethosuximide	
Levothyroxine sodium tablets	
Lithium (including all salts):	all oral dosage forms
Phenytoin (including all salts):	all oral dosage forms
Procainamide	
Theophylline (including all salts):	all oral dosage forms
Warfarin sodium tablets	
Tacrolimus:	all oral dosage forms

Request for Proposals from the Albemarle-Pamlico National Estuary Program

The Albemarle-Pamlico National Estuary Program, or APNEP, is seeking proposals for demonstration projects. Grants will be awarded by APNEP, which protects water quality and other natural resources in a 36-county area of northeastern North Carolina and southeastern Virginia. Schools, government agencies, nonprofit organizations and institutions in the APNEP region are eligible to apply for grant money.

The projects must have a direct environmental benefit and occur on public lands in the APNEP region. They also must have a constructed component or vegetative planting on-site, feature a strong public outreach or education element, allow for permanent public access and have methods that may be applied in other locations. Past projects included outdoor classrooms, nature trails, rain gardens, green roofs and schoolyard wetlands.

Each project may receive up to \$20,000 in funding from APNEP. The APNEP Citizen's Advisory Committee will select the proposals to be funded and determine funding amounts. Prospective grant recipients are encouraged to partner with others to leverage additional funds. The application deadline is Dec. 31. Awards will be announced in January. All awards are contingent upon the availability of funds.

For more detailed information or to download an application, visit the APNEP Web site at <http://www.apnep.org> and click on "What's New - Request for Proposals." If you have questions about the application or eligibility requirements, contact Lori Brinn.

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

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

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Division of Medical Assistance intends to adopt the rules cited as 10A NCAC 22N .0401-.0403.

Proposed Effective Date: May 1, 2010

Public Hearing:

Date: January 21, 2010

Time: 10:00 a.m.

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

Reason for Proposed Action: *These rules will allow the Department to require the purchase of a performance bond or the submission of an executed letter of credit or financial instrument as a condition of initial enrollment, reenrollment, or reinstatement if: the provider fails to demonstrate financial viability; the Department determines there is significant potential for fraud and abuse, or the Department otherwise finds it is in the best interest of the Medicaid program to do so.*

Procedure by which a person can object to the agency on a proposed rule: *Should you desire to object to a proposed rule(s) please respond to DMA with the objection, reasons for the objection, and the clearly identified portion of the rule to which the objection pertains. This must be submitted in writing to Teresa Smith, Division of Medical Assistance, Kirby Building, 1985 Umstead Drive, Raleigh, NC 27603 or 2501 Mail Service Center, Raleigh, NC 27699-2501.*

Comments may be submitted to: *Teresa Smith, Kirby Building, 1985 Umstead Drive, Kirby Building, Raleigh, NC 27603 or 2501 Mail Service Center, Raleigh, NC 27699-2501; fax (919) 733-6608*

Comment period ends: March 5, 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 (≥\$3,000,000)
- None

CHAPTER 22 – MEDICAL ASSISTANCE ELIGIBILITY

SUBCHAPTER 22N - PROVIDER ENROLLMENT

SECTION .0400 – PROVIDER PERFORMANCE BONDS

10A NCAC 22N .0401 DEFINITIONS

The following definitions apply throughout this Section:

- (1) "Licensed providers" are:
 - (a) Providers with a license, certification, registration or permit issued by the governing board regulating a human service profession; and
 - (b) Facilities licensed by the NC Division of Health Service Regulation (DHSR).
- (2) "Medicare Certified Providers" are providers and suppliers who are subject to Federal health care quality standards and are certified by the Centers for Medicare and Medicaid Services (CMS). The standards for Medicare Certified Providers are located on the CMS website at: <http://www.cms.hhs.gov/>.
- (3) "Performance Bonds" means a third party's agreement to guarantee the fulfillment of the monetary obligations of a Medicaid Provider upon default. A Medicaid provider is obligated to reimburse the Department the full amount due upon issuance of written notice of an overpayment. An overpayment includes any funds paid to a provider which are subsequently determined by the Department to have been paid in violation of federal or state law, regulations, North Carolina Medicaid rules, or policy.

Authority G.S. 108A-54; S.L. 2007-323, s. 10.36.(e) as rewritten by S.L. 2008-107, s. 10.10.(d).

10A NCAC 22N .0402 REQUIREMENT FOR PROVIDER PERFORMANCE BONDS

(a) The provision of a performance bond or executed letter of credit shall be a condition of eligibility for non-licensed providers or non-Medicare certified providers as those terms are defined in Rule .0401 of this Subchapter.

(1) Evidence of the performance bond or executed letter of credit issued by a financial institution shall be submitted to the Division of Medical Assistance annually for five years.

(A) In the first year, the provider shall submit evidence of the performance bond or executed letter of credit in the amount of twenty thousand dollars (\$20,000)

(B) In subsequent years, the amount of the performance bond or executed letter of credit shall equal the actual paid claims total for the most recent calendar year of participation, not to exceed one hundred thousand dollars (\$100,000).

(C) Each performance bond or executed letter of credit shall exist for a term of one year.

(b) All providers shall provide a performance bond or executed letter of credit if any one of the following factors exists:

(1) The provider is the subject of a disciplinary action taken against any business or professional license held in this State or any other state;

(2) The provider has been subject to a civil monetary penalty or fine levied against their agency by Medicare, Medicaid or other state or federal agency or program;

(3) The provider has been subject to withhold, suspension or exclusion from Medicare or Medicaid or other state or federal agency or program in any state;

(4) The provider owes money to Medicare or any state Medicaid agency;

(5) The provider can not reasonably demonstrate that it has assumed liability and is responsible for paying the amount of any outstanding recoveries to the Medical Assistance Program as the result of any sale, merger, consolidation, dissolution or other disposition of the health care provider or person; or

(6) The Secretary of the North Carolina Department of Health and Human Services determines that it is in the best interest of the Medical Assistance Program to do so in accordance with S.L. 2008-107, s. 10.10(d).

(c) All providers, including licensed or Medicare certified providers, are subject to the provisions of Paragraph (b) of this Rule.

(d) The Department may waive or limit the performance bond requirements based upon the following:

(1) Medicaid billings by the provider of less than twenty thousand dollars (\$20,000.00) per year.

(2) Provider has been licensed, endorsed, certified, or accredited in this State to provide services for more than five years.

(3) Provider has been enrolled to provide Medicaid services in the State for more than five years.

(4) The provider's demonstrated ability to ensure adequate recordkeeping, staffing and services that has been accepted by the Department; or

(5) The need of the Department of Health and Human Services to ensure adequate access to care.

(e) The performance bond must be obtained from a surety company that has been issued a Certificate of Authority by the United States Department of Treasury. The bond or letter of credit must name the provider as "principal," the Division of Medical Assistance as "beneficiary" and the surety company as "surety." Evidence of the bond or executed letter of credit must be forwarded to N.C. Medicaid Provider Enrollment within 30 days after notice of the requirement of a bond or letter of credit.

(f) The provider's failure to provide proof of a performance bond or executed letter of credit shall constitute a basis for denial of a provider application or the termination of its provider agreement.

(g) A provider will not be paid for the period of time it fails to provide proof of a performance bond or executed letter of credit at the amount required by this Rule.

Authority G.S. 108A-54; S.L. 2007-323, s. 10.36. (e) as rewritten by S.L. 2008-107, s. 10.10. (d).

10A NCAC 22N .0403 DEFAULT

(a) For purposes of this Section, default means that the Provider:

(1) has failed to reimburse the Department for an overpayment within 30 days of demand; or

(2) is delinquent on a payment plan. A provider is in delinquent status when the payment is 14 days past due. Execution on the bond or letter of credit does not void the payment plan to the extent a balance remains.

(b) Upon default by a provider, the Department will seek payment of the balance due from the performance bond or executed letter of credit.

(c) A surety's payment to the Department under a performance bond or the payment by a financial institution to the Department from an executed letter of credit constitutes a basis for the termination of the provider agreement.

Authority G.S. 108A-54; S.L. 2007-323, s. 10.36. (e) as rewritten by S.L. 2008-107, s. 10.10. (d).

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services intends to adopt the rules cited as 10A NCAC 27E .0301-.0304.

Proposed Effective Date: August 1, 2010

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

Reason for Proposed Action: The proposed adoption will set forth regulations governing the North Carolina Interventions (NCI) Quality Assurance Committee. The proposed regulations include the purpose of the Committee, as well as their duties, responsibilities and composition.

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

Comments may be submitted to: Amanda J. Reeder, 3018 Mail Service Center, Raleigh, NC 27699-3078; phone (919) 715-2780; fax (919) 508-0973; email Amanda.Reeder@dhhs.nc.gov

Comment period ends: March 5, 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 (>\$3,000,000)
None

CHAPTER 27 - MENTAL HEALTH: COMMUNITY FACILITIES AND SERVICES

SUBCHAPTER 27E - TREATMENT OR HABILITATION RIGHTS

SECTION .0300 – NORTH CAROLINA INTERVENTIONS QUALITY ASSURANCE COMMITTEE

10A NCAC 27E .0301 SCOPE

- (a) The purpose of these Rules is to set forth regulations governing the North Carolina Interventions (NCI) Quality Assurance Committee.
(b) The purpose of the NCI Quality Assurance Committee is to establish policies and monitor the safety and effectiveness of the NCI training program.

Authority G.S. 143B-147(a)(1)(b).

10A NCAC 27E .0302 DEFINITIONS

As used in these Rules, the following terms have the meanings specified:

- (1) "Curriculum Review Commission" means the group of subject matter experts appointed by the Division Director to review and approve curriculums related to restraint and seclusion.
(2) "Division Director" means the Director of the Division of Mental Health, Developmental Disabilities and Substance Abuse Services.
(3) "NC Interventions (NCI)" means a standardized state curriculum developed by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services, which teaches prevention, alternatives, de-escalation and management of aggressive behaviors through the use of preventive measures and approved physical techniques. The three portions of the curriculum are:
(a) Part A – Prevention and Alternatives;
(b) Part B – Physical techniques as defined in Item (10) of this Rule; and
(c) Part C – Instructor training program.
(4) "NCI Certification" means trainees have successfully completed training in Sub-items (3)(a), (3)(b) and (3)(c) of this Rule to become certified.
(5) "NCI Quality Assurance Committee" means representatives who are appointed by the Division Director pursuant to Rule .0304 of this Section. Only this committee shall train and certify Instructor Trainers. The Committee establishes guidelines and policies and monitors the safety and effectiveness of the NCI Training program.
(6) "NCI Certified Instructor Trainer" means a person who has met all qualifications for NCI including Sub-items (3)(a) and (3)(b) of this Rule. Only Instructor Trainers shall train and certify NCI instructors.
(7) "NCI Certified Instructor" means a person who has demonstrated competence in all three portions of the NCI curriculum as set forth in

Sub-items (3)(a), (3)(b) and (3)(c) of this Rule. The person must demonstrate competence in all prevention and alternatives, physical techniques and "optional" techniques of the people being taught.

- (8) "NCI Curriculum" means the curriculum that includes all of the subject matter referenced in Item (3) of this Rule.
- (9) "Optional Techniques" means techniques that are approved by the Curriculum Review Commission for use with certain populations.
- (10) "Physical Techniques" refers to:
 - (a) Physical interventions – defensive measures such as blocks and releases, and
 - (b) Restrictive interventions – techniques that involve physical restraint, such as therapeutic holds and transport techniques.

Authority G.S. 143B-147(a)(1)(b).

10A NCAC 27E .0303 DUTIES OF THE NCI QUALITY ASSURANCE COMMITTEE

The duties of the NCI Quality Assurance Committee are as follows:

- (1) Establish and administer the policies and procedures related to implementing NCI training;
- (2) Review and recommend to the Division Director all additional techniques and protocols to the NCI curriculum;
- (3) Develop guidelines for administration of the NCI program;
- (4) Direct the certification of all Instructor Trainers;
- (5) Maintain inter-rater reliability for determination of certified Instructor Trainers;
- (6) Maintain a pool of questions for use in exams;
- (7) Maintain records on persons certified as Instructor Trainers as long as they remain certified or for five years, whichever is longer;
- (8) Schedule Instructor Trainer class as needed; and
- (9) Recommend to the Division Director the decertification of any Instructor Trainer that fails to meet guidelines enacted by the committee.

Authority G.S. 143B-147(a)(1)(b).

10A NCAC 27E .0304 COMPOSITION OF THE NCI QUALITY ASSURANCE COMMITTEE

- (a) Committee representatives shall be appointed by the Division Director.
- (b) The Committee shall be comprised of:
 - (1) Two NCI Certified Instructor Trainers from Developmental Centers (one representative

servicing three years and one representative serving two years).

- (2) Two NCI Certified Instructor Trainers from the state psychiatric hospitals (one representative serving three years and one representative serving two years).
- (3) One NCI Certified Instructor Trainer from the state residential program for children (serving two years).
- (4) One NCI Certified Instructor Trainer from an Alcohol and Drug Abuse Treatment Center (serving two years).
- (5) One NCI Certified Instructor Trainer from the Neuro-Medical facilities (serving three years).
- (6) One representative of the Division of Health Service Regulation (serving two years).
- (7) Three NCI Certified Instructor Trainers from community facilities (two representatives serving three years and one representative serving two years).
- (8) Two people representing persons with disabilities or family members of people with disabilities (one representative serving three years and one representative serving two years).
- (9) One representative of the DMH/DD/SAS (serving two years).
- (10) One non-voting member from the Communications and Training Team to serve as staff to the Committee.
- (11) The representatives of the Quality Assurance Committee membership that do not have NCI Certified Instructor Trainer Certification shall be appointed to the committee based upon skills developed through education, experience, or expertise.

(c) The Committee shall select a Chair and Vice Chair by majority vote every two years.

Authority G.S. 143B-147(a)(1)(b).

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 38 - BOARD OF OCCUPATIONAL THERAPY

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Board of Occupational Therapy intends to amend the rule cited as 21 NCAC 38 .0302.

Proposed Effective Date: May 1, 2010

Public Hearing:

Date: January 25, 2010

Time: 11:00 a.m.

Location: Wachovia Capitol Center, 13th Floor Conference Room, 150 Fayetteville Street, Raleigh, NC 27601

Reason for Proposed Action: *This amendment is being submitted pursuant to Session Law 2009-458.*

SECTION .0300 - LICENSING

Procedure by which a person can object to the agency on a proposed rule: *Any person may object to this proposed amendment by submitting a written statement to Charles P. Wilkins at P. O. Box 2280, Raleigh, NC 27602 postmarked on or before March 11, 2010.*

Comments may be submitted to: *Charles P. Wilkins, P. O. Box 2280, Raleigh, NC 27602; phone (919) 833-2752; fax (919) 833-1059; email cwilkins@bws-law.com*

Comment period ends: *March 11, 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

21 NCAC 38 .0302 LICENSE RENEWAL

(a) Any licensee desiring the renewal of a license shall apply for renewal and shall submit the renewal application, documentation of continuing competence activities, and the fee. Occupational therapy assistants who are employed must also include evidence of required supervision.

(b) Licenses not renewed by June 30 are expired. Persons whose licenses are expired for 24 months or less and who desire to be licensed shall apply for and complete the requirements to renew the license. The person shall also provide proof of 15 points of continuing competence activities for the last year the license was current and for each full year the person's license was expired.

(c) Any person whose license is expired and who engages in any occupational therapy activities governed by the occupational therapy law shall be subject to the penalties prescribed in G.S. 90-270.76, 90-270.79, 90-270.80 and 90-270.80A.

(d) Licenses expired in excess of 24 months shall not be renewed. Persons whose licenses are expired in excess of 24 months and who desire to be licensed shall apply for and complete the requirements for a new license.

(e) Members of the armed forces whose licenses are in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return are granted that same extension of time to pay the license renewal fee and to complete the continuing competence activity requirement prescribed in 21 NCAC 38 .0800. A copy of military orders or the extension approval by the Internal Revenue Service must be furnished to the Board. If approved, continuing competence activity points acquired during this extended time period shall not be utilized for future renewal purposes.

Authority G.S. 90-270.69(4); 90-270.75; 93B-15(b); 105-249.2.

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Rule-making Agency: *NC Division of Vocational Rehabilitation Services*

Rule Citation: *10A NCAC 89C .0205*

Effective Date: *December 4, 2009*

Received by Codifier for entry into the NCAC on: *November 23, 2009. See G.S. 150B-21.1B.*

Reason for Action: *Time-limited funding will allow time-limited expansion of services that will need to expire when the funding expires.*

CHAPTER 89 - VOCATIONAL REHABILITATION

SUBCHAPTER 89C - PROGRAM RULES

SECTION .0200 - ELIGIBILITY

10A NCAC 89C .0205 SERVICES COVERED BY OR EXEMPT FROM FINANCIAL NEEDS TEST

(a) The financial need of a client, as determined by the financial needs test specified in Rule .0206 of this Section, shall apply as a condition for furnishing the following vocational rehabilitation services to clients eligible for services or to clients eligible for extended evaluation or trial work experiences:

- (1) physical and mental restoration;
- (2) maintenance;
- (3) transportation;
- (4) occupational license;
- (5) tools, equipment, and initial stock (including livestock), supplies and necessary shelters in connection with these items;
- (6) services to members of the individual's family necessary to the adjustment or rehabilitation of the individual with disabilities;
- (7) rehabilitation technology including vehicular, home modifications, telecommunications, sensory, and other technological aids and devices;
- (8) post-employment services provided subsequent to the achievement of an employment outcome necessary to assist individuals with disabilities in maintaining employment (other than those services in Paragraph (d)(1) of this Rule which are provided without regard to financial need);
- (9) vocational and other training services, books, tools, and other training materials;
- (10) other goods and services expected to benefit an individual with disabilities in obtaining employment or achieving the individual's independent living goals;
- (11) non-assessment services for eligible individuals receiving vocational rehabilitation

services through trial work experiences or extended evaluation; and

- (12) personal and vocational adjustment training and On-the-Job Training that does not conflict with Federal and State wage and hour laws.

(b) No training or training services in an institution of higher education (universities, colleges, community or junior colleges, vocational schools, technical institutes, or hospital schools of nursing) as noted in Paragraph (a)(9) of this Rule shall be paid for with vocational rehabilitation funds until maximum efforts have been made by the designated state unit and the individual to secure grant assistance in whole or part from other resources to pay for training and such assistance is applied to the cost of training.

(c) Physical and mental restoration as noted in Paragraph (a)(1) of this Rule shall only be provided to the extent that financial support is not available from a source other than the designated state unit such as through health insurance or a comparable service or benefit as defined in 34 CFR 361.6(b)(10).

(d) The financial needs test shall not apply as a condition for furnishing the following:

- (1) services exempt from the financial needs test under 34 C.F.R. 361.54;
- (2) foreign language interpreter/translator services for individuals who are unable to understand either verbal or written information presented by the Division;
- (3) any vocational rehabilitation service to individuals determined eligible for Social Security benefits under Titles II or XVI of the Social Security Act; and
- (4) all services and equipment provided by staff of the Division.
- (5) time-limited Division-sponsored internships with employers as a part of an individualized plan for employment made available to eligible individuals served through the NC Division of Vocational Rehabilitation Services Program. Division sponsorship for an internship described within this Paragraph will allow a rate of pay of at least minimum wage and will not exceed a period of four months unless an exception is granted by the Division's Chief of Policy based on the applicable policy. Pending available funding, Division sponsorship of these internships for clients as described in this Subparagraph is provided as a part of the ARRA plan and will expire on or before September 30, 2011, as determined by the Division Director.

(e) The Division shall grant an exception to the rate for tuition for post-secondary education specified in Rule .0119 of this Section when accommodations for the special training needs of individuals with significant disabilities are included in the tuition rate.

(f) Notwithstanding Paragraph (a) of this Rule, the following services are not subject to the financial needs test specified in Rule 0.0206 of Subchapter 89C for individuals being served

through the NC Division of Vocational Rehabilitation Services Program:

- (1) Personal and Vocational Adjustment Training and On-the-Job Training that does not conflict with Federal and State wage and hour laws.

This Paragraph expires September 30, 2011.

History Note: Authority G.S. 143-545.1; 143-546.1; 150B-21.1B; 34 C.F.R. 361.40; 34 C.F.R. 361.41; 34 C.F.R. 361.47; 34 C.F.R. 364.59; P.L. 111.5;

Eff. February 1, 1976;

Amended Eff. February 1, 1996; October 1, 1994; March 1, 1990;

Temporary Amendment Eff. January 26, 2003; May 1, 2002;

Amended Eff. August 1, 2004;

Emergency Amendment Eff. October 27, 2009;

Temporary Amendment Eff. December 4, 2009.

APPROVED RULES

*This Section includes a listing of rules approved by the Rules Review Commission followed by the full text of those rules. The rules that have been approved by the RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register are identified by an * in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

Rules approved by the Rules Review Commission at its meeting on November 19, 2009.

**REGISTER CITATION TO THE
NOTICE OF TEXT**

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

<u>Application Information and Procedures</u>	10A	NCAC	17D	.0205*	23:21 NCR
<u>Eligibility</u>	10A	NCAC	17D	.0206*	23:21 NCR

HHS - MENTAL HEALTH, DIVISION OF

<u>State MH/DD/SA Appeals Panel Administrative Review Proced...</u>	10A	NCAC	27G	.0810*	23:19 NCR
<u>State MH/DD/SA Appeals Panel Hearing Procedures</u>	10A	NCAC	27G	.0811*	23:19 NCR
<u>State MH/DD/SA Appeals Panel Hearing Decisions</u>	10A	NCAC	27G	.0812*	23:19 NCR

SOCIAL SERVICES COMMISSION

<u>Revocation and Denial</u>	10A	NCAC	70E	.0708*	23:23 NCR
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CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Criminal Justice Instructor Training</u>	12	NCAC	09B	.0209	24:03 NCR
<u>Specialized Subject Control Arrest Techniques</u>	12	NCAC	09B	.0232*	24:03 NCR
<u>Specialized Physical Fitness Instructor Training</u>	12	NCAC	09B	.0233*	24:03 NCR
<u>Required Annual In-Service Training Topics</u>	12	NCAC	09E	.0102	24:03 NCR
<u>Minimum Training Specifications: Annual In-Service Training</u>	12	NCAC	09E	.0105	24:03 NCR
<u>Instructors</u>	12	NCAC	09H	.0103*	n/a G.S. 150B-21.5(a)(5)

ALCOHOL LAW ENFORCEMENT

<u>Duties of Promoters and Matchmakers</u>	14A	NCAC	12	.0404*	n/a G.S. 150B-21.5(a)(4)
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ENVIRONMENTAL MANAGEMENT COMMISSION

<u>Public Participation</u>	15A	NCAC	02Q	.0521*	23:18 NCR
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ENVIRONMENT AND NATURAL RESOURCES, DEPARTMENT OF

<u>Expulsion</u>	15A	NCAC	09C	.1224	23:24 NCR
<u>Fees and Charges</u>	15A	NCAC	09C	.1227	23:24 NCR
<u>Noise Regulations</u>	15A	NCAC	09C	.1249*	23:24 NCR
<u>Expulsion</u>	15A	NCAC	09C	.1253*	23:24 NCR
<u>Fees and Charges</u>	15A	NCAC	09C	.1257*	23:24 NCR

ELECTRICAL CONTRACTORS, BOARD OF EXAMINERS FOR

<u>Requirements for All Examination Applicants</u>	21	NCAC	18B	.0201*	24:04 NCR
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APPROVED RULES

<u>Experience</u>	21	NCAC	18B	.0202*	24:04 NCR
<u>General Provisions</u>	21	NCAC	18B	.0801*	24:04 NCR
<u>Applicants Convicted of Crimes</u>	21	NCAC	18B	.0901	24:04 NCR

MASSAGE AND BODYWORK THERAPY, BOARD OF

<u>License by Reciprocity</u>	21	NCAC	30	.0304*	n/a G.S. 150B-21.5(b)(1)
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MEDICAL BOARD

<u>Definitions</u>	21	NCAC	32M	.0101*	24:01 NCR
<u>Process for Approval to Practice</u>	21	NCAC	32M	.0104*	24:01 NCR
<u>Education and Certification Requirements for Registration...</u>	21	NCAC	32M	.0105*	24:01 NCR
<u>Annual Renewal</u>	21	NCAC	32M	.0106*	24:01 NCR
<u>Continuing Education</u>	21	NCAC	32M	.0107	24:01 NCR
<u>Inactive Status</u>	21	NCAC	32M	.0108*	24:01 NCR
<u>Quality Assurance Standards for a Collaborative Practice ...</u>	21	NCAC	32M	.0110*	24:01 NCR
<u>Practice During a Disaster</u>	21	NCAC	32M	.0116*	24:01 NCR

NURSING, BOARD OF

<u>Definitions</u>	21	NCAC	36	.0801*	24:01 NCR
<u>Process for Approval to Practice</u>	21	NCAC	36	.0804*	24:01 NCR
<u>Education and Certification Requirements for Registration...</u>	21	NCAC	36	.0805*	24:01 NCR
<u>Annual Renewal</u>	21	NCAC	36	.0806*	24:01 NCR
<u>Continuing Education (CE)</u>	21	NCAC	36	.0807*	24:01 NCR
<u>Inactive Status</u>	21	NCAC	36	.0808*	24:01 NCR
<u>Quality Assurance Standards for a Collaborative Practice ...</u>	21	NCAC	36	.0810*	24:01 NCR
<u>Practicing During a Disaster</u>	21	NCAC	36	.0814*	24:01 NCR

OCCUPATIONAL THERAPY, BOARD OF

<u>Code of Ethics</u>	21	NCAC	38	.0308	23:24 NCR
<u>Delineation of Clinical Responsibilities</u>	21	NCAC	38	.0905*	23:24 NCR

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

<u>General Supervision and Standard of Competence</u>	21	NCAC	50	.0505*	23:22 NCR
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TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 17D .0205 APPLICATION INFORMATION AND PROCEDURES

(a) Any person interested in receiving an equipment set from the Program may request an application packet by calling or writing the Division at the Division Central Office, or by requesting one from any of the regional centers or downloading one from the Division website. The application packet shall include:

- (1) instructions for submitting reports and statements certifying that the applicant is deaf, hard of hearing, speech-impaired, or deaf-blind;
- (2) a Conditions of Acceptance form for the recipient to sign indicating that the recipient understands and agrees to the rights and responsibilities of the recipient and desires services of the program. This form includes information for recipients acting for minor users to sign indicating their agreement that

equipment sets received under this program may be transferred to the user upon the user's 18th birthday at the request of the minor user; and

- (3) an application form calling for the following information:
 - (A) the full name, address, date of birth, and occupation of the recipient and all users of the equipment set;
 - (B) telephone number of the recipient;
 - (C) personal and financial information regarding all family members necessary to determine financial eligibility according to the provisions of Rule .0210 of this Section;
 - (D) copies of documentation required in Rule .0206 of this Section; and
 - (E) the disability status of the applicant or the intended user.
- (b) To apply for equipment from the TEDP, an eligible applicant must:
 - (1) answer all of the questions on the application form, sign it, and date it;
 - (2) make a copy of an item from Rule .0206(b)(1) offering proof of residence in North Carolina to include with the application;
 - (3) make a copy of an item from Rule .0206(c) offering proof of household income to include with the application;
 - (4) read the Conditions of Acceptance form, sign and date the form, and include it with the application;
 - (5) give the Disability Determination form to a certified person listed in Rule .0206(b)(2) to fill out;
 - (6) read the Equipment Selection form, select the equipment that best fits the applicant's need, and include it with the application;
 - (7) submit the "Certification of Telecoil Candidacy and Hearing Aid Model Selection" form if applying for a hearing aid; and
 - (8) submit a written equipment recommendation from a licensed speech and language pathologist, or individual who is exempt from licensure as a speech and language pathologist by G.S. 90-294, applying for equipment for a speech impairment.
- (c) Providing false or misleading information on the application shall subject any applicant selected as a recipient to forfeiture of any equipment set provided.
- (d) The regional centers shall provide assistance in completing application forms upon request.
- (e) Applicants shall complete and sign all forms, attach all necessary documentation, and mail the completed application packet to the address specified on the application.
- (f) The Division shall determine an applicant's eligibility within 60 days following receipt of the completed application; except if the Division cannot determine eligibility within 60 days, it shall inform the applicant in writing as soon as possible within the 60-

day period indicating the problem and solicit clarification and additional information in order to determine the applicant's eligibility.

History Note: Authority G.S. 62-157; 143B-216.34; Eff. December 1, 1988; Amended Eff. December 1, 2009; May 1, 2008; May 1, 2007; April 1, 1990.

10A NCAC 17D .0206 ELIGIBILITY

- (a) The Division shall distribute equipment sets to eligible recipients within the limits of available funding.
- (b) To be eligible for equipment from the TEDP, an individual must meet the following criteria:
 - (1) be a resident of North Carolina as defined in Rule .0209 of this Section; an individual can document residency by submitting a copy of one of the following items that shows the individual's name and address:
 - (A) A document issued by an agency of the United States;
 - (B) A document issued by another state;
 - (C) A document issued by the State of North Carolina, or a political subdivision of the State;
 - (D) A preprinted bank or other corporate statement;
 - (E) A preprinted business letterhead; or
 - (F) Any other document that the Division determines provides equivalent reliability;
 - (2) be certified as deaf, hard of hearing, deaf-blind, or speech-impaired. An individual must submit a Disability Determination form certified by one of the following:
 - (A) a licensed hearing-aid dealer and fitter as defined in G.S. 93D;
 - (B) a licensed audiologist or individual who is exempt from the licensure requirements in G.S. 90-294;
 - (C) a licensed physician as defined in G.S. 90, Article 1;
 - (D) a licensed speech and language pathologist;
 - (E) a state certified individual licensed as teacher of the deaf and hard of hearing by the North Carolina Department of Public Instruction; or
 - (F) an employee of the Department of Health and Human Services that the Division assigns to certify disability for purposes of the Program;
 - (3) not have another person with a similar disability from the same household receive similar equipment from TEDP. Those applying for hearing aids are exempt from this requirement; and
 - (4) be in a family whose income, based on family size, is at or below 250 percent of the Poverty

Guidelines in effect on the date of application. The Poverty Guidelines are published annually by the United States Department of Health and Human Services and are hereby incorporated by reference including subsequent amendments and editions. Copies can be obtained from <http://aspe.hhs.gov/poverty/09poverty.shtml> at no cost.

(c) An applicant who does not qualify under Rule .0210(b) of this Section may show proof of income by submitting a copy of any of the following for each source of income within the household:

- (1) the most recent document such as Form W-2, Form 1099, or pay stub prepared by an employer, bank or other entity responsible for reporting wages or earnings;
- (2) a letter from an employer on business letterhead stating gross income;
- (3) the most recent state or federal income tax return;
- (4) a document issued by an agency of the United States, the State of North Carolina, or other state; or
- (5) any other document that the Division determines provides equivalent reliability.

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

History Note: Authority G.S. 62-157; 143B-216.34; 143B-216.33; Eff. December 1, 1988; Amended Eff. December 1, 2009; May 1, 2008; May 1, 2007; April 1, 1990.

10A NCAC 27G .0810 STATE MH/DD/SA APPEALS PANEL ADMINISTRATIVE REVIEW PROCEDURES

(a) Appellants, as identified in G.S. 122C-151.4(c), shall file written notice of appeal of the final decision of the Local Management Entity (LME), with the Director of the Division of Mental Health, Developmental Disabilities and Substance Abuse Services (Division) within 15 calendar days of the date of the final LME decision.

(b) "File or Filing" means personal delivery, delivery by certified mail, or delivery by overnight express mail to the current Director of the North Carolina Division of Mental Health, Developmental Disabilities and Substance Abuse Services. A document or paper is deemed filed as of the date it is delivered to the Director. Filings addressed to a person other than the Division Director, or which fail to be filed within the time periods established by this Rule, or which otherwise fail to be filed in conformity with the rules in this Section shall be considered as improper filings and denied.

(c) The Division Director shall notify the LME that an appeal has been filed. Upon notification of the appeal filed pursuant to G.S. 122C-151.4(c)(1), (c)(2) and (c)(3), an LME shall forward

a copy of its final decision, the signed contract between the LME and the contractor or former contractor, where applicable a copy of the endorsement application, and all supplementary documentation considered during the local appeals process, to the Division Director, with a copy to the appellant, within five business days of the date of the notification.

(d) Upon notification of the appeal filed under G.S. 122C-151.4(c)(4) and (5), an LME shall forward notification of its final decision and all supplementary documentation considered during the local appeals process to the Division Director, with a copy to the appellant, within five business days of the date of the notification.

(e) The Division Director shall appoint an impartial Panel, consisting of a Chairman, an LME representative and a provider representative, and shall forward all information to the Chairman of the Panel within 10 business days of receipt of the appeal record from the appellant and LME.

(f) The Panel shall deliberate in open session on each specific item being appealed; however, the panel may deliberate in closed session to prevent the disclosure of confidential information, pursuant to G.S. 143-318.11(a)(1).

(g) The Panel shall vote on each specific item being appealed.

(h) Findings and decisions of the Panel shall be by majority vote.

(i) The Panel may obtain any form of technical assistance or consultation relevant to the appeal in conducting the administrative review.

(j) The Panel shall complete an administrative review and notify the appealing party and the LME of its decision, in writing, within 20 business days of the Panel's receipt of the appeal record.

(k) Any decision may be delayed until a subsequent meeting if the Panel determines that it lacks sufficient information to render a decision at the initial administrative review.

(l) In all cases the administrative review decision shall be distributed within 10 business days of the decision being rendered.

(m) The appellant or the LME may appeal the administrative review decision by requesting an informal hearing before the Panel by submitting a written request to the Chairman of the Panel within 15 business days of the date of the administrative review decision.

(n) Unless the appellant or the LME requests a hearing before the Panel within 15 business days of the date of the administrative review decision, the administrative review decision shall be considered final.

(o) This Rule does not apply to contracts for personal services provided by a professional individual which include those of a doctor, dentist, attorney, architect, professional engineer, scientist or performer of the fine arts or similar professionals, or consultative service on a temporary or occasional basis.

History Note: Authority G.S. 122C-151.4; Eff. May 1, 1996; Amended Eff. December 1, 2009.

**10A NCAC 27G .0811 STATE MH/DD/SA APPEALS
PANEL HEARING PROCEDURES**

- (a) An informal hearing shall be held by the Panel no more than 30 business days after a written request for an informal hearing is received by the Chairman.
- (b) The informal hearing shall be held at a time and place designated by the Chairman.
- (c) The appellant and the LME shall be notified of the time and place of the informal hearing no less than 15 business days prior to the date of the informal hearing.
- (d) The Chairman of the Panel:
 - (1) shall convene the hearing at the prearranged time and place;
 - (2) may afford the opportunity for rebuttal and summary comments to either of the presenting parties;
 - (3) may limit the total number of persons presenting for the appellant and the LME; and
 - (4) may impose time limits for presentations.
- (e) Both the appellant and the LME shall attend the informal hearing.
- (f) The representative of the appellant and the LME shall:
 - (1) provide written notice to the Chairman of the Panel, specifying by name and position, all individuals who will attend the informal hearing no later than five business days before the hearing date;
 - (2) provide the Panel with any requested information; and
 - (3) ensure that a representative of the appellant and the LME will attend the informal hearing to make a presentation.
- (g) Any member of the Panel may address questions to the representatives of the appellant or of the LME.
- (h) All persons present at the informal hearing shall address only the Chairman or a specific member of the Panel who has addressed a specific question to that individual.
- (i) Direct exchanges between presenters for the appellant and the LME are prohibited.
- (j) No transcript shall be made and no party may record the proceeding.
- (k) The Panel may obtain any form of technical assistance or consultation relevant to the appeal.

*History Note: Authority G.S. 122C-151.4;
Eff. May 1, 1996;
Amended Eff. December 1, 2009.*

**10A NCAC 27G .0812 STATE MH/DD/SA APPEALS
PANEL HEARING DECISIONS**

- (a) The Panel shall deliberate in open session on each specific item being appealed; however, the panel may deliberate in closed session to prevent the disclosure of confidential information, pursuant to G.S. 143-318.11(a)(1).
- (b) The Panel shall vote on each specific item being appealed.
- (c) Findings and decisions of the Panel shall be by majority vote.
- (d) Each decision shall be conveyed in writing to the appellant and the LME within 10 business days of the date of the decision.

- (e) Any decision may be delayed until a subsequent meeting if the Panel determines that it lacks sufficient information to render a decision at the initial informal hearing.
- (f) In all cases the hearing decision shall be rendered within 30 business days of the date of the informal hearing.
- (g) Appeals of the Panel's hearing decision shall be filed pursuant to G.S. 122C-151.4(f).

*History Note: Authority G.S. 122C-151.4;
Eff. May 1, 1996;
Amended Eff. December 1, 2009.*

10A NCAC 70E .0708 REVOCATION AND DENIAL

- (a) The licensing authority may revoke or deny licenses when an agency authorized by law to investigate allegations of abuse or neglect finds the foster parent has abused or neglected a child.
- (b) The licensing authority may revoke or deny a license when the foster home is not in compliance with licensing standards in this Subchapter.
- (c) The licensing authority shall base the revocation or denial on the following:
 - (1) a child's circumstances;
 - (2) a child's permanency plan;
 - (3) the nature of the non-compliance; and
 - (4) the circumstances of the placement.
- (d) Foster parents shall be notified in writing of the reasons for the licensing authority's decision to revoke or deny a license. When a license has been revoked, foster parents shall submit their license to the supervising agency so it can be returned to the licensing authority.
- (e) The licensing authority may revoke or deny licensure to an applicant who has a finding that will place the applicant on the following:
 - (1) Health Care Personnel Registry pursuant to G.S. 131E-256; or
 - (2) North Carolina Sex Offender and Public Protection Registry pursuant to Article 27A Part 2 of G.S. 14.
- (f) The licensing authority may also deny licensure to an applicant under any of the following circumstances:
 - (1) the applicant was the owner of a licensable facility or agency pursuant to Chapter 122C, Chapter 131D, or Article 7 of Chapter 110 of the General Statutes, and that a facility or agency had its license revoked;
 - (2) the applicant is the owner of a licensable facility or agency and that facility or agency incurred a penalty for a Type A or B violation under G.S. 122C, Article 3;
 - (3) the applicant is the owner of licensable facility or agency that had its license summarily suspended or downgraded to provisional status as a result of violations under G.S. 122C-24.1(a), or G.S. 131D, Article 1A, or had its license summarily suspended or denied under G.S. 110, Article 7;

- (4) the applicant was the owner of a licensable facility or agency pursuant to G.S. 122C, G.S. 131D, or G.S. 110, Article 7, who voluntarily relinquished that facility or agency's license after the initiation of revocation or summary suspension proceedings, or there is a pending appeal of a denial, revocation, or summary suspension of that facility or agency's license; or
- (5) the applicant has as any part of its governing body or management an owner who previously held a license that was revoked or summarily suspended pursuant to G.S. 122C, G.S. 131D, or G.S. 110, Article 7.

(g) The denial of licensure pursuant to Paragraph (f) of this Rule shall be in accordance with G.S. 122C-23(e1) and G.S. 131D-10.3(h). A copy of these statutes may be obtained through the internet at <http://www.ncleg.net/Statutes/Statutes.html>.

(h) Appeal procedures specified in 10A NCAC 70L .0301 are applicable for persons seeking an appeal to the licensing authority's decision to revoke or deny a license. If the action is reversed on appeal, the application shall be approved back to the date of the denied application if all qualifications are met.

History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
Eff. September 1, 2007;
Amended Eff. December 1, 2009.

- (9) Methods and Strategies of Instruction 4 Hours
- (10) The Evaluation Process 4 Hours
- (11) Principles of Instruction: Audio-Visual Aids 6 Hours
- (12) Student 10-Minute Talk and Video Critique 6 Hours
- (13) Student Performance:
 - First 30-Minute Presentation 6 Hours
 - Second 30-Minute Presentation 6 Hours
 - Final 80-Minute Presentation and Review 12 Hours
- (14) Examination and Course Closing 3 Hours

(d) The "Basic Instructor Training Manual" as published by the North Carolina Justice Academy shall be applied as the basic curriculum for delivery of basic instructor training courses. Copies of this publication may be inspected at the agency:

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

and may be purchased from the Academy at the following address:

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

History Note: Authority G.S. 17C-6;
Eff. January 1, 1981;
Amended Eff. December 1, 2009; August 1, 2005; November 1, 1998; January 1, 1995; March 1, 1990; July 1, 1989; January 1, 1985.

TITLE 12 – DEPARTMENT OF JUSTICE

12 NCAC 09B .0209 CRIMINAL JUSTICE INSTRUCTOR TRAINING

- (a) The instructor training course required for general instructor certification shall consist of a minimum of 77 hours of instruction presented during a continuous period of not more than two weeks.
- (b) Each instructor training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice instructor.
- (c) Each instructor training course shall include the following identified topic areas and minimum instructional hours for each area:

- (1) Orientation/Self Assessment 3 Hours
- (2) Curriculum Development: ISD Model 3 Hours
- (3) Law Enforcement Instructor Liabilities and Responsibilities 2 Hours
- (4) Interpersonal Communication in Instruction 4 Hours
- (5) Lesson Plan Preparation: Professional Resources 2 Hours
- (6) Lesson Plan Preparation: Format and Objectives 6 Hours
- (7) Teaching Adults 4 Hours
- (8) Principles of Instruction: Demonstration Methods and Practical Exercise 6 Hours

12 NCAC 09B .0232 SPECIALIZED SUBJECT CONTROL ARREST TECHNIQUES INSTRUCTOR TRAINING

- (a) The instructor training course required for specialized subject control arrest techniques instructor certification shall consist of a minimum of 80 hours of instruction presented during a continuous period of not more than two weeks.
- (b) Each specialized subject control arrest techniques instructor training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice subject control arrest techniques instructor in a Basic Law Enforcement Training Course or a "Law Enforcement Officers' Annual In-Service Training Program."
- (c) Each applicant for specialized subject control arrest techniques instructor training shall:

- (1) have completed the criminal justice general instructor training course;
- (2) present a letter from a licensed physician stating the applicant's physical fitness to participate in the course;
- (3) present a written endorsement by either
 - (A) a certified school director indicating the student will be utilized to instruct subject control arrest techniques in

Basic Law Enforcement Training Courses; or

- (B) a department head, certified school director, or in-service training coordinator indicating the student will be utilized to instruct Subject Control Arrest Techniques for the "Law Enforcement Officers' In-Service Training Program"; and

- (4) possess a valid CPR Certification that included cognitive and skills testing.

(d) Each specialized subject control arrest techniques instructor training course shall include the following identified topic areas and minimum instructional hours for each area:

(1)	Orientation	1 Hour
(2)	Skills Pre-Test	1 Hour
(3)	Student Instructional Practicum	3 Hours
(4)	Practical Skills Evaluation	3 Hours
(5)	Response to Injury	4 Hours
(6)	Combat Conditioning	12 Hours
(7)	Safety Guidelines/Rules	2 Hours
(8)	Practical Skills Enhancement	4 Hours
(9)	Subject Control/Arrest Techniques Practical Skills and Instructional Methods	44 Hours
(10)	Fundamentals of Professional Liability For Law Enforcement Trainers	4 Hours
(11)	State Comprehensive Examination/Course Closing	2 Hours
	TOTAL	80 Hours

(e) The "Specialized Subject Control Arrest Techniques Instructor Training Manual" as published by the North Carolina Justice Academy shall be used as the basic curriculum for delivery of specialized subject control arrest techniques instructor training courses. Copies of this publication may be inspected at the agency:

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

and may be obtained at no cost to the student from the Academy at the following address:

North Carolina Justice Academy
Post Office Box 99
Salemberg, North Carolina 28385

(f) Commission-certified schools that are certified to offer the "Specialized Subject Control Arrest Techniques Instructor Training" course are: The North Carolina Justice Academy.

History Note: Authority G.S. 17C-6; Eff. February 1, 1987; Amended Eff. December 1, 2009; August 1, 2006; August 1, 2000; November 1, 1998; August 1, 1995; March 1, 1990; July 1, 1989.

12 NCAC 09B .0233 SPECIALIZED PHYSICAL FITNESS INSTRUCTOR TRAINING

(a) The instructor training course required for specialized physical fitness instructor certification shall consist of a minimum of 60 hours of instruction presented during a continuous period of not more than two weeks.

(b) Each specialized physical fitness instructor training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice physical fitness instructor in a Basic Law Enforcement Training Course or a "Law Enforcement Officers' Annual In-Service Training Program."

(c) Each applicant for specialized physical fitness training shall:

- (1) qualify through one of the following three options:

- (A) have completed the criminal justice general instructor training course; or
- (B) hold a current and valid North Carolina Teacher's Certificate and hold a minimum of a baccalaureate degree in physical education and be teaching in physical education topics; or
- (C) be presently instructing physical education topics in a community college, college or university and hold a minimum of a baccalaureate degree in physical education;

- (2) present a written endorsement by either
 - (A) a school director indicating the student will be utilized to instruct physical fitness in Basic Law Enforcement Training Courses; or
 - (B) a certified school director, or in-service training coordinator indicating the student will be utilized to instruct physical fitness for the "Law Enforcement Officers' In-Service Training Program";

- (3) present a letter from a physician stating fitness to participate in the course; and
- (4) possess a valid CPR Certification that included cognitive and skills testing.

(d) Each specialized physical fitness instructor training course shall include the following identified topic areas and minimum instructional hours for each area:

(1)	Orientation	5 Hours
(2)	Lesson Plan Review	4 Hours
(3)	Physical Fitness Assessments, Exercise Programs and Instructional Methods	31 Hours
(4)	Injury Care and Prevention	4 Hours
(5)	Nutrition	6 Hours
(6)	Civil Liabilities for Trainers	2 Hours
(7)	CVD Risk Factors	2 Hours
(8)	Developing In-Service Wellness Programs and Validating Fitness Standards	4 Hours
(9)	State Examination	2 Hours
	TOTAL	60 Hours

(e) The "Physical Fitness Instructor Training Manual" as published by the North Carolina Justice Academy shall be used as the basic curriculum for delivery of specialized physical fitness instructor training courses. Copies of this publication may be inspected at the agency:

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

and may be obtained at no cost to the student from the Academy at the following address:

North Carolina Justice Academy
Post Office Box 99
Salemberg, North Carolina 28385

(f) Commission-certified schools that are certified to offer the "Specialized Physical Fitness Instructor Training" course are: The North Carolina Justice Academy.

History Note: Authority G.S. 17C-6; Eff. July 1, 1989; Amended Eff. December 1, 2009; August 1, 2006; August 1, 2002; August 1, 2000; November 1, 1998; March 1, 1990; August 1, 1985.

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

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

- (1) Firearms Training and Qualification (4);
- (2) Legal Update (4);
- (3) Career Survival: Positive Ways to be Successful (4);
- (4) Juvenile Minority Sensitivity Training: Race Matters (2); and
- (5) Department Topics of Choice (10).

History Note: Authority G.S. 17C-6; 17C-10; Eff. July 1, 1989; Amended Eff. January 1, 2005; Temporary Amendment Eff. January 1, 2005; Amended Eff. January 1, 2010; April 1, 2009; April 1, 2008; February 1, 2007; January 1, 2006.

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

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

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

(c) Review of Basic Marksmanship Fundamentals:

- (i) grip, stance, breath control and trigger squeeze;
- (ii) sight and alignment/sight picture; and
- (iii) nomenclature; and

(d) The "Specialized Firearms Instructor Training Manual" as published by the North Carolina Justice Academy shall be applied as a guide for conducting the annual in-service firearms training program. Copies of this publication may be inspected at the office of the agency:

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

- (2) Legal Update (4);
- (3) Career Survival: Positive Ways to be Successful (4);
- (4) Juvenile Minority Sensitivity Training: Race Matters (2); and
- (5) Department Topics of Choice (10).

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

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

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

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

History Note: Authority G.S. 17C-6; 17C-10; Eff. July 1, 1989; Amended Eff. January 1, 2005; November 1, 1998; Temporary Amendment Eff. January 1, 2005; Amended Eff. January 1, 2010; April 1, 2009; April 1, 2008; February 1, 2007; January 1, 2006.

12 NCAC 09H .0103 INSTRUCTORS

(a) Only instructors who hold Specialized Instructor Certification in Firearms issued by the Criminal Justice Education and Training Standards Commission as outlined in Rules 09B .0302 and 09B .0304 may conduct the firearms qualification training as specified in Rule 09H .0102.

(b) Each instructor specified in Paragraph (a) of this Rule shall record and retain the firearms qualification scores for each qualified retired law enforcement officer trained by the instructor

for a period of five years. These scores shall not be transmitted to the Criminal Justice Standards Division unless requested but must be available for inspection by Criminal Justice Standards Division representatives at reasonable times. If the instructor is conducting training on behalf of a North Carolina, governmental law enforcement agency, the North Carolina Justice Academy, or a North Carolina Community College, the institution shall maintain the records in lieu of the instructor in order to comply with this Rule.

(c) Upon successful qualification, the instructor shall sign and date the Retired Law Enforcement Officers Firearms Qualification Certification Application Form (F-9R) attesting to the successful qualification.

*History Note: Authority G.S. 17C-6; 14-415.10; 14-415.25; 14-415.26;
Eff. April 1, 2009;
Amended Eff. December 1, 2009.*

**TITLE 14A – DEPARTMENT OF CRIME CONTROL
AND PUBLIC SAFETY**

14A NCAC 12 .0404 DUTIES OF PROMOTERS AND MATCHMAKERS

(a) A promoter or matchmaker shall not act as a promoter or matchmaker for any boxing or kickboxing match in this State unless the match is held in accordance with the rules in this Chapter.

(b) Any person licensed as an individual shall have sole ownership of the license and the license is not transferable or assignable to another. If the person is no longer in business, the license is void.

(c) Any license issued to and in the name of a corporation is not transferable or assignable to another. If the corporation is no longer in business or no longer operates as the corporation, the license is void. If any officer of the corporation is added or deleted, the licensee shall, within 10 calendar days, notify the Division of the addition or deletion. A newly added officer shall submit an application for promoter or co-promoter license.

(d) Any license issued to a partnership is not transferable or assignable to another. If the partnership is no longer in business or no longer operates as the partnership, the license is void, provided however that if the business continues to operate but does not operate as a partnership and the sole remaining person was one of the licensed partners and all other previous licensed partners have, in writing, authorized the sole remaining person to have control and use of the licensed name, then the license may remain in force and effective until its expiration date, at which time the person shall apply as an individual.

(e) A promoter shall not be licensed as a judge or referee.

(f) An applicant for a promoter's license shall satisfy the following bonding requirements:

- (1) An applicant for a promoter license shall deposit with the Division a bond or other security in the amount of ten thousand (\$10,000) prior to being issued a promoter license. If the bond or other security is not

maintained in full force and effect, the license is void.

- (2) If the Division determines that the projected liability for a match may exceed ten thousand dollars (\$10,000) the Division representative shall require an additional bond or additional security for the match. The additional bond or additional security shall be required and used only for the designated match and shall be released or returned 90 calendar days after the date of the match unless, as a result of violations or suspected violations, the Division representative determines that the additional bond or additional security shall be retained by the Division for a longer period.

- (3) The bond and other security, or additional bond and additional security shall be filed with the Division for the purpose of providing surety that the promoter will faithfully perform and fulfill his obligations as described in Article 68, and the rules set forth in this Chapter. Any fault, negligence, error or omission, failure to fulfill contractual obligations, violation of any rules of the Division or any other act or failure to act may result in a claim for recovery from the bond and recovery from the other security. When the amount of recovery cannot be determined by the Division due to the failure of the promoter to perform as required by G.S. 143, Article 68 or the rules set forth in this Chapter, the Division shall recover the face value of the bond and other security and the additional bond and additional security, as appropriate provided however that the recovery shall not be greater than the amount of the bond and other security required to be deposited with the Division.

- (4) A bond or additional bond is acceptable if the following conditions are met:

- (A) The bond or additional bond has attached the Division Director as power of attorney, which power of attorney does not have an expiration date;
- (B) The bond and additional bond provides surety in an amount equal to the face amount of the bond and additional bond and the aggregate annual liability are for the face amount of the bond and additional bond; and
- (C) The bond and additional bond is made out in the name of the Division of Alcohol Law Enforcement, Boxing Authority Section and shall be negotiable on the authority of the Division representative;

- (5) The bond and additional bond may not be canceled, unless the following conditions have been met, provided however, when an additional bond is required as referenced in this Paragraph, Part (f)(5)(B) in this Rule does not apply:
- (A) The surety company has provided the Division at least a 60 calendar-day written notice of intent to cancel;
 - (B) The promoter's license has expired or the license has been returned to the Division with a request to cancel the license and canceled by the Division and the promoter has not filed an application for renewal of the license; and
 - (C) A period of 90 calendar days has elapsed since the most recent match of the promoter.
- (6) Other security may be provided in lieu of the bond or additional bond provided the following conditions are met:
- (A) The security is in the form of cash, a certified check or direct obligations of the United States or this state;
 - (B) The certified check is made payable to the Division of Alcohol Law Enforcement, Boxing Authority Section and, the certified check and the direct obligations of the United States or this state shall be negotiable on the authority of the Division representative;
 - (C) The Division shall not pay interest or other charges or fees to the promoter;
 - (D) The security may not be canceled or requested to be returned, unless the following conditions have been met, provided however, when an additional security is required as referenced in this Paragraph, Subpart (6)(D)(ii) of this Rule does not apply:
 - (i) The promoter has provided the Division at least a 60-calendar day written notice of request for return or release of the security;
 - (ii) The promoter's license has expired or the license has been returned to the Division with a request for cancellation and canceled by the Division and the promoter has not filed an application for renewal of the license, or the promoter has substituted a bond for the security and the bond indicates on its face that it will retroactively cover the promoter for all times and for all obligations of the promoter covered by the security for which the bond is being substituted;
- (iii) A period of 90 calendar days has elapsed since the most recent match of the promoter; and
 - (iv) A period of one year has elapsed since the security was deposited with the Division.
- In the event of substitution of a bond for the security on the deposit with the Division, Subparts (iii) and (iv) in this Part do not apply.
- (g) More than one promoter may be involved in the promotion of a single program of matches. The promoter to whom the permit is issued shall be considered as the promoter of record and that promoter shall ensure that all the requirements and responsibilities of the promoter are accomplished as set forth in this Chapter, provided however that the bonds or other securities deposited with the Division of all promoters involved in the promotion of the program of matches are liable and may be used as surety against any claim or obligation involving the program of matches.
 - (h) A matchmaker shall make matches in which the contestants are of similar ability and skill.
 - (i) A matchmaker or promoter shall not contract with or negotiate with managers or contestants who are under suspension or whose licenses have been revoked in North Carolina or any other state.
 - (j) Contracts between contestants and the promoter shall be filed with the Division no later than at the time of weigh-in. All contracts between contestant and promoter must be executed on a form provided by the Division.
 - (k) After the application for a permit has been tentatively approved and a proposed match has been approved, the promoter may provide the names of the contestants for the approved match to the media. A promoter shall not advertise, sell or cause to be sold any tickets, distribute or cause to be distributed any complimentary tickets, enter into any contracts or in any way make any obligations, commitments or announcements relative to a match or program of matches unless the match or program of matches has been approved and the permit has been tentatively approved.
 - (l) The promoter shall, in the case of a substitution in a main event, post in a conspicuous place in front of the arena or directly over the cashier windows, notice of the substitution, and if time permits, shall advertise the substitution by radio and in a newspaper expected to have the widest circulation for the intended audience.
 - (m) A promoter may not pay, lend, or give a contestant an advance against his purse before a contest.
 - (n) The promoter shall ensure that each contestant scheduled to be engaged in a match has received the following examinations:

- (1) A full dilated eye examination performed by a licensed ophthalmologist and submitted on a form provided by the Division within the past 12 months;
- (2) HIV within the last 180 days;
- (3) Hepatitis B surface antigens within the past 180 days; and
- (4) Hepatitis C antibody.

If a contestant fails a Hepatitis B surface Antigen test, the contestant must pass a Hepatitis B "PCR" quantitative test. The quantitative limit must be within permissible limits according to the laboratory where test were administered. The test and results must not be older than 180 days from date of the receipt of report by the Division and must be submitted on letterhead of the laboratory, accompanied by contestant's declaration under penalty of perjury that the report represents the contestant's most recent HIV, Hepatitis B and Hepatitis C test results.

(o) The Division representative shall, if he has cause to believe that a contestant may have suffered cardiac or neurological injury, direct the contestant to undergo an EKG, EEG, or CAT scan. The interpretation and diagnosis shall be filed with the Division. The promoter shall ensure that this requirement is satisfied.

(p) The promoter shall acquire insurance as described in Paragraph (aa) of this Rule.

(q) The promoter shall advise all managers and contestants under contract for a match or program of matches of the time and place of the weigh-in as designated by the Division representative and of the time and place of their appearance for the match or program of matches.

(r) The promoter shall provide the arena equipment, seating, services, facilities, personnel, ushers, ticket sellers, security and other equipment or services necessary to provide for the correct handling of the program of matches.

(s) The promoter shall contract with and compensate the officials required to be present and rendering services during a program of matches including an announcer, a timekeeper, two referees, three judges, plus two kick count judges for kickboxing and a ringside physician. A physician shall be present at the weigh-in.

(t) The promoter shall ensure that all tickets have printed on them the admission price and no ticket is sold for a price higher than the price shown on its face. Each complimentary ticket shall have printed on its face the face value of the ticket and in no case shall the dollar value shown on the face of the ticket be \$ 0.00. Each complimentary ticket shall be either marked "COMPLIMENTARY" in large letters on its face or shall be marked or punched in such a manner as to make it clear that the ticket is complimentary. A promoter may not issue complimentary tickets for more than four percent of the seats in the venue. The promoter shall collect a fee in the amount established by G.S. 143-655(b)(1) to attend matches regulated by the Division. The total amount of this fee shall be deposited with the Division after the conclusion of the program of matches. The promoter shall complete, certify and sign a form, supplied by the Division, indicating the total number of paid and complimentary tickets for the program of matches.

(u) A promoter shall not sell or issue, or cause to be sold or issued more tickets of admission for any match or program of

matches than can be accommodated by the seating capacity of the premises where the match or program of matches is to be held.

(v) The following criteria and procedure shall be used for the refunding of the purchase price of tickets:

- (1) The promoter shall refund the full purchase price of a ticket for a match or program of matches if:

- (A) The match or program of matches is postponed or the main event or entire program of matches is cancelled; and
- (B) The person presenting the ticket for refund has presented the ticket within 30 calendar days after the scheduled date of the cancelled match or program of matches.

- (2) Within 10 calendar days after the expiration of the 30-calendar day period, the promoter shall pay all unclaimed ticket receipts to the Division. The Division shall hold the funds in the State Boxing Division Revenue Account for one year and make refunds during that time to any person presenting a valid ticket for a refund.

- (3) Failure to comply with this Paragraph shall result in the forfeiture of the bond or other security and additional bond or additional security and revocation of the license of the promoter or co-promoter.

(w) The promoter shall retain all records necessary to justify and support the information submitted on any reports required by the Division for a period of two years following the date of the match or program of matches.

(x) The promoter shall provide at each program of matches the following:

- (1) A minimum of two physicians. The Division representative may waive the two physicians requirement and require only one physician based on consideration of the match type, number of contestants, and the experience, size and skill of the contestants participating the program of matches. The Division shall note these findings on Division forms and provide the promoter with a copy;
- (2) A portable defibrillator and canister of oxygen including all additional equipment necessary for proper operation;
- (3) An ambulance with two attendants; and
- (4) A clean stretcher and clean blanket which shall be in place at all times throughout the program of matches. No match shall begin or continue unless such equipment and personnel are on the premises, in a state of readiness and in a pre-designated readily assessable location known to the referee, physicians and the Division representative.

(y) The promoter shall have available at all times during the progress of a program of matches a person or persons capable of

making emergency repairs, corrections and adjustments to the ring, lights and other necessary fixtures.

(z) The promoter shall supply the following items which shall be in good working order and available for use as needed:

- (1) A public address system;
- (2) Chairs, located in accordance with the floor plan;
- (3) A bell, positioned in a neutral location designated by the Division representative, for use by the timekeeper;
- (4) Two stools, a clean water bucket and a clean water container for drinking purposes for each contestant's corner;
- (5) Cleaning solution to clean blood and debris in the cage or ring. A solution of 10 percent bleach and 90 percent water is an acceptable solution; and
- (6) A complete set of numbered round cards, which shall be of such size as to make them legible from all parts of the arena.

(aa) The promoter for the match shall acquire the insurance coverage described in this Chapter and file with the Division written evidence of insurance no later than 72 hours prior to the date of the match. The evidence of insurance shall specify the name of the insurance company, the insurance policy number, the effective date of the coverage and evidence that each contestant is covered by the insurance. Any deductible associated with the insurance policy shall be paid by the promoter. If the promoter fails to provide evidence of insurance as required in this Chapter the permit shall not be issued or, if issued, the permit shall be suspended and the program of matches shall be canceled. Each contestant in a match held in North Carolina shall be covered by insurance for medical, surgical and hospital care for injuries sustained while engaged in a match. The coverage shall be for an amount not less than two thousand five hundred dollars (\$2,500) for each contestant.

History Note: Authority G.S. 143-652.1; 143-655; Temporary Adoption Eff. January 1, 1996; Recodified from 18 NCAC 9 .0106 Eff. April 1, 1996; Eff. April 1, 1996; Transferred and recodified from 18 NCAC 9 effective November 8, 2002; Amended Eff. December 1, 2009; March 1, 2008 (recodified from 14A NCAC 12 .0111(j)); November 1, 2004.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

15A NCAC 02Q .0521 PUBLIC PARTICIPATION

(a) The Director shall give public notice with an opportunity for comments and a hearing on all draft permits and permit revisions except permit revisions issued under Rules .0514, .0515, .0524 of this Section. The Director shall give public notice with an opportunity for comments and a hearing on draft permit

revisions issued under Rule .0514, .0515, .0524 of this Section if the Director finds it is in the best interest of the public.

(b) The notice of any draft permit for an existing facility for which a public hearing is scheduled, or new facility, shall be given by publication in a newspaper of general circulation in the area where the facility is located, posted on the North Carolina Division of Air Quality web site at <http://www.ncair.org/permits/>, and emailed to persons who are on the Division's emailing list for air quality permits.

(c) The notice for existing facilities for which a public hearing is not scheduled shall be given by posting the draft permit on the North Carolina Division of Air Quality web site, and shall be emailed to persons who are on the Division's emailing list for air quality permit notices.

(d) The notice shall identify:

- (1) the affected facility;
- (2) the name and address of the permittee;
- (3) the name and address of the person to whom to send comments and requests for public hearing;
- (4) the name, address, and telephone number of Divisional staff from whom interested persons may obtain additional information, including copies of the permit draft, the application, compliance plan, monitoring and compliance reports, all other relevant supporting materials, and all other materials available to Division that are relevant to the permit decision;
- (5) the activity or activities involved in the permit action;
- (6) any emissions change involved in any permit modification;
- (7) a brief description of the comment procedures;
- (8) the procedures to follow to request a hearing unless a hearing has already been scheduled; and
- (9) the time and place of any hearing that has already been scheduled.

(e) The Director shall send a copy of the notice to affected States and EPA.

(f) The notice shall allow 30 days for public comments.

(g) If the Director finds that a public hearing is in the best interest of the public, the Director shall require a public hearing to be held on a draft permit. Notice of a public hearing shall be given at least 30 days before the hearing.

(h) If EPA requests a record of the comments and of the issues raised during the public participation process, the Director shall provide EPA this record.

(i) Persons who desire to be placed on the Division's email notification list for air quality permit notices shall subscribe to the permits email list serve at <http://www.ncair.org/permits/>.

History Note: Authority G.S. 143-215.3(a)(1),(3); 143-215.107(a)(10); 143-215.108; 143-215.111(4); Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Eff. July 1, 1994; Amended Eff. January 1, 2010; July 1, 1998.

15A NCAC 09C .1224 EXPULSION

History Note: Authority G.S. 113-8; 113-34; 113-35; Temporary Adoption Eff. December 21, 2001; Eff. April 1, 2003; Repealed Eff. December 1, 2009.

15A NCAC 09C .1227 FEES AND CHARGES

History Note: Authority G.S. 113-35(b); Temporary Adoption Eff. March 15, 2002; Eff. April 1, 2003; Repealed Eff. Pending Consultation of Rule .1257.

15A NCAC 09C .1249 NOISE REGULATIONS

The production or emission of noises over the level of 85 decibels, at a distance of 10 feet, on an Educational State Forest or State Forest is prohibited.

History Note: Authority G.S. 113-34; 113-35; 113-264(a); Eff. December 1, 2009.

15A NCAC 09C .1253 EXPULSION

For violation of any rule in this Section, the Division shall withdraw the right of a person or persons to remain on an Educational State Forest or State Forest.

History Note: Authority G.S. 113-8; 113-34; 113-35; Eff. December 1, 2009.

15A NCAC 09C .1257 FEES AND CHARGES

(a) The following fee schedule shall apply at DuPont State Forests and the Community Building at Jordan Lake Educational State Forest:

- (1) CAMPING. (A) Primitive, unimproved campsite with portable toilets and fresh water available, \$9.00 per campsite, daily. (B) Primitive group tent camping, unimproved campsite with portable toilets, \$1.00 per person, daily, with \$9.00 minimum. (C) Improved group camping with water, restrooms and shower facilities available, \$40.00 per day, and maximum capacity of 35 people. (2) PICNIC SHELTER RENTALS. (A) Are by reservations only. (B) Rate: 1-2 tables, \$25.00; 3-4 tables, \$40.00; 5-8 tables, \$60.00. (3) CLASSROOM OR COMMUNITY BUILDING (DuPont State Forest and Jordan Lake Educational State Forest). (A) Fee may be waived for government agencies and natural resource related non-profit groups.

(B) Rates: One half day, \$75.00; Full day, \$150.00.

- (4) EQUESTRIAN FACILITIES. (A) Barn or paddocks (fee may be waived for volunteer work groups), \$10.00 per horse, daily. (B) Use is limited to non-profit groups and area summer camps. (5) PERMITS FOR SPECIAL EVENTS. Permits for use of the forest for events involving large groups or special privileges and requiring staff assistance: Rate: \$1.00 per person plus the cost of staff time and equipment use involved in monitoring the permit. (6) PERMITS FOR THE REMOVAL OF FIREWOOD, VEGETATIVE MATERIAL, ROCKS, ETC. Fees for these items are based on the value of the material as determined by local market conditions. (b) Payment of the appropriate fee shall be a prerequisite for the use of the public service facility or convenience provided. (c) Unless otherwise provided in this Rule, the number of persons camping at a particular site may be limited by the forest supervisor depending upon the size of the group and the size and nature of the campsite. (d) Reservations must be canceled 30 days prior to the event in order to receive a refund. Permit fees are non-refundable.

History Note: Authority G.S. 113-8; 113-34; 113-35; Eff. Pending Consultation pursuant to G.S. 12-3.1.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 18 – BOARD OF EXAMINERS FOR ELECTRICAL CONTRACTORS

21 NCAC 18B .0201 REQUIREMENTS FOR ALL EXAMINATION APPLICANTS

- (a) To take an examination in any electrical contracting license classification, the applicant must: (1) be at least 18 years of age; (2) submit the required duly filed application as defined in Rule .0210; (3) submit with the application written statements from at least two persons attesting to the applicant's good character; and (4) meet any other requirements set out in Paragraph (b) of this Rule. (b) Examination applicants must meet the following requirements for the specified license classifications: (1) Limited classification. An applicant must have at least four years of experience, as defined in Rule .0202 of this Section, of which at least two years shall be primary experience. The balance of experience may be primary, secondary or both.

- (2) Intermediate classification. An applicant must have at least six years of experience, as defined in Rule .0202 of this Section, of which at least four years shall be primary experience. The balance of experience may be primary, secondary or both.
- (3) Unlimited classification. An applicant must:
 - (A) have at least seven years of experience, as defined in Rule .0202 of this Section, of which at least five years shall be primary experience. The balance of experience may be primary, secondary or both, and
 - (B) submit with the application written statements from at least two persons, who are knowledgeable of the applicant's electrical experience, attesting to the applicant's ability to supervise and direct all electrical wiring or electrical installation work done by an electrical contracting business in the unlimited classification.
- (4) Single family detached residential dwelling (SP-SFD) classification. An applicant must have at least four years of experience, as defined in Rule .0202 of this Section, of which at least two years shall be primary experience. The balance of experience may be primary, secondary or both.
- (5) Special restricted fire alarm/low voltage (SP-FA/LV) classification. An applicant must have at least three years of experience, as defined in Rule .0202 of this Section, of which at least two years shall be primary experience. The balance of experience may be primary, secondary or both. An applicant in this classification may also receive creditable experience for service in any of the capacities listed in Rule .0202 that the applicant gained in the low voltage field.
- (6) Special restricted elevator (SP-EL) classification. An applicant must:
 - (A) have at least four years of experience, as defined in Rule .0202 of this Section, of which at least two and one-half years shall be primary experience. The balance of experience may be primary, secondary or both. An applicant in this classification may also receive creditable experience for service in any of the capacities listed in Rule .0202 that the applicant gained in the elevator field, and
 - (B) include on the application information verifying that the applicant is primarily engaged in, or is regularly employed by and will be
- (7) Special restricted plumbing and heating (SP-PH) classification. An applicant must:
 - (A) have at least three years of experience, as defined in Rule .0202 of this Section, of which at least two years shall be primary experience. The balance of experience may be primary, secondary or both. An applicant in this classification may also receive creditable experience for service in any of the capacities listed in Rule .0202 that the applicant gained in the plumbing, heating or air conditioning field, and
 - (B) include on the application information verifying that the applicant is primarily engaged in, or is regularly employed by and will be the listed qualified individual for a firm that is primarily engaged in, a lawful plumbing, heating or air conditioning business in this State.
- (8) Special restricted ground water pump (SP-WP) classification. An applicant must:
 - (A) have at least two years of experience, as defined in Rule .0202 of this Section, of which at least one year shall be primary experience. The balance of experience may be primary, secondary or both. An applicant in this classification may also receive creditable experience for service in any of the capacities listed in Rule .0202 that the applicant gained in the ground water pump field, and
 - (B) include on the application information verifying that the applicant is primarily engaged in, or is regularly employed by and will be the listed qualified individual for a firm that is primarily engaged in, a lawful ground water pump business in this State.
- (9) Special restricted electric sign (SP-ES) classification. An applicant must:
 - (A) have at least two years of experience, as defined in Rule .0202 of this Section, of which at least one year shall be primary experience. The balance of experience may be primary, secondary or both. An applicant in this classification may also receive creditable experience in any of the capacities listed in Rule

- .0202 that the applicant gained in the electric sign field, and
- (B) include on the application information verifying that the applicant is primarily engaged in, or is regularly employed by and will be the listed qualified individual for a firm that is primarily engaged in, a lawful electric sign business in this State.
- (10) Special restricted swimming pool (SP-SP) classification. An applicant must:
- (A) have at least two years of experience, as defined in Rule .0202 of this Section, of which at least one year shall be primary experience. The balance of experience may be primary, secondary or both. An applicant in this classification may also receive creditable experience for service in any of the capacities listed in Rule .0202 that the applicant gained in the swimming pool field, and
- (B) include on the application information verifying that the applicant is primarily engaged in, or is regularly employed by and will be the listed qualified individual for a firm that is primarily engaged in, a lawful swimming pool business in this State.
- (8) time spent by a professional engineer who is responsible for follow-up project supervision, beyond the point of delivery, in electrical engineering design, or consulting; 100
- (9) full-time instructor teaching National Electrical Code NFPA 72 and related electrical courses at a college, university, community college, technical institute, high school or vocational school; 50
- (10) maintenance journeyman electrician or electrician mechanic employed in a full-time electrical maintenance department; 100
- (11) time actually spent in electrical maintenance by a maintenance journeyman electrician or electrician mechanic regularly employed in other than a full-time electrical maintenance department; 100
- (12) military person holding an electrician rating or rank of at least E-4 who is engaged in land based electrical installations similar or equivalent to work performed by an electrical contractor; 100
- (13) time actually spent in part-time or incidental work in any primary experience category; 100
- (14) time actually spent installing or maintaining fire alarm/low voltage systems; 100
- (15) time as a holder of NICET certification on NFPA 72 Level I, II or III; 50
- (16) time as a holder of NICET certification on NFPA 72 Level IV. 100

In calculating accumulative primary experience, a total of 2,000 hours shall equal one creditable year. The total number of creditable years shall be calculated by dividing the total hours of primary experience by 2,000. Example: Applicant has worked in primary capacity for a total of 7,200 hours of primary experience.

7,200= 3.6 years creditable primary work experience
2,000

(b) Secondary. As used in this Chapter, secondary experience means working experience gained while engaged in work or training that is related to the installation of electrical wiring and equipment governed by the National Electrical Code. Examples of the type of work or training in which a person may engage to gain creditable secondary experience and the percentages for creditable secondary experience are as follows:

- | | Percentage | | Percentage |
|---|------------|--|------------|
| (1) journeyman electrician or electrician mechanic, both meaning the same; | 100 | (1) apprentice electrician training in an apprentice program approved by the North Carolina Department of Labor; | 100 |
| (2) electrical foreman; | 100 | (2) time spent as an apprentice electrician or helper other than as described in Subparagraph (1) and (3) of this Paragraph; | 80 |
| (3) electrical general foreman; | 100 | (3) time actually spent in electrical maintenance by a maintenance apprentice or | |
| (4) electrical superintendent; | 100 | | |
| (5) electrical general superintendent; | 100 | | |
| (6) estimator for licensed electrical contractor; | 100 | | |
| (7) electrical inspector recognized as such by the State Department of Insurance; | 100 | | |

History Note: Authority G.S. 87-42; 87-43.3; 87-43.4; 87-44; Eff. October 1, 1988; Amended Eff. January 1, 2010; March 1, 1999; February 1, 1990.

21 NCAC 18B .0202 EXPERIENCE

(a) Primary. As used in this Chapter, primary experience means working experience gained by the applicant while engaged directly in the installation of electrical wiring and equipment governed by the National Electrical Code or work activities directly related thereto. Examples of the capacity in which a person may work in gaining primary experience and the percentages for creditable primary experience are as follows:

- (4) electrician helper regularly employed in other than a full-time electrical maintenance department; 80
- (4) student satisfactorily completing National Electrical Code and related electrical courses at a college, university, community college, technical institute, high school or vocational school; 50
- (5) time spent by a professional engineer who is not responsible for follow-up project supervision, beyond the point of delivery, in electrical engineering, design, or consulting; 50
- (6) electrical construction design under the supervision of a professional engineer; 50
- (7) sales representative for an electrical wholesaler, distributor, or manufacturer; 20
- (8) appliance service and repair; 20
- (9) electric utility lineman; and 10
- (10) electric utility serviceman. 20

In calculating cumulative secondary experience, a total of 2,000 hours shall equal one creditable year. The total number of creditable years shall be calculated by applying the percentage for creditable secondary experience and dividing the remainder hours by 2,000. Example: Applicant has 1,000 hours of work experience as a helper or regular apprentice and 2,200 hours of experience while enrolled in an approved apprentice training program: 1,000 hours at 80 percent = 800 hours secondary experience; 2,200 hours at 100 percent = 2,200 hours secondary experience; $800 + 2,200 = 1.5$ years creditable secondary experience. 2,000

(c) Other Experience. The Board shall approve other experience that it finds to be equivalent or similar to the primary or secondary experience defined in this Rule.

History Note: Authority G.S. 87-42; 87-43.3; 87-43.4; Eff. October 1, 1988; Amended Eff. January 1, 2010; March 1, 1999.

21 NCAC 18B .0801 GENERAL PROVISIONS

(a) Types. A special restricted electrical contracting license classification is a classification established pursuant to G.S. 87-43.3 or by G.S. 87-43.4. Its purpose is to license persons, partnerships, firms, or corporations to engage or offer to engage in only a limited phase of electrical contracting work. Each special restricted license classification is separate from all other special restricted and regular license classifications. The General Assembly created the special restricted single family dwelling electrical contractor license in G.S. 87-43.4. Pursuant to G.S. 87-43.3, the Board has established the following special restricted electrical contracting licenses:

- (1) fire alarm/low voltage wiring license (SP-FA/LV);
- (2) elevator license (SP-EL);
- (3) plumbing, heating, and air conditioning license (SP-PH);
- (4) groundwater pump license (SP-WP);

- (5) electric sign license (SP-ES); and
- (6) swimming pool license (SP-SP).

(b) Limited Scope. A special restricted contracting license does not authorize the licensee to engage or offer to engage in the business of electrical contracting in general. It authorizes the licensee to engage or offer to engage only in the limited phase of electrical contracting described in the Rule in this Section that specifies the scope of the applicable special restricted license.

(c) No Project Value Limit. The limitations concerning the dollar value of projects that may be undertaken by a limited or an intermediate licensee do not apply to special restricted licensees. Thus, the holder of a special restricted license may engage or offer to engage in any project authorized by the license regardless of the dollar value of the project.

(d) Effect of Regular License. A licensee in the regular license classifications, whether limited, intermediate or unlimited, is qualified to engage or offer to engage in any activity authorized by a special restricted license, subject to the project value limitations contained in G.S. 87-43.3, and does not have to obtain a special restricted license.

History Note: Authority G.S. 87-42; 87-43.3; 87-43.4; Eff. October 1, 1988; Amended Eff. January 1, 2010; February 1, 1995; February 1, 1990.

21 NCAC 18B .0901 APPLICANTS CONVICTED OF CRIMES

The Board shall not consider the examination application of a person who has been convicted of a crime involving fraud or moral turpitude until at least one year has elapsed following the applicant's completion of the terms and conditions of any punishment for the conviction, except for unsupervised probation.

History Note: Authority G.S. 87-42; 87-43.3; 87-43.4; 87-47(a1)(4); Eff. October 1, 1988; Amended Eff. January 1, 2010; April 1, 1995; February 1, 1990.

CHAPTER 30 – BOARD OF MASSAGE AND BODYWORK THERAPY

21 NCAC 30 .0304 LICENSE BY RECIPROCITY

History Note: Authority G.S. 90-626(9); 90-630; Temporary Adoption Eff. February 15, 2000; Eff. April 1, 2001; Repealed Eff. December 1, 2009.

CHAPTER 32 – MEDICAL BOARD

21 NCAC 32M .0101 DEFINITIONS

The following definitions apply to this Subchapter:

- (1) "Medical Board" means the North Carolina Medical Board.
- (2) "Board of Nursing" means the North Carolina Board of Nursing.
- (3) "Joint Subcommittee" means the subcommittee composed of members of the Board of Nursing and members of the Medical Board to whom responsibility is given by G.S. 90-8.2 and G.S. 90-171.23(b)(14) to develop rules to govern the performance of medical acts by nurse practitioners in North Carolina.
- (4) "Nurse Practitioner" or "NP" means a currently licensed registered nurse approved to perform medical acts consistent with the nurse's area of nurse practitioner academic educational preparation and national certification under an agreement with a licensed physician for ongoing supervision, consultation, collaboration and evaluation of medical acts performed. Such medical acts are in addition to those nursing acts performed by virtue of registered nurse (RN) licensure. The NP is held accountable under the RN license for those nursing acts that he or she may perform.
- (5) "Registration" means authorization by the Medical Board and the Board of Nursing for a registered nurse to use the title nurse practitioner in accordance with this Subchapter.
- (6) "Approval to Practice" means authorization by the Medical Board and the Board of Nursing for a nurse practitioner to perform medical acts within her or his area of educational preparation and certification under a collaborative practice agreement (CPA) with a licensed physician in accordance with this Subchapter.
- (7) "Supervision" means the physician's function of overseeing medical acts performed by the nurse practitioner.
- (8) "Collaborative practice agreement" means the arrangement for nurse practitioner-physician continuous availability to each other for ongoing supervision, consultation, collaboration, referral and evaluation of care provided by the nurse practitioner.
- (9) "Primary Supervising Physician" means the licensed physician who, by signing the nurse practitioner application, shall provide on-going supervision, collaboration, consultation and evaluation of the medical acts performed by the nurse practitioner as defined in the collaborative practice agreement. Supervision shall be in compliance with the following:
 - (a) The primary supervising physician shall assure both Boards that the nurse practitioner is qualified to perform those medical acts described in the collaborative practice agreement.
 - (b) A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a primary supervising physician.
 - (c) A fully licensed physician in a graduate medical education program who is also practicing in a non-training situation may supervise a nurse practitioner in the non-training situation.
- (10) "Back-up Supervising Physician" means the licensed physician who, by signing an agreement with the nurse practitioner and the primary supervising physician(s), shall provide supervision, collaboration, consultation and evaluation of medical acts by the nurse practitioner in accordance with the collaborative practice agreement when the Primary Supervising Physician is not available. Back-up supervision shall be in compliance with the following:
 - (a) The signed and dated agreements for each back-up supervising physician(s) shall be maintained at each practice site.
 - (b) A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a back-up supervising physician.
 - (c) A fully licensed physician in a graduate medical education program who is also practicing in a non-training situation and has a signed collaborative practice agreement with the nurse practitioner and the primary supervising physician may be a back-up supervising physician for a nurse practitioner in the non-training situation.
- (11) "Volunteer Approval" means approval to practice consistent with this Subchapter except without expectation of direct or indirect compensation or payment (monetary, in kind or otherwise) to the nurse practitioner.
- (12) "Disaster" means a state of disaster as defined in G.S. 166A-4(1a) and proclaimed by the Governor, or by the General Assembly pursuant to G.S. 166A-6.
- (13) "National Credentialing Body" means one of the following credentialing bodies that offers certification and re-certification in the nurse practitioner's specialty area of practice: American Nurses Credentialing Center (ANCC); American Academy of Nurse Practitioners (AANP); National Certification

Corporation of the Obstetric, Gynecologic and Neonatal Nursing Specialties (NCC); and the Pediatric Nursing Certification Board (PNCB).

History Note: Authority G. S. 90-8.1; 90-8.2; 90-18(c)(14); 90-18.2;
 Eff. January 1, 1991;
 Amended Eff. December 1, 2009; December 1, 2006; August 1, 2004; May 1, 1999; January 1, 1996.

21 NCAC 32M .0104 PROCESS FOR APPROVAL TO PRACTICE

(a) Prior to the performance of any medical acts, a nurse practitioner shall:

- (1) meet registration requirements as specified in 21 NCAC 32M .0103 of this Section;
- (2) submit an application for approval to practice;
- (3) submit any additional information necessary to evaluate the application as requested; and
- (4) have a collaborative practice agreement with a primary supervising physician.

(b) A nurse practitioner seeking approval to practice who has not practiced as a nurse practitioner in more than five years shall complete a nurse practitioner refresher course approved by the Board of Nursing in accordance with Paragraphs (o) and (p) of 21 NCAC 36 .0220 and consisting of common conditions and their management directly related to the nurse practitioner's area of education and certification.

(c) The nurse practitioner shall not practice until notification of approval to practice is received from the Board of Nursing after both Boards have approved the application.

(d) The nurse practitioner's approval to practice is terminated when the nurse practitioner discontinues working within the approved nurse practitioner collaborative practice agreement and the nurse practitioner shall notify the Board of Nursing in writing. The Boards may extend the nurse practitioner's approval to practice in cases of emergency such as sudden injury, illness or death of the primary supervising physician.

(e) Applications for approval to practice in North Carolina shall be submitted to the Board of Nursing and then approved by both Boards as follows:

- (1) the Board of Nursing shall verify compliance with Rule .0103 of this Subchapter and Paragraph (a) of this Rule; and
- (2) the Medical Board shall verify that the designated primary supervising physician holds a valid license to practice medicine in North Carolina and compliance with Subparagraph (a) of this Rule.

(f) Applications for approval of changes in practice arrangements for a nurse practitioner currently approved to practice in North Carolina:

- (1) addition or change of primary supervising physician shall be submitted to the Board of Nursing and proceed pursuant to protocols developed by both Boards; and
- (2) request for change(s) in the scope of practice shall be submitted to the Joint Subcommittee.

(g) A registered nurse who was previously approved to practice as a nurse practitioner in this state who reapplies for approval to practice shall:

- (1) meet the nurse practitioner approval requirements as stipulated in Rule .0108(c) of this Subchapter; and
- (2) complete the appropriate application.

(h) Volunteer Approval to Practice. The North Carolina Board of Nursing shall grant approval to practice in a volunteer capacity to a nurse practitioner who has met the qualifications to practice as a nurse practitioner in North Carolina.

(i) The nurse practitioner shall pay the appropriate fee as outlined in Rule .0115 of this Subchapter.

(j) A Nurse Practitioner approved under this Subchapter shall keep proof of current licensure, registration and approval available for inspection at each practice site upon request by agents of either Board.

History Note: Authority G.S. 90-18(c)(14); 90-18.2; 90-171.20(7); 90-171.23(b); 90-171.42;

Eff. January 1, 1991;
 Paragraph (b)(1) was recodified from 21 NCAC 32M .0104 Eff. January 1, 1996;
 Amended Eff. December 1, 2006; May 1, 1999; January 1, 1996;
 Recodified from 21 NCAC 32M .0103 Eff. August 1, 2004;
 Amended Eff. December 1, 2009; November 1, 2008; January 1, 2007; August 1, 2004.

21 NCAC 32M .0105 EDUCATION AND CERTIFICATION REQUIREMENTS FOR REGISTRATION AS A NURSE PRACTITIONER

(a) A nurse practitioner with first-time approval to practice after January 1, 2000, shall provide evidence of certification or recertification as a nurse practitioner by a national credentialing body.

(b) A nurse practitioner applicant who completed a nurse practitioner education program prior to December 31, 1999 shall provide evidence of successful completion of a course of education that contains a core curriculum including 400 contact hours of didactic education and 400 contact hours of preceptorship or supervised clinical experience. The core curriculum shall contain the following components:

- (1) health assessment and diagnostic reasoning including:
 - (A) historical data;
 - (B) physical examination data;
 - (C) organization of data base;
- (2) pharmacology;
- (3) pathophysiology;
- (4) clinical management of common health problems and diseases such as the following shall be evident in the nurse practitioner's academic program:
 - (A) respiratory system;
 - (B) cardiovascular system;
 - (C) gastrointestinal system;
 - (D) genitourinary system;
 - (E) integumentary system;
 - (F) hematologic and immune systems;

- (G) endocrine system;
- (H) musculoskeletal system;
- (I) infectious diseases;
- (J) nervous system;
- (K) behavioral, mental health and substance abuse problems;

- (5) clinical preventative services including health promotion and prevention of disease;
- (6) client education related to Subparagraph (b)(4) and (5) of this Rule; and
- (7) role development including legal, ethical, economical, health policy and interdisciplinary collaboration issues.

(c) Nurse practitioner applicants exempt from components of the core curriculum requirements listed in Paragraph (b) of this Rule are:

- (1) Any nurse practitioner approved to practice in North Carolina prior to January 18, 1981, is permanently exempt from the core curriculum requirement.
- (2) A nurse practitioner certified by a national credentialing body prior to January 1, 1998, who also provides evidence of satisfying Subparagraphs (b)(1) – (3) of this Rule shall be exempt from core curriculum requirements in Sub-paragraphs (b)(4) – (7) of this Rule. Evidence of satisfying Subparagraphs (b)(1) – (3) of this Rule shall include:
 - (A) a narrative of course content; and
 - (B) contact hours.

History Note: Authority G.S. 90-18(c)(14); 90-171.42; Eff. January 1, 1991; Recodified from 21 NCAC 32M .0005 Eff. January 1, 1996; Amended Eff. May 1, 1999; January 1, 1996; Recodified from 21 NCAC 32M .0104 Eff. August 1, 2004; Amended Eff. December 1, 2009; December 1, 2006; August 1, 2004.

21 NCAC 32M .0106 ANNUAL RENEWAL

(a) Each registered nurse who is approved to practice as a nurse practitioner in this state shall annually renew each approval to practice with the Board of Nursing no later than the last day of the nurse practitioner's birth month by:

- (1) Maintaining current RN licensure;
- (2) Submitting the fee required in Rule .0115 of this Subchapter; and
- (3) Completing the renewal application.

(b) If the nurse practitioner has not renewed by the last day of her or his birth month, the approval to practice as a nurse practitioner shall lapse.

History Note: Authority G.S. 90-8.1; 90-8.2; 90-18(14); 90-171.23(b); Eff. January 1, 1996; Amended Eff. August 1, 2004; May 1, 1999; Recodified from Rule .0105 Eff. August 1, 2004; Amended Eff. December 1, 2009; November 1, 2008.

21 NCAC 32M .0107 CONTINUING EDUCATION (CE)

In order to maintain nurse practitioner approval to practice, the nurse practitioner shall earn 50 contact hours of continuing education each year beginning with the first renewal after initial approval to practice has been granted. At least 20 hours of the required 50 hours must be those hours for which approval has been granted by the American Nurses Credentialing Center (ANCC) or Accreditation Council on Continuing Medical Education (ACCME), other national credentialing bodies or practice relevant courses in an institution of higher learning. Documentation shall be maintained by the nurse practitioner and made available upon request to either Board.

History Note: Authority G.S. 90-8.1; 90-8.2; 90-18(14); 90-171.23(14); Eff. January 1, 1996; Amended Eff. August 1, 2004; May 1, 1999; Recodified from Rule .0106 Eff. August 1, 2004; Amended Eff. December 1, 2009; April 1, 2008.

21 NCAC 32M .0108 INACTIVE STATUS

(a) Any nurse practitioner who wishes to place her or his approval to practice on an inactive status shall notify the Board of Nursing.

(b) A nurse practitioner with an inactive approval to practice status shall not practice as a nurse practitioner.

(c) A nurse practitioner with an inactive approval to practice status who reapplies for approval to practice shall meet the qualifications for approval to practice in Rules .0103(a)(1), .0104(a); .0106(b); .0107; and .0110 and (b)(1) of this Subchapter and receive notification from the Board of Nursing of approval prior to beginning practice after the application is approved by both Boards.

(d) A nurse practitioner with an inactive approval to practice status of greater than five years shall complete a nurse practitioner refresher course approved by the Board of Nursing in accordance with Paragraphs (o) and (p) of 21 NCAC 36 .0220 and consisting of common conditions and their management directly related to the nurse practitioner's area of education and certification.

History Note: Authority G.S. 90-18(c)(14); 90-18.2; 90-171.36; Eff. January 1, 1996; Amended Eff. December 1, 2009; December 1, 2006; August 1, 2004; May 1, 1999.

21 NCAC 32M .0110 QUALITY ASSURANCE STANDARDS FOR A COLLABORATIVE PRACTICE AGREEMENT

The following are the quality assurance standards for a collaborative practice agreement:

- (1) Availability: The primary or back-up supervising physician(s) and the nurse practitioner shall be continuously available to each other for consultation by direct communication or telecommunication.
- (2) Collaborative Practice Agreement:

- (a) shall be agreed upon and signed by both the primary supervising physician and the nurse practitioner, and maintained in each practice site;
 - (b) shall be reviewed at least yearly. This review shall be acknowledged by a dated signature sheet, signed by both the primary supervising physician and the nurse practitioner, appended to the collaborative practice agreement and available for inspection by members or agents of either Board;
 - (c) shall include the drugs, devices, medical treatments, tests and procedures that may be prescribed, ordered and performed by the nurse practitioner consistent with Rule .0109 of this Subchapter; and
 - (d) shall include a pre-determined plan for emergency services.
- (3) The nurse practitioner shall demonstrate the ability to perform medical acts as outlined in the collaborative practice agreement upon request by members or agents of either Board.
- (4) Quality Improvement Process:
- (a) The primary supervising physician and the nurse practitioner shall develop a process for the ongoing review of the care provided in each practice site including a written plan for evaluating the quality of care provided for one or more frequently encountered clinical problems.
 - (b) This plan shall include a description of the clinical problem(s), an evaluation of the current treatment interventions, and if needed, a plan for improving outcomes within an identified time-frame.
 - (c) The quality improvement process shall include scheduled meetings between the primary supervising physician and the nurse practitioner at least every six months. Documentation for each meeting shall:
 - (i) identify clinical problems discussed, including progress toward improving outcomes as stated in Subparagraph (d)(2) of this Rule, and recommendations, if any, for changes in treatment plan(s);
 - (ii) be signed and dated by those who attended; and
 - (iii) be available for review by members or agents of either Board for the previous five calendar years and be retained by both the nurse practitioner and primary supervising physician.
- (5) Nurse Practitioner-Physician Consultation. The following requirements establish the minimum standards for consultation between the nurse practitioner and primary supervising physician(s):
- (a) During the first six months of a collaborative practice agreement between a nurse practitioner and the primary supervising physician, there shall be monthly meetings for the first six months to discuss practice relevant clinical issues and quality improvement measures.
 - (b) Documentation of the meetings shall:
 - (i) identify clinical issues discussed and actions taken;
 - (ii) be signed and dated by those who attended; and
 - (iii) be available for review by members or agents of either Board for the previous five calendar years and be retained by both the nurse practitioner and primary supervising physician.

History Note Authority G.S. 90-8.1; 90-8.2; 90-18(14); 90-18.2; 90-171.23(14); Eff. January 1, 1991; Amended Eff. August 1, 2004; May 1, 1999; January 1, 1996; March 1, 1994; Recodified from Rule .0109 Eff. August 1, 2004; Amended Eff. December 1, 2009.

21 NCAC 32M .0116 PRACTICE DURING A DISASTER

- (a) A nurse practitioner approved to practice in this State or another state may perform medical acts as a nurse practitioner under the supervision of a physician licensed to practice medicine in North Carolina during a disaster in a county in which a state of disaster has been declared or counties contiguous to a county in which a state of disaster has been declared.
- (b) The nurse practitioner shall notify the Board of Nursing in writing of the names, practice locations and telephone number for the nurse practitioner and each primary supervising physician within 15 days of the first performance of medical acts as a nurse practitioner during the disaster, and the Board of Nursing shall notify the Medical Board.
- (c) Teams of physician(s) and nurse practitioner(s) practicing pursuant to this Rule shall not be required to maintain on-site documentation describing supervisory arrangements and plans for prescriptive authority as otherwise required pursuant to Rules .0109 and .0110 of this Subchapter.

History Note: Authority G.S. 90-18(c)(13), (14); 90-18.2; 90-171.20(7); 90-171.23(b); 90-171.42; Eff. May 1, 1999; Recodified from Rule .0105 Eff. August 1, 2004; Amended Eff. December 1, 2009; August 1, 2004.

CHAPTER 36 – BOARD OF NURSING

21 NCAC 36 .0801 DEFINITIONS

The following definitions apply to this Section:

- (1) "Medical Board" means the North Carolina Medical Board.
(2) "Board of Nursing" means the North Carolina Board of Nursing.
(3) "Joint Subcommittee" means the subcommittee composed of members of the Board of Nursing and members of the Medical Board to whom responsibility is given by G.S. 90-8.2 and G.S. 90-171.23(b)(14) to develop rules to govern the performance of medical acts by nurse practitioners in North Carolina.
(4) "Nurse Practitioner" or "NP" means a currently licensed registered nurse approved to perform medical acts consistent with the nurse's area of nurse practitioner academic educational preparation and national certification under an agreement with a licensed physician for ongoing supervision, consultation, collaboration and evaluation of the medical acts performed. Such medical acts are in addition to those nursing acts performed by virtue of registered nurse (RN) licensure. The NP is held accountable under the RN license for those nursing acts that he or she may perform.
(5) "Registration" means authorization by the Medical Board and the Board of Nursing for a registered nurse to use the title nurse practitioner in accordance with this Section.
(6) "Approval to Practice" means authorization by the Medical Board and the Board of Nursing for a nurse practitioner to perform medical acts within her or his area of educational preparation and certification under a collaborative practice agreement (CPA) with a licensed physician in accordance with this Section.
(7) "Supervision" means the physician's function of overseeing medical acts performed by the nurse practitioner.
(8) "Collaborative practice agreement" means the arrangement for nurse practitioner-physician continuous availability to each other for ongoing supervision, consultation, collaboration, referral and evaluation of care provided by the nurse practitioner.

- (9) "Primary Supervising Physician" means the licensed physician who, by signing the nurse practitioner application, shall provide ongoing supervision, collaboration, consultation and evaluation of the medical acts performed by the nurse practitioner as defined in the collaborative practice agreement. Supervision shall be in compliance with the following:
(a) The primary supervising physician shall assure both Boards that the nurse practitioner is qualified to perform those medical acts described in the collaborative practice agreement.
(b) A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a primary supervising physician.
(c) A fully licensed physician in a graduate medical education program who is also practicing in a non-training situation may supervise a nurse practitioner in the non-training situation.
(10) "Back-up Supervising Physician" means the licensed physician who, by signing an agreement with the nurse practitioner and the primary supervising physician(s) shall provide supervision, collaboration, consultation and evaluation of medical acts by the nurse practitioner in accordance with the collaborative practice agreement when the Primary Supervising Physician is not available. Back-up supervision shall be in compliance with the following:
(a) The signed and dated agreements for each back-up supervising physician(s) shall be maintained at each practice site.
(b) A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a back-up supervising physician.
(c) A fully licensed physician in a graduate medical education program who is also practicing in a non-training situation and has a signed collaborative practice agreement with the nurse practitioner and the primary supervising physician may be a back-up supervising physician for a nurse practitioner in the non-training situation.
(11) "Volunteer Approval" means approval to practice consistent with this rule except without expectation of direct or indirect

- compensation or payment (monetary, in kind or otherwise) to the nurse practitioner.
- (12) Disaster" means a state of disaster as defined in G.S. 166A-4(1a) and proclaimed by the Governor, or by the General Assembly pursuant to G.S. 166A-6.
- (13) "National Credentialing Body" means one of the following credentialing bodies that offers certification and re-certification in the nurse practitioner's specialty area of practice: American Nurses Credentialing Center (ANCC); American Academy of Nurse Practitioners (AANP); National Certification Corporation of the Obstetric Gynecologic and Neonatal Nursing Specialties (NCC); and the Pediatric Nursing Certification Board (PNCB).

History Note: Authority G.S. 90-8.1; 90-8.2; 90-18(14); 90-18.2; 90-171.20(4); 90-171.20(7); 90-171.23(b); 90-171.83; Recodified from 21 NCAC 36 .0227(a) Eff. August 1, 2004; Amended Eff. December 1, 2009; December 1, 2006; August 1, 2004.

21 NCAC 36 .0804 PROCESS FOR APPROVAL TO PRACTICE

- (a) Prior to the performance of any medical acts, a nurse practitioner shall:
- (1) meet registration requirements as specified in 21 NCAC 36 .0803 of this Section;
 - (2) submit an application for approval to practice;
 - (3) submit any additional information necessary to evaluate the application as requested; and
 - (4) have a collaborative practice agreement with a primary supervising physician.
- (b) A nurse practitioner seeking approval to practice who has not practiced as a nurse practitioner in more than five years shall complete a nurse practitioner refresher course approved by the Board of Nursing in accordance with Paragraphs (o) and (p) of 21 NCAC 36 .0220 and consisting of common conditions and their management directly related to the nurse practitioner's area of education and certification.
- (c) The nurse practitioner shall not practice until notification of approval to practice is received from the Board of Nursing after both Boards have approved the application.
- (d) The nurse practitioner's approval to practice is terminated when the nurse practitioner discontinues working within the approved nurse practitioner collaborative practice agreement, or experiences an interruption in her/his registered nurse licensure status, and the nurse practitioner shall notify the Board of Nursing in writing. The Boards may extend the nurse practitioner's approval to practice in cases of emergency such as injury, sudden illness or death of the primary supervising physician.
- (e) Applications for approval to practice in North Carolina shall be submitted to the Board of Nursing and then approved by both Boards as follows:
- (1) the Board of Nursing shall verify compliance with Rule .0803 and Paragraph (a) of this Rule; and

- (2) the Medical Board shall verify that the designated primary supervising physician holds a valid license to practice medicine in North Carolina and compliance with Paragraph (a) of this Rule.
- (f) Applications for approval of changes in practice arrangements for a nurse practitioner currently approved to practice in North Carolina:
- (1) addition or change of primary supervising physician shall be submitted to the Board of Nursing and processed pursuant to protocols developed by both Boards; and
 - (2) request for change(s) in the scope of practice shall be submitted to the Joint Subcommittee.
- (g) A registered nurse who was previously approved to practice as a nurse practitioner in this state who reapplies for approval to practice shall:
- (1) meet the nurse practitioner approval requirements as stipulated in Rule .0808(c) of this Section; and
 - (2) complete the appropriate application.
- (h) Volunteer Approval to Practice. The North Carolina Board of Nursing shall grant approval to practice in a volunteer capacity to a nurse practitioner who has met the qualifications to practice as a nurse practitioner in North Carolina.
- (i) The nurse practitioner shall pay the appropriate fee as outlined in Rule .0813 of this Section.
- (j) A Nurse Practitioner approved under this Section shall keep proof of current licensure, registration and approval available for inspection at each practice site upon request by agents of either Board.

History Note: Authority G. S. 90-18(13), (14); 90-18.2; 90-171.20(7); 90-171.23(b); Recodified from 21 NCAC 36.0227(c) Eff. August 1, 2004; Amended Eff. December 1, 2009; November 1, 2008; January 1, 2007; August 1, 2004.

21 NCAC 36 .0805 EDUCATION AND CERTIFICATION REQUIREMENTS FOR REGISTRATION AS A NURSE PRACTITIONER

- (a) A nurse practitioner with first-time approval to practice after January 1, 2000, shall provide evidence of certification or recertification as a nurse practitioner by a national credentialing body.
- (b) A nurse practitioner applicant who completed a nurse practitioner education program prior to December 31, 1999 shall provide evidence of successful completion of a course of education that contains a core curriculum including 400 contact hours of didactic education and 400 hours of preceptorship or supervised clinical experience. The core curriculum shall contain the following components:
- (1) health assessment and diagnostic reasoning including:
 - (A) historical data;
 - (B) physical examination data;
 - (C) organization of data base;
 - (2) pharmacology;
 - (3) pathophysiology;

- (4) clinical management of common health problems and diseases such as the following shall be evident in the nurse practitioner's academic program:
- (A) respiratory system;
 - (B) cardiovascular system;
 - (C) gastrointestinal system;
 - (D) genitourinary system;
 - (E) integumentary system;
 - (F) hematologic and immune systems;
 - (G) endocrine system;
 - (H) musculoskeletal system;
 - (I) infectious diseases;
 - (J) nervous system;
 - (K) behavioral, mental health and substance abuse problems;
- (5) clinical preventative services including health promotion and prevention of disease;
- (6) client education related to Subparagraph (b)(4)–(5) of this Rule; and
- (7) role development including legal, ethical, economical, health policy and interdisciplinary collaboration issues.

(c) Nurse practitioner applicants exempt from components of the core curriculum requirements listed in Paragraph (b) of this Rule are:

- (1) Any nurse practitioner approved to practice in North Carolina prior to January 18, 1981, is permanently exempt from the core curriculum requirement.
- (2) A nurse practitioner certified by a national credentialing body prior to January 1, 1998, who also provides evidence of satisfying Subparagraph (b)(1)–(3) of this Rule shall be exempt from core curriculum requirements in Subparagraph (b)(4)–(7) of this Rule. Evidence of satisfying Subparagraph (b)(1)–(3) of this Rule shall include:
 - (A) a narrative of course content; and
 - (B) contact hours.

History Note: Authority G.S. 90-18(14); 90-171.42; Recodified from 21 NCAC 36.0227(d) Eff. August 1, 2004; Amended Eff. December 1, 2009; December 1, 2006; August 1, 2004.

21 NCAC 36 .0806 ANNUAL RENEWAL

- (a) Each registered nurse who is approved to practice as a nurse practitioner in this state shall annually renew each approval to practice with the Board of Nursing no later than the last day of the nurse practitioner's birth month by:
- (1) Maintaining current RN licensure;
 - (2) Submitting the fee required in Rule .0813 of this Section; and
 - (3) Completing the renewal application.
- (b) If the nurse practitioner has not renewed by the last day of her or his birth month, the approval to practice as a nurse practitioner shall lapse.

History Note: Authority G.S. 90-8.1; 90-8.2; 90-18(14) 90-171.23(b); 90-171.83; Recodified from 21 NCAC 36.0227(e) Eff. August 1, 2004; Amended Eff. December 1, 2009; November 1, 2008; August 1, 2004.

21 NCAC 36 .0807 CONTINUING EDUCATION (CE)

In order to maintain nurse practitioner approval to practice, the nurse practitioner shall earn 50 contact hours of continuing education each year beginning with the first renewal after initial approval to practice has been granted. At least 20 hours of the required 50 hours must be those hours for which approval has been granted by the American Nurses Credentialing Center (ANCC) or Accreditation Council on Continuing Medical Education (ACCME), other national credentialing bodies or practice relevant courses in an institution of higher learning. Documentation shall be maintained by the nurse practitioner and made available upon request to either Board.

History Note: Authority G.S. 90-8.1; 90-8.2; 90-18(14); 90-171.23(b)(14); 90-171.42; Recodified from 21 NCAC 36 .0227(f) Eff. August 1, 2004; Amended Eff. December 1, 2009; April 1, 2008; August 1, 2004.

21 NCAC 36 .0808 INACTIVE STATUS

- (a) Any nurse practitioner who wishes to place her or his approval to practice on an inactive status shall notify the Board of Nursing.
- (b) A nurse practitioner with an inactive approval to practice status shall not practice as a nurse practitioner.
- (c) A nurse practitioner with an inactive approval to practice status who reapplies for approval to practice shall meet the qualifications for approval to practice in Rules .0803(a)(1), .0804(a), .0806(b), .0807, and .0810 of this Section and receive notification from the Board of Nursing of approval prior to beginning practice after the application is approved by both Boards.
- (d) A nurse practitioner with an inactive approval to practice status of greater than five years shall complete a nurse practitioner refresher course approved by the Board of Nursing in accordance with Paragraphs (o) and (p) of 21 NCAC 36 .0220 and consisting of common conditions and their management directly related to the nurse practitioner's area of education and certification.

History Note: Authority G.S. 90-18(13); 90-18.2; 90-171.36; 90-171.83; Recodified from 21 NCAC 36 .0227(g) Eff. August 1, 2004; Amended Eff. December 1, 2009; December 1, 2006; August 1, 2004.

21 NCAC 36 .0810 QUALITY ASSURANCE STANDARDS FOR A COLLABORATIVE PRACTICE AGREEMENT

The following are the quality assurance standards for a collaborative practice agreement:

- (1) Availability: The primary or back-up supervising physician(s) and the nurse practitioner shall be continuously available to

- each other for consultation by direct communication or telecommunication.
- (2) Collaborative Practice Agreement:
- (a) shall be agreed upon and signed by both the primary supervising physician and the nurse practitioner, and maintained in each practice site;
 - (b) shall be reviewed at least yearly. This review shall be acknowledged by a dated signature sheet, signed by both the primary supervising physician and the nurse practitioner, appended to the collaborative practice agreement and available for inspection by members or agents of either Board;
 - (c) shall include the drugs, devices, medical treatments, tests and procedures that may be prescribed, ordered and performed by the nurse practitioner consistent with Rule .0809 of this Section; and
 - (d) shall include a pre-determined plan for emergency services.
- (3) The nurse practitioner shall demonstrate the ability to perform medical acts as outlined in the collaborative practice agreement upon request by members or agents of either Board.
- (4) Quality Improvement Process.
- (a) The primary supervising physician and the nurse practitioner shall develop a process for the ongoing review of the care provided in each practice site including a written plan for evaluating the quality of care provided for one or more frequently encountered clinical problems.
 - (b) This plan shall include a description of the clinical problem(s), an evaluation of the current treatment interventions, and if needed, a plan for improving outcomes within an identified time-frame.
 - (c) The quality improvement process shall include scheduled meetings between the primary supervising physician and the nurse practitioner at least every six months. Documentation for each meeting shall:
 - (i) identify clinical problems discussed, including progress toward improving outcomes as stated in Sub-item (4)(b) of this Rule, and recommendations, if any, for changes in treatment plan(s);
 - (ii) be signed and dated by those who attended; and
 - (iii) be available for review by members or agents of either Board for the previous five calendar years and be retained by both the nurse practitioner and primary supervising physician.
- (5) Nurse Practitioner-Physician Consultation. The following requirements establish the minimum standards for consultation between the nurse practitioner and primary supervising physician(s):
- (a) During the first six months of a collaborative practice agreement between a nurse practitioner and the primary supervising physician, there shall be monthly meetings for the first six months to discuss practice relevant clinical issues and quality improvement measures.
 - (b) Documentation of the meetings shall:
 - (i) identify clinical issues discussed and actions taken;
 - (ii) be signed and dated by those who attended; and
 - (iii) be available for review by members or agents of either Board for the previous five calendar years and be retained by both the nurse practitioner and primary supervising physician.

History Note: Authority G.S 90-8.1; 90-8.2; 90-18(14); 90-18.2; 90-171.23(b)(14); Recodified from 21 NCAC 36 .0227(i) Eff. August 1, 2004; Amended Eff. December 1, 2009; August 1, 2004.

21 NCAC 36 .0814 PRACTICING DURING A DISASTER

- (a) A nurse practitioner approved to practice in this State or another state may perform medical acts, as a nurse practitioner under the supervision of a physician licensed to practice medicine in North Carolina during a disaster in a county in which a state of disaster has been declared or counties contiguous to a county in which a state of disaster has been declared.
- (b) The nurse practitioner shall notify the Board of Nursing in writing of the names, practice locations and telephone numbers for the nurse practitioner and each primary supervising physician within 15 days of the first performance of medical acts, as a nurse practitioner during the disaster, and the Board of Nursing shall notify the Medical Board.
- (c) Teams of physician(s) and nurse practitioner(s) practicing pursuant to this Rule shall not be required to maintain on-site documentation describing supervisory arrangements and plans for prescriptive authority as otherwise required pursuant to Rules .0809 and .0810 of this Section.

History Note: Authority G.S. 90-18(c)(13), (14); 90-18.2; 90-171.23(b); Recodified from 21 NCAC 36 .0227(m) Eff. August 1, 2004; Amended Eff. December 1, 2009; August 1, 2004.

CHAPTER 38 – BOARD OF OCCUPATIONAL THERAPY

21 NCAC 38 .0308 CODE OF ETHICS

Pursuant to G.S. 90-270.76(a)(2) the Board adopts by reference the Occupational Therapy Code of Ethics (2005) of the American Occupational Therapy Association, including subsequent amendments and editions. Copies of the American Occupational Therapy Association Code of Ethics may be obtained online at http://www.aota.org at no cost. To the extent the Occupational Therapy Code of Ethics might conflict with the North Carolina Occupational Therapy Practice Act or the Rules of the North Carolina Board of Occupational Therapy, the North Carolina Occupational Therapy Practice Act or the Rules of the North Carolina Board of Occupational Therapy shall take precedent.

History Note: Authority G.S. 90-270.69(4); Eff. December 1, 2009.

21 NCAC 38 .0905 DELINEATION OF CLINICAL RESPONSIBILITIES

Regardless of the setting in which occupational therapy services are delivered, the occupational therapist and the occupational therapy assistant have the following responsibilities during evaluation, intervention, and outcomes evaluation:

- (1) Evaluations:
(a) The occupational therapist shall:
(i) Direct the evaluation process;
(ii) Determine the need for services;
(iii) Define the problems within the domain of occupational therapy that need to be addressed;
(iv) Determine the client's goals and priorities in collaboration with the occupational therapy assistant and the client or caregiver;
(v) Interpret the information provided by the occupational therapy assistant and integrate that information into the evaluation decision-making process;
(vi) Establish intervention priorities;
(vii) Determine specific future assessment needs;

- (viii) Determine specific assessment tasks that can be delegated to the occupational therapy assistant; and
(ix) Initiate and complete the evaluation, interpret the data, and develop the intervention plan in collaboration with the occupational therapy assistant.

- (b) The occupational therapy assistant may contribute to the evaluation process by implementing specifically delegated assessments for which service competency has been established.

(2) Intervention Planning:

- (a) The occupational therapist shall develop the occupational therapy intervention plan. The plan shall be developed collaboratively with the occupational therapy assistant and the client or caregiver; and
(b) The occupational therapy assistant may provide input into the intervention plan.

(3) Intervention implementation:

- (a) The occupational therapist:
(i) Shall implement the occupational therapy intervention;
(ii) May delegate aspects of the occupational therapy intervention to the occupational therapy assistant depending on the occupational therapy assistant's service competency; and
(iii) Shall supervise all aspects of intervention delegated to the occupational therapy assistant.

- (b) The occupational therapy assistant shall implement delegated aspects of intervention in which the occupational therapy assistant has established service competency; and

- (c) Occupational therapists or occupational therapy assistants shall not be subject to disciplinary action by the Board for refusing to delegate or refusing to provide the required training for delegation, if the occupational therapist or occupational therapy assistant determines that delegation may compromise client safety.

(4) Intervention review:

- (a) The occupational therapist shall meet with each client who has been assigned to an occupational therapy assistant to further assess the client, to evaluate intervention, and, if necessary, to modify the individual's intervention plan. The occupational therapy assistant may be present at this meeting;
 - (b) The occupational therapist shall determine the need for continuing or discontinuing services; and
 - (c) The occupational therapy assistant shall contribute to the process of determining continuing or discontinuing services by providing information about the client's response to intervention to assist with the occupational therapist's decision making.
- (5) Documentation:
- (a) The occupational therapy practitioner shall document each evaluation, intervention and discharge plan recognizing the unique requirements of specific practice settings, payors, and service delivery models. Documentation shall include the following elements:
 - (i) Client name or identifiable information;
 - (ii) Signature with occupational therapist or occupational therapy assistant designation of the occupational therapy practitioner who performed the service;
 - (iii) Date of the evaluation, intervention, or discharge plan;
 - (iv) Objective and measurable description of contact or intervention and client response; and
 - (v) Length of time of intervention session or evaluation.
 - (b) The occupational therapist shall determine the overall completion of the evaluation, intervention, or discharge plan; and
 - (c) The occupational therapy assistant shall:
 - (i) Document intervention, intervention response and outcome; and
 - (ii) Document client's level of function at discharge.
- (6) Discharge:
- (a) The occupational therapist shall determine the client's discharge from occupational therapy services; and
 - (b) The occupational therapy assistant shall:
 - (i) Report data for discharge summary; and
 - (ii) Formulate discharge or follow-up plans under the supervision of the occupational therapist.
- (7) Outcome evaluation:
- (a) The occupational therapist is responsible for the selection, measurement, and interpretation of outcomes that are related to the client's ability to engage in occupations; and
 - (b) The occupational therapy assistant must be knowledgeable about the client's targeted occupational therapy outcome and provide information relating to outcome achievement.
- (8) Supervision of occupational therapy students:
- (a) An occupational therapy practitioner shall comply with Accreditation Council for Occupational Therapy Education (ACOTE) requirements for experience when supervising Level II fieldwork occupational therapist and occupational therapy assistant students, which ACOTE requirements, including subsequent amendments and editions, are incorporated by reference. Copies of the incorporated material are available for inspection at the Board office and are available for purchase for five dollars (\$5.00);
 - (b) The occupational therapist may supervise Level I and Level II fieldwork occupational therapist and occupational therapy assistant students; and
 - (c) The occupational therapy assistant may:
 - (i) Supervise Level I occupational therapist or occupational therapy assistant students;
 - (ii) Supervise Level II occupational therapy assistant students; and
 - (iii) Participate in the supervision of Level II occupational therapist students under the direction and guidance of the supervising occupational therapist.

- (9) Supervision of unlicensed personnel and volunteers. Unlicensed personnel or volunteers may be supervised by occupational therapists or occupational therapy assistants.

*History Note: Authority G.S. 90-270.69;
Eff. July 1, 2007;
Amended Eff. December 1, 2009.*

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

**21 NCAC 50 .0505 GENERAL SUPERVISION AND
STANDARD OF COMPETENCE**

- (a) The general supervision required by G.S. 87-26 is that degree of supervision which is necessary and sufficient to ensure that the contract is performed in a workmanlike manner and with the requisite skill and that the installation is made properly, safely and in accordance with applicable codes and rules. General supervision requires that review of the work done pursuant to the license be performed by a licensee of the firm while the work is in progress.
- (b) The provisions of the North Carolina Building Code, including the provisions of codes and standards incorporated by reference, and adopted by the Building Code Council of North Carolina are the minimum standard of competence applicable to contractors licensed by the Board. Licensees shall design and install systems which meet or exceed the minimum standards of the North Carolina State Building Code, manufacturer's specifications and installation instructions and standards prevailing in the industry.
- (c) Work performed under Rule .0513, Rule .0514, and Rule .0515 shall be performed by the licensed technician pursuant to the license held by that person.
- (d) Every newly installed residential heating system, air conditioning system or both shall be designed and installed to maintain a maximum temperature differential of four degrees Fahrenheit room-to-room and floor-to-floor. On multilevel structures, contractors are required to either provide a separate HVAC system for each floor or to install automatically

controlled zoning equipment for each level with individual thermostats on each level to control the temperature for that level. The seasonal adjustment needed to maintain the four degrees Fahrenheit room-to-room and floor-to-floor maximum temperature differential shall not be accomplished through the use of manual dampers.

(e) All licensed HVAC contractors are required to perform a thorough room-by-room load calculation for all new residential structures prior to installing heating systems, air conditioning systems, or both, which calculations shall be specific to the location and orientation where the HVAC system or equipment is to be installed. A written record of the system and equipment sizing information shall be provided to the owner or general contractor upon request and a copy shall be maintained in the job file of the licensee for a minimum of six years.

(f) When either a furnace, condenser or air handler in an existing residential heating or air conditioning system is replaced, the licensed HVAC contractor is required to perform a minimum of a whole house block load calculation. When a furnace, condenser or air handler in a residential heating or air conditioning system is replaced, it is the responsibility of the licensee to ensure that all systems and equipment are properly sized. The licensee may utilize industry standards, reference materials, evaluation of the structure, and load calculations. A written record of the system and equipment sizing information shall be provided to the homeowner, owner or general contractor upon request and a copy shall be maintained in the job file of the licensee for a minimum of six years. If a load calculation was not performed or if a load calculation was performed and it is later determined by the Board that the unit installed was undersized or oversized, the installation will be considered as evidence of incompetence.

(g) A licensed plumbing contractor involved in installation or replacement of a well pump or pumping equipment which includes installation or reinstallation of a well seal is required to be present on site until the well is disinfected and sealed.

*History Note: Authority G.S. 87-18; 87-23; 87-26;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. January 1, 2010; March 1, 2005; January 1,
2004; July 1, 2003; July 1, 1991; October 1, 1989; May 1, 1989.*

CONTESTED CASE DECISIONS

This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 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>
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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	
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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	

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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
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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. Cheek v. NC Dept. of Crime Control & Public Safety, State Highway Patrol	09 CPS 4633	May	10/09/09
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Piedmont Cheerwine Bottling Co. v. NC Dept. of Crime Control and Public Safety	09 CPS 4852	Brooks	11/09/09
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Atlantic Constructio Services, Inc., Frederick George Lempe II v. NC Dept. of Crime Control and Public Safety	09 CPS 5161	Lassiter	12/01/09
CMT Trucking Inc. Charles M. Tyson v. NC Dept. of Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	09 CPS 5446	Gray	12/16/09

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

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
MedExpress Pharmacy LTD. v. NC Dept. of Health and Human Services and NC Dept. of Administration	08 DHR 1566	Elkins	11/30/09	
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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	08 DHR 2981	Gray	09/17/09	

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Regulation, Mental Health Licensure and Certification Section			
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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, Health Care Registry Section	09 DHR 0444	Lassiter	07/27/09
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
Michael Parks Fresh Start Residential Services Inc. v. NC DHHS Division of Health Service Regulation Mental Health Licensure Certification	09 DHR 1474	Overby	06/17/09
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
Yolanda Portillo v. N.C. Department of Health and Human Services	09 DHR 1558	Webster	07/17/09
David E. Fornes v. NC Dept. of Health and Human Services	09 DHR 1730	Overby	08/24/09
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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
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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
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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	09 DHR 3101	Brooks	09/23/09

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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
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	09 DHR 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
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
Roberta Latasha Wilson v. DHHS	09 DHR 4687	Overby	12/02/09
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
James Phifer, Executor of the Estate of Sarah Geneva Phifer and Robert Wilford Phifer v. NC Dept. of Health and Human Services, Division of Medical Assistance	09 DHR 5063	Brooks	12/07/09
Sushila Shrestha v. Dept. of Health and Human Services, Division of Health Service Regulation	09 DHR 5087	Elkins	12/14/09
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
Victoria Darnette Edwards v. Dept. of Health and Human Services, Division of Health Service Regulation	09 DHR 5623	Brooks	12/11/09
Devon J. Artis v. NC Dept. of Health and Human Services, Health Care Personnel Registry Section	09 DHR 5667	May	11/16/09
Pastor Carolyn J. Fernandez and Pastor Jesse Fernandez v. Alexis d. Underwood and The Guilford Center	09 DHR 6106	Brooks	12/07/09

DEPARTMENT OF ADMINISTRATION

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 DOA 2068	Morrison	06/15/09
Meherrin Tribe of North Carolina by and through Douglas Patterson v. North Carolina	09 DOA 2367	Morrison	06/15/09

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NC Indian Cultural Center, Inc. v. NC State Commission of Indian Affairs	09 DOA 4809	Overby	11/19/09

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Robert Allen Sartori v. K Dufault, C. Bray WCI Mail Staff, Department of Correction	09 DOC 3121	Gray	07/01/09
Sebastian X. Moore v. Theodis Beck (NC Dept. of Correction) et al	09 DOC 4749	Webster	11/03/09
Charles W. Johnson v. Supt. David Mitchell and Mt. View Administrative Authority	09 DOC 4883	May	11/03/09

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Tamika Richardson v. North Carolina Sheriff's Education and Training Standards Commission	08 DOJ 2403	Elkins	05/07/09	24:07 NCR 437
Bruce A. White v. NC Sheriffs' Education and Training Standards Commission	08 DOJ 2490	Brooks	08/14/09	
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Jackie Marie Daniels v. N.C. Criminal Justice Education and Training Standards Commission	09 DOJ 0218	Elkins	07/24/09	
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Peggy Sue Shipp v. NC Criminal Justice Education and Training Standards Commission	09 DOJ 1782	Webster	08/28/09	
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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	
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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	
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Richard Lee Powers, Sr. and Richard Lee Powers, Jr. v. Private Protective Services Board	09 DOJ 3488	Morrison	12/15/09	
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Cindy Smith Ojeda v. NC Sheriffs' Education and Training Standards Commission	09 DOJ 3643	Brooks	12/07/09	
Anthony Lyle Gentry v. NC Sheriffs' Education and Training Standards Commission	09 DOJ 3865	Gray	08/05/09	
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Amanda Watson Whitaker v. NC Sheriffs' Education and Training Standards Commission	09 DOJ 4126	Overby	10/02/09	
Walter Armand Bedard v. NC Sheriffs' 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 Sheriffs' Education and Training Standards Commission	09 DOJ 4365	Gray	10/07/09	
Clyde Devon Boger v. NC Sheriffs' 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

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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DEPARTMENT OF STATE TREASURER

Queen N. Thompson v. NC Office of State Treasurer	05 DST 0037	Brooks	12/01/09
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
Queen N. Thompson v. NC Office of State Treasurer	09 DST 3682	Brooks	12/01/09
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
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

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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	24:11 NCR 969
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

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	
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	
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