

NORTH CAROLINA REGISTER

VOLUME 24 • ISSUE 19 • Pages 1669 - 1736

April 1, 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
1711 New Hope Church Road (919) 431-3000
Raleigh, North Carolina 27609 (919) 431-3104 FAX

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Rule Review and Legal Issues

Rules Review Commission
1711 New Hope Church Road (919) 431-3000
Raleigh, North Carolina 27609 (919) 431-3104 FAX

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Bobby Bryan, Commission Counsel bobby.bryan@oah.nc.gov (919) 431-3079

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
24:24	06/15/10	05/24/10	06/30/10	08/16/10	08/20/10	10/01/10	01/26/11	03/12/11
25:01	07/01/10	06/10/10	07/16/10	08/30/10	09/20/10	11/01/10	01/26/11	03/28/11
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
25:03	08/02/10	07/12/10	08/17/10	10/01/10	10/20/10	12/01/10	01/26/11	04/29/11
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.



EXECUTIVE ORDER NO. 51

GOVERNOR'S TEACHER ADVISORY COMMITTEE

WHEREAS, teachers are essential to the success of our public schools in North Carolina; and

WHEREAS, teachers work to open students' minds to ideas, knowledge and dreams, and are the voices for the students they teach every day; and

WHEREAS, teachers use 21st Century technology and high quality professional development to ensure that all students receive individualized instruction; and

WHEREAS, pre-kindergarten through grade 12 teachers must prepare students to graduate from high school to succeed in a career, in a two- or four-year college or in technical training; and

WHEREAS, it is important for teachers to contribute their knowledge and skills to enhance public education and to help public officials understand how educational decisions affect the classroom;

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

Section 1. **Establishment**

The Governor's Teacher Advisory Committee ("Committee") is hereby established.

Section 2. **Membership**

- a. The Committee shall be composed of up to twenty-five members appointed by the Governor. Members shall be active classroom teachers serving in a North Carolina public school. Members should represent diverse demographic and geographic regions of the state, grade levels, and subject areas.

- b. The Committee may include the North Carolina Teacher of the Year as a voting member of the Committee.
- c. The Committee also may include as voting members the president or designee of state affiliates to the following National Teacher Organizations: the North Carolina Association of Educators and the American Federation of Teachers – North Carolina.
- d. Committee members shall serve terms of two years. Committee members may be reappointed to successive terms. Committee members serve at the pleasure of the Governor.
- e. The Governor's Teacher Advisor shall serve as the Chair of the Committee. The Committee shall select a Vice-Chair from its membership.

Section 3. Duties

The Committee shall have the following duties and functions:

- a. Advise the Governor regarding the effect on classroom teachers of the following:
 - (1) state and federal education policies for pre-kindergarten through grade 12;
 - (2) local board of education policies that are not required by state or federal laws, policies or regulations;
 - (3) the state budget;
 - (4) proposed or pending state or federal legislation, policies or regulations; and
 - (5) other issues deemed appropriate by the Governor.
- b. Serve as Education Ambassadors for the Governor, including, but not limited to the following:
 - (1) representing the Governor at designated events and
 - (2) establishing and maintaining positive communications with local boards of education and education stakeholders for the purpose of sharing the Governor's education agenda.
- c. Advise the Governor regarding other education related issues as requested by the Governor.

Section 4. Meetings

- a. The Committee shall meet as a body of the whole once a quarter and at other times at the call of the Chair or the Governor. The Committee is encouraged to conduct meetings using electronic conferencing or other electronic means.
- b. A simple majority of the Committee members shall constitute a quorum for the purpose of transacting the business of the Committee.

Section 5. Administration

The Office of the Governor shall provide staff and administrative support services for the Committee.

Section 6. Effect and Duration


This Executive Order is effective immediately. It supersedes and replaces all other executive orders on this subject and specifically rescinds Executive Order No. 77, dated June 16, 2005, and Executive Order No. 119, dated June 11, 2007. This Executive Order shall remain in effect until March 1, 2014, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded.

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




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 52

AMENDING AND EXTENDING EXECUTIVE ORDER NO. 139, NORTH CAROLINA STATE HEALTH COORDINATING COUNCIL

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

Executive Order 139, issued on March 3, 2008, is hereby amended as follows:

Section 4. Terms of Membership

The terms of membership of the Council shall be staggered so that the terms of approximately one-third of the members shall expire in a single calendar year. All members shall be appointed for a term of three years. Terms shall expire on December 31, and new terms shall begin on January 1. Members of the Council shall serve at the pleasure of the Governor.

Section 11. Ethical Standards

The Council shall comply with Executive Order No. 10, *Ethical Standards for the State Health Coordinating Council*, issued on March 3, 2009.

Except as amended herein, Executive Order 139 remains in full force and effect. Executive Order 139 is hereby extended until March 1, 2014, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded. This order is effective immediately.

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



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

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 02 – DEPARTMENT OF AGRICULTURE AND
CONSUMER SERVICES**

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Board of Agriculture intends to amend the rules cited as 02 NCAC 09B .0116.

Proposed Effective Date: August 1, 2010

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): Any person may request a public hearing on the proposed rule by submitting a request in writing no later than April 16, 2010, to David S. McLeod, Secretary, NC Board of Agriculture, 1001 Mail Service Center, Raleigh, NC 27699-1001.

Reason for Proposed Action: The proposed amendments would update adoptions by reference of Federal rules relating to food and drugs.

Procedure by which a person can object to the agency on a proposed rule: Any person may object to the proposed rule by submitting a written statement of objection(s) to David S. McLeod, Secretary, NC Board of Agriculture, 1001 Mail Service Center, Raleigh, NC 27699-1001.

Comments may be submitted to: David S. McLeod, Secretary, NC Board of Agriculture, 1001 Mail Service Center, Raleigh, NC 27699-1001; phone (919) 733-7125 ext. 238; fax (919) 716-0090; email david.mcleod@ncagr.gov

Comment period ends: June 1, 2010

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal Impact:

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

**CHAPTER 09 - FOOD AND DRUG PROTECTION
DIVISION**

**SUBCHAPTER 09B - RULES AND STANDARDS
ADOPTED BY REFERENCE**

02 NCAC 09B .0116 ADOPTIONS BY REFERENCE

(a) The Board incorporates by reference, including subsequent amendments and editions, "Official Methods of Analysis of AOAC," published by the Association of Official Analytical Chemists. Copies of this document may be obtained from the Association of Official Analytical Chemists International, Department 0742, 1970 Chain Bridge Road, McLean, VA 22109-0742, at a cost of ~~three hundred fifty nine dollars (\$359.00)~~ six hundred thirty dollars (\$630.00).

(b) The Board incorporates by reference, including subsequent amendments and editions, "~~U.S. Pharmacopeia National Formulary USP XXI-NFXVI~~" "U.S. Pharmacopeia National Formulary USP XXXIII-NFXXVIII" and supplements, published by the U.S. Pharmacopeial Convention, Inc. Copies of this document may be obtained from The United States Pharmacopeial Convention, Inc., Attention: Customer Service, 12601 Twinbrook Parkway, Rockville, MD 20852, at a cost of ~~four hundred fifty dollars (\$450.00)~~ eight hundred dollars (\$800.00).

(c) The Board incorporates by reference, including subsequent amendments and editions, "ASTM Standards on Engine Coolants," published by the American Society for Testing Materials. Copies of this document may be obtained from the American Society for Testing Materials, ~~1916 Race Street, Philadelphia, PA 19103~~, 100 Bar Harbor Drive, West Conshohocken, PA 19428-2959, at a cost of ~~seventy two dollars (\$72.00)~~ one hundred eighty-six dollars (\$186.00).

(d) The Board incorporates by reference, including subsequent amendments and editions, "EPA Manual of Chemical Methods for Pesticides and Devices" and supplements, published by AOAC. Copies of this document may be obtained online from the Association of Official Analytical Chemists International, Department 0742, 1970 Chain Bridge Road, McLean, VA 22109-0742, at a cost of one hundred forty nine dollars (\$149.00) the Environmental Protection Agency National Service Center for Environmental Publications at <http://nepis.epa.gov/EXE/ZyPURL.cgi?Dockey=2000YS3Y.txt>.

(e) The Board incorporates by reference, including subsequent amendments and editions, "Pesticide Analytical Manual," Volumes I and II, published by the ~~United States Department of Health, Education and Welfare, Food and Drug Administration.~~ United States Department of Health and Human Services, Food and Drug Administration. Copies of this document may be obtained from the ~~National Technical Information Service, Attention: Orders Department, 5285 Port Royal Road, Springfield, VA 22161, at a cost of sixty one dollars (\$61.00) for Volume I and two hundred twenty four dollars (\$224.00) for Volume II.~~ online at <http://www.fda.gov/Food/ScienceResearch/LaboratoryMethods/PesticideAnalysisManualPAM/default.htm>.

(f) The Board incorporates by reference, including subsequent amendments and editions, "FDA Compliance Policy Guides," published by the ~~United States Department of Health, Education and Welfare, Food and Drug Administration.~~ United States Department of Health and Human Services, Food and Drug Administration. Copies of this document may be obtained from the ~~National Technical Information Service, Attention: Orders Department, 5285 Port Royal Road, Springfield, VA 22161, at a cost of one hundred seventy five dollars (\$175.00).~~ online at <http://www.fda.gov/ICECI/ComplianceManuals/CompliancePolicyGuidanceManuals/default.htm> or from the State Information Branch (HFC-151), Division of Federal-State Relations, US Food and Drug Administration, 5600 Fishers Lane, Room 12-07, Rockville, MD 20857.

(g) The Board incorporates by reference, including subsequent amendments and editions, "Bergey's Manual of Determinative Bacteriology," ~~R. E. Buchanan and N. E. Gibbons, Editors, Lippincott, Williams & Wilkins Company, Baltimore.~~ Lippincott, Williams & Wilkins Company, Baltimore. Copies of this document may be obtained from the ~~Williams & Wilkins Company, Attention: Book Order Department, 428 East Preston Street, Baltimore, MD 21202, at a cost of sixty five dollars (\$65.00).~~ Lippincott, Williams & Wilkins Company, P.O. Box 1620, Hagerstown, MD 21741 at a cost of one hundred ten dollars (\$110.00).

(h) The Board incorporates by reference, including subsequent amendments and editions, "Microbiology Laboratory Guidebook," published by the ~~United States Department of Agriculture, Animal and Plant Health Inspection Service, Meat and Poultry Inspection Program, Washington, DC.~~ United States Department of Agriculture, Food Safety and Inspection Service, Washington, DC. Copies of this document may be obtained from the ~~USDA Food Safety and Inspection Service, ALA Room 80, South Building, 14th and Independence Avenues, Southwest, Washington, DC 20250, at no charge.~~ online from http://www.fsis.usda.gov/science/microbiological_Lab_Guidebook/ at no charge.

(i) The Board incorporates by reference, including subsequent amendments and editions, "FDA Bacteriological Analytical Manual," published by the ~~Association of Official Analytical Chemists.~~ United States Department of Health and Human Services, Food and Drug Administration. Copies of this document may be obtained from the ~~Association of Official Analytical Chemists International, Department 0742, 1970 Chain Bridge Road, McLean, VA 22109-0742, at a cost of one hundred twenty three dollars (\$123.00).~~ online at

<http://www.fda.gov/Food/ScienceResearch/LaboratoryMethods/BacteriologicalAnalyticalManualBAM/default.htm>.

(j) The Board incorporates by reference, including subsequent amendments and editions, "Standard Methods for the Examination of Dairy Products," ~~E. H. Marth, Editor,~~ published by the American Public Health Association. Copies of this document may be obtained from the ~~American Public Health Association, 1015 Fifteenth Street, Northwest, Washington, DC 20005, at a cost of fifty five dollars (\$55.00).~~ American Public Health Association Publication Sales, P.O. Box 933019, Atlanta, GA at a cost of eighty-five dollars (\$85.00).

(k) The Board incorporates by reference, including subsequent amendments and editions, "Compendium of Methods for the Microbiological Examination of Foods," ~~M. L. Speck, Editor,~~ published by the American Public Health Association. Copies of this document may be obtained from the ~~American Public Health Association, 1015 Fifteenth Street, Northwest, Washington, DC 20005, at a cost of ninety dollars (\$90.00).~~ American Public Health Association Publication Sales, P.O. Box 933019, Atlanta, GA at a cost of one hundred fifty dollars (\$150.00).

(l) The Board incorporates by reference, including subsequent amendments and editions, "Bergey's Manual of Systematic Bacteriology," ~~Vol. I, Kreg and Holt, Editors, William E. Wilkins Company, Baltimore.~~ Springer Publishing, New York, NY. Copies of this document may be obtained from the ~~Williams & Wilkins Company, Attention: Book Order Department, 428 East Preston Street, Baltimore, MD 21202, at a cost of one hundred fifteen dollars (\$115.00).~~ Springer Publishing, 233 Spring Street, New York, NY, 10013 at a cost of one hundred thirty-nine dollars (\$139.00).

(m) The Board incorporates by reference, including subsequent amendments and editions, "Manual of Clinical Microbiology," ~~E. H. Lennette, Balows, et al., Editors,~~ published by the American Society for Microbiology. Copies of this document may be obtained from the American Society for ~~Microbiology,~~ Microbiology Press, PO Box 605, Herndon, VA 22070, at a cost of ~~ninety eight dollars (\$98.00).~~ two hundred nine dollars and ninety-five cents (\$209.95).

(n) The Board incorporates by reference, including subsequent amendments and editions, "Standard Methods for the Examination of Water and Waste Water," published by American Public Health Association, American Water Works Association, and Water Pollution Control Federation. Copies of this document may be obtained from the American Public Health Association, ~~1015 Fifteenth Street, Northwest, Washington, DC 20005, at a cost of one hundred sixty dollars (\$160.00).~~ Association Publication Sales, P.O. Box 933019, Atlanta, GA at a cost of two hundred fifty dollars (\$250.00).

(o) The Board incorporates by reference, including subsequent amendments and editions, the following parts or sections of the Code of Federal Regulations, Title 21, Chapter I, as promulgated by the Commissioner of the Food and Drug Administration under the authority of the Federal Food, Drug, and Cosmetic Act:

	Part or	Section Subject of Part or Section
(1)	1.1	General
(2)	1.3	Labeling - Definitions

(3)	1.20	Presence of Mandatory Label Information	(36) <u>(27)</u>	120	Hazard Analysis and Critical Control Point (HACCP) Systems
(4)	1.21	Failure to Reveal Material Facts	(37) <u>(28)</u>	123	Frozen Raw Breaded Shrimp
(5)	1.24	Exemptions from Required Label Statements	(38) <u>(29)</u>	129	Processing and Bottling of Bottled Drinking Water (Except as amended by 02 NCAC 09C .0700 - Bottled Water)
(6)	1.31	Package Size Savings	(39) <u>(30)</u>	130	Food Standards: General
(7)	1.35	"Cents off," or Other Savings Representations	(40) <u>(31)</u>	131	Milk and Cream
(8) <u>(6)</u>	2.25	Grain Seed Treated with Poisonous Substances; Color Identification to Prevent Adulteration of Human and Animal Food	(41) <u>(32)</u>	133	Cheeses and Related Cheese Products
(9) <u>(7)</u>	2.35	Use of Secondhand Containers for the Shipment or Storage of Food and Animal Feed	(42) <u>(33)</u>	135	Frozen Desserts
(10) <u>(8)</u>	7.12	Guaranty	(43) <u>(34)</u>	136	Bakery Products
(11) <u>(9)</u>	7.13	Suggested Forms of Guaranty	(44) <u>(35)</u>	137	Cereal Flours and Related Products
(12) <u>(10)</u>	70	Color Additives	(45) <u>(36)</u>	139	Macaroni and Noodle Products
(13)	70.3	Definitions	(46) <u>(37)</u>	145	Canned Fruits
(14)	70.5	General Restrictions on Use	(47) <u>(38)</u>	146	Canned Fruit Juices
(15)	70.10	Color Additives in Standardized Foods, New Drugs, and Antibiotics	(48) <u>(39)</u>	150	Fruit Butters, Jellies, Preserves, and Related Products
(16)	70.11	Related Substances	(49) <u>(40)</u>	152	Fruit Pies
(17)	70.20	Packaging Requirements for Straight Colors (Other Than Hair Dyes)	(50) <u>(41)</u>	155	Canned Vegetables
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- ~~(150)~~ ~~564~~ ~~Definitions and Standards for Animal Food~~
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- ~~(152)~~~~(111)~~ ~~573~~ ~~Food Additives Permitted in Feed and Drinking Water of Animals~~
- ~~(153)~~~~(112)~~ ~~582~~ ~~Substances Generally Recognized as Safe~~
- ~~(154)~~~~(113)~~ ~~584~~ ~~Food Substances Affirmed as Generally Recognized as Safe in Feed and Drinking Water of Animals~~
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- ~~(119)~~ ~~111~~ ~~Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements~~
- ~~(120)~~ ~~190~~ ~~Dietary Supplements~~
- ~~(121)~~ ~~7.1~~ ~~Scope~~
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- ~~(128)~~ ~~7.49~~ ~~Recall Communications~~
- ~~(129)~~ ~~7.50~~ ~~Public Notification of Recall~~
- ~~(130)~~ ~~7.53~~ ~~Recall Status Reports~~
- ~~(131)~~ ~~7.55~~ ~~Termination of Recall~~
- ~~(132)~~ ~~7.59~~ ~~General Industry Guidance~~

Copies of the Code of Federal Regulations may be obtained at no cost by accessing the website of the U.S. Government Printing Office at <http://www.gpoaccess.gov/cfr/index.html>.

(p) The Board incorporates by reference, including subsequent amendments and editions, "Tolerances and Exemptions from Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities," 40 C.F.R. Part 180. Copies of the Code of Federal Regulations may be obtained from the Superintendent of Documents, Government Printing Office, Washington, DC

20402, at a cost of ~~twenty four dollars (\$24.00)~~; fifty-six dollars (\$56.00).

(q) The Board incorporates by reference, including subsequent amendments and editions, "Definitions and Standards of Identity or Composition for Meats, Meat By-products, and Meat Food Products," 9 C.F.R. Part 319. Copies of the Code of Federal Regulations may be obtained from the Superintendent of Documents, Government Printing Office, Washington, DC 20402, at a cost of ~~twenty three dollars (\$23.00)~~; sixty-four dollars (\$64.00).

(r) The Board incorporates by reference, including subsequent amendments and editions, "Definitions and Standards of Identity or Composition for Poultry and Poultry Products," 9 C.F.R. Sections 381.155 through 381.170. Copies of the Code of Federal Regulations may be obtained from the Superintendent of Documents, Government Printing Office, Washington, DC 20402, at a cost of ~~twenty three dollars (\$23.00)~~; sixty-four dollars (\$64.00).

(s) The Board incorporates by reference, including subsequent amendments and editions, Title 9, Part 317.2(1) of the Code of Federal Regulations. ~~A copy of this material may be obtained at no cost from the Food and Drug Protection Division of the Department of Agriculture and Consumer Services. Copies of Title 9 of the Code of Federal Regulations may be obtained from the Superintendent of Documents, Government Printing Office, Washington, DC 20402, at a cost of sixty-four dollars (\$64.00).~~

(t) The Board incorporates by reference, including subsequent amendments and editions, Title 9, Part 381.125(b) of the Code of Federal Regulations. ~~A copy of this material may be obtained at no cost from the Food and Drug Protection Division of the Department of Agriculture and Consumer Services. Copies of Title 9 of the Code of Federal Regulations may be obtained from the Superintendent of Documents, Government Printing Office, Washington, DC 20402, at a cost of sixty-four dollars (\$64.00).~~

(u) The Board incorporates by reference, including subsequent amendments and editions, a document entitled, "Fresh Air '2000' - A Look At FDA's Medical Gas Requirements," published by the ~~United States Food and Drug Administration. United States Department of Health and Human Services, Food and Drug Administration. Copies of this material may be obtained at the FDA website at <http://www.fda.gov/cder/dmpq/freshair.htm>.~~ A copy of this material may also be obtained at no cost from the Food and Drug Protection Division of the North Carolina Department of Agriculture and Consumer Services.

(v) The Board incorporates by reference the definition of "dietary supplement" found at 21 USC 321(ff).

Authority G.S. 106-139; 106-267; 106-267.2.

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Social Services Commission intends to amend the rule cited as 10A NCAC 70K .0201.

Proposed Effective Date: *August 1, 2010*

Public Hearing:

Date: June 2, 2010

Time: 10:00 a.m.

Location: Albemarle Building, 8th Floor, Conference Room 832, 325 Salisbury Street, Raleigh, NC 27603

Reason for Proposed Action: *Changes in rules governing child-placing agencies, residential child-care and residential maternity care became effective October 1, 2008. During the last Legislative session, HB 1271 was passed giving the Social Services Commission authority to set qualifications for staff of residential child-care facilities, maternity homes and child-placing agencies. The proposed amended rule establishes educational and work experience requirements for staff of residential maternity homes that are consistent with requirements for child-placing agencies and residential child-care agencies.*

Procedure by which a person can object to the agency on a proposed rule: *By submitting your objection in writing to Lisa Johnson, Division of Social Services, 2401 Mail Service Center, Raleigh, NC 27699-2401 or email lisa.johnson@dhhs.nc.gov and by phone (919) 334-1003.*

Comments may be submitted to: *Lisa Johnson, APA Rulemaking Coordinator, Division of Social Services, 2401 Mail Service Center, Raleigh, NC 27699-2401; phone (919) 334-1003; fax (919) 334-1018; email lisa.johnson@dhhs.nc.gov*

Comment period ends: June 2, 2010

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal Impact:

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

CHAPTER 70 - CHILDREN'S SERVICES

SUBCHAPTER 70K - RESIDENTIAL MATERNITY HOMES

SECTION .0200 – MINIMUM LICENSURE STANDARDS

10A NCAC 70K .0201 PERSONNEL

(a) Staff Qualifications and Functions.

- (1) Executive Director. There shall be an executive director employed for the general management and supervision of the maternity home. ~~The executive director shall have a bachelor's degree from a college or university listed in the most current edition of the Higher Education Directory, which can be obtained by calling Higher Education Publications, Inc. at 1-888-349-7715.~~ The executive director shall meet the requirements of a Social Services Program Administrator I as defined by the North Carolina Office of State Personnel. A copy of these requirements can be obtained by contacting the Division of Social Services at 828-669-3388 or by reviewing the following web site:
http://www.osp.state.nc.us/CLASS_SPECS/Spec_Folder_03100-04099/PDF_Files/04077.pdf. The college or university degree shall be from a college or university listed in the most current edition of the Higher Education Directory, which can be obtained by calling Higher Education Publications, Inc. at 1-888-349-7715.
The executive director shall have the following responsibilities:
 - (A) direct the maternity home's program of care and services in accordance with policies established by the governing board and within license standards;
 - (B) recruit, employ, supervise and discharge staff;
 - (C) assure a training program for staff;
 - (D) prepare the annual budget, supervise expenditures, and operate within the budget established;
 - (E) establish and maintain good working relationships with other human service agencies and represent the agency in the community; and
 - (F) delegate authority to a staff member meeting the qualifications described in Paragraph (a)(1) of this Rule, during his or her absence.
- (2) Professional Services Staff. The maternity home shall have available professional services personnel to assure appropriate services are provided for each resident in accordance with her case plan or out-of-home family services agreement.
- (3) Social Work Supervisor. Effective July 1, 2010 social work supervisors shall be employed by the maternity home to supervise, evaluate and monitor the work and progress of

the social work staff. ~~The social work supervisor shall have a bachelor's degree from a college or university listed in the most current edition of the Higher Education Directory.~~ The social work supervisor shall meet the requirements of a Social Work Supervisor II as defined by the North Carolina Office of State Personnel. A copy of these requirements can be obtained by contacting the Division of Social Services at 828-669-3388 or by reviewing the following web site: (http://www.osp.state.nc.us/CLASS_SPECS/Spec_Folder_03100-04099/PDF_Files/04016.pdf). ~~The college or university degree shall be from a college or university listed in the most current edition of the Higher Education Directory.~~ Social work supervisors shall receive 24 hours of continuing education annually.

- (4) Social Worker. Effective July 1, 2010 social workers shall be employed by the maternity home to provide intake services and social work services to the residents and their families in accordance with the case plan or out-of-home family services agreement. ~~The social worker shall have a bachelor's degree from a college or university listed in the most current edition of the Higher Education Directory.~~ The social worker shall meet the requirements of a Social Worker II as defined by the North Carolina Office of State Personnel. A copy of these requirements can be obtained by contacting the Division of Social Services at 828-669-3388 or by reviewing the following web site: (http://www.osp.state.nc.us/CLASS_SPECS/Spec_Folder_03100-04099/PDF_Files/04012.pdf). ~~The college or university degree shall be from a college or university listed in the most current edition of the Higher Education Directory.~~ Social workers shall receive 24 hours of continuing education annually.
- (5) Direct Care Staff. All direct care staff shall have a high-school diploma or GED. Direct care staff shall receive 24 hours of continuing education annually.
- (6) Direct Care Supervisory Staff. All direct care supervisory staff shall have a high-school diploma or GED. Direct care supervisory staff shall receive 24 hours of continuing education annually.
- (7) Staff members of the maternity home may maintain dual employment or serve as volunteers with adoption agencies or crisis pregnancy centers as long as the maternity home does not provide services to the clients of the adoption agency or crisis pregnancy center. Staff members of the maternity home

may serve on the board of directors of adoption agencies or crisis pregnancy centers as long as the adoption agency or crisis pregnancy center does not provide services to the clients of the maternity home.

- (b) Staffing Requirements. There shall be at least one social worker assigned for every 15 residents. Supervision of social workers shall be assigned as follows:

Supervisors Required	Social Workers Employed
0	0-4 (executive director serves as social work supervisor)
1	5
2	6-10
3	11-15

There shall be one additional supervisor for every one to five additional social workers.

- (c) Direct Care Staff. Direct care staff shall be employed for direct care of maternity home residents (residents include mothers and ~~infants~~). infants as well as any children or dependents of staff members who live or are cared for in the home). There shall be at least one direct care staff member assigned for every eight residents during waking hours and one direct care staff member for every twelve residents during sleeping hours. Additional direct care staff or other personnel shall be available to assist with emergency situations or special needs of the residents.

- (d) Direct Care Supervisory Staff. There shall be at least one direct care supervisor for every 15 direct care staff members.

- (e) Volunteers and Interns. If the maternity home uses volunteers or interns to work directly with residents, the requirements of 10A NCAC 70F .0207 apply.

- (f) Additional Personnel Requirements. In addition to those requirements specified in 10A NCAC 70F .0207, the following rules are applicable to maternity home programs:

- (1) Health Examinations. All direct care staff, food service staff and anyone serving in the capacity of direct care staff and food service staff shall have a medical examination completed by a physician, physician's assistant, or nurse practitioner, hereafter referred to as "licensed medical provider," within at least 12 months before beginning employment and biennially thereafter. The agency shall maintain documentation that all direct care staff and food service staff or anyone serving in the capacity of direct care staff and food service staff have had a TB skin test or chest x-ray prior to employment unless contraindicated by a licensed medical provider. A medical history form shall be completed by all direct care staff and food service staff. Examinations must include tests necessary to determine that the staff member is able to carry out assigned duties and does not have any communicable disease or condition which poses risk of transmission in the facility.

A report of each examination shall be made a part of the employee's personnel file. A medical examination report shall be completed on any adopted children or relative children of direct care staff residing in the maternity home within 12 months prior to the license date. The birth children of direct care staff who reside in the maternity home shall be tested for TB only if one or more of the parents tests positive for TB. There shall be documentation that adopted children or other relative children residing in the maternity home have had a TB skin test or chest x-ray prior to initial licensure unless contraindicated by a licensed medical provider. A medical examination and TB test, if required, shall be completed on any children or relative children of direct care staff who subsequently begin residing in the maternity home. Examinations shall include tests necessary to determine that the children or relative children of staff members who reside in the maternity home do not have any communicable diseases or conditions which pose risk of transmission in the facility. A medical history form shall be completed on any children or relative children of direct care staff who reside in the living unit. Medical examination reports and medical history forms of children of the residents residing the maternity home shall be maintained in the personnel file of their parent or relative.

(2) Staff Development. The maternity home staff shall have a written staff development plan which provides staff training in the following areas:

- (A) medical, physical, and psychological aspects of pregnancy;
- (B) prenatal and postnatal care;
- (C) developmental needs of adolescents and young adults;
- (D) developmental needs of infants and children;
- (E) parenting preparation classes;
- (F) stages of growth in infants;
- (G) day-to-day care of infants;
- (H) disciplinary techniques for infants, children and adolescents;
- (I) education planning;
- (J) job seeking skills;
- (K) locating housing;
- (L) money management;
- (M) food management;
- (N) child care;
- (O) health education;
- (P) stress management;
- (Q) life skills;
- (R) decision making;
- (S) substance abuse;
- (T) pregnancy prevention;

- (U) counseling skills;
- (V) emergency medical care; and
- (W) nutrition and food preparation.

Authority G.S. 131D-1; 143B-153.

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Sheriffs' Education and Training Standards Commission intends to amend the rule cited as 12 NCAC 10B .0601.

Proposed Effective Date: August 1, 2010

Public Hearing:

Date: June 17, 2010

Time: 8:30 a.m.

Location: NC Justice Academy, Eastern Campus, P. O. Box 99, Salemburg, NC 28385

Reason for Proposed Action: *This Rule sets out the basic training requirements for the Detention Officer Certification Course. The purpose of the proposed amended rule is the adjustment of hours in some topical areas to better address curriculum. Total hours remain unchanged.*

Procedure by which a person can object to the agency on a proposed rule: *Objections shall be submitted in writing explaining the reasons for objection and specifying the portion of the rule to which the objection is being made. Such objection should be sent to Julia Lohman, Sheriffs' Standards Division, NC Department of Justice, P. O. Box 629, Raleigh, NC 27602.*

Comments may be submitted to: *Julia Lohman, Sheriffs' Standards Division, NC Department of Justice, P. O. Box 629, Raleigh, NC 27602; phone (919) 716-6460; fax (919) 716-6753; email jlohman@ncdoj.gov*

Comment period ends: June 17, 2010

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal Impact:

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

CHAPTER 10 - N.C. SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

SUBCHAPTER 10B - N.C. SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

SECTION .0601 - MINIMUM STANDARDS OF TRAINING FOR DETENTION OFFICERS

12 NCAC 10B .0601 DETENTION OFFICER CERTIFICATION COURSE

(a) This Section establishes the current standard by which Sheriffs' Office and district confinement personnel shall receive detention officer training. The Detention Officer Certification Course shall consist of a minimum of 162 hours of instruction designed to provide the trainee with the skills and knowledge necessary to perform those tasks considered essential to the administration and operation of a confinement facility.

(b) Each Detention Officer Certification Course shall include the following identified topic areas and approximate minimum instructional hours for each area:

(1)	Orientation	2 hours
(2)	Criminal Justice System	3 hours
(3)	Legal Aspects of Management and Supervision	16 hours
(4)	Contraband/Searches	6 hours
(5)	Processing Inmates	7 hours
(6)	First Aid and CPR	10 hours
(7)	Medical Care in the Jail	6 hours
(8)	Patrol and Security Functions of the Jail	5 hours
(9)	Key and Tool Control	2 hours
(10)	Supervision and Management of Inmates	5 hours
(11)	Suicides and Crisis Management	5 hours
(12)	Introduction to Rules and Regulations Governing Jails	2 hours
(13)	Stress	3 hours
(14)	Investigative Process in the Jail	9 7 hours
(15)	Subject Control Techniques	24 hours
(16)	Aspects of Mental Illness	6 hours
(17)	Transportation of Inmates	7 hours
(18)	Fire Emergencies	4 hours
(19)	Physical Fitness for Detention Officers	22 hours
(20)	Communication Skills	5 hours
(21)	Ethics	3 hours
(22)	Report Writing	2 hours
(22)(23)	Review/Testing	7 hours
(23)(24)	State Comprehensive Examination	3 hours
	TOTAL HOURS	162 hours

(c) Consistent with the curriculum development policy of the Commission as published in the "Detention Officer Certification

Course Management Guide", the Commission shall designate the developer of the Detention Officer Certification Course curricula and such designation shall be deemed by the Commission as approval for the developer to conduct pilot Detention Officer Certification Courses. Individuals who complete such a pilot Detention Officer Certification Course offering shall be deemed to have complied with and satisfied the minimum training requirement.

(d) The "Detention Officer Certification Training Manual" as published by the North Carolina Justice Academy shall be used as the basic curriculum for the Detention Officer Certification Course. Copies of this manual may be obtained by contacting the North Carolina Justice Academy, Post Office Box 99, Salemburg, North Carolina 28385-0099. The cost of this manual is forty dollars (\$40.00) at the time of adoption of this Rule.

(e) The "Detention Officer Certification Course Management Guide" as published by the North Carolina Justice Academy is hereby incorporated by reference and shall automatically include any later amendments, editions of the incorporated matter to be used by school directors in planning, implementing and delivering basic detention officer training. The standards and requirements established by the "Detention Officer Certification Course Management Guide" must be adhered to by the school director. Each certified school director shall be issued a copy of the guide at the time of certification at no cost to the certified school.

Authority G.S. 17E-4(a).

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Resources Commission intends to amend the rules cited as 15A NCAC 10F .0303, .0330 and .0354.

Proposed Effective Date: August 1, 2010

Public Hearing:

Date: April 16, 2010

Time: 10:00 a.m.

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

Reason for Proposed Action: To add no-wake zones in Carteret, Beaufort and Pitt Counties at the request of the respective county governments in the interest of water safety.

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

Comments may be submitted to: Betsy Foard, North Carolina Wildlife Resources Commission, 1701 Mail Service Center,

Raleigh, NC 27699-1701; phone (919) 707-0013; email betsy.foard@ncwildlife.org

Comment period ends: June 1, 2010

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal Impact:

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

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

15A NCAC 10F .0303 BEAUFORT COUNTY

(a) Regulated Areas. This Rule applies to the following waters in Beaufort County:

- (1) that portion of Broad Creek bounded on the north by a line running due east and west across Broad Creek through a point 1400 feet due north of Red Marker No. 6, on the south by a line running east and west across Broad Creek through the location of Red Marker No. 4, on the east and west by the high-water mark on Broad Creek;
- (2) that portion of Blounts Creek 100 yards on either side of the SR 1112 Bridge;
- (3) that portion of Blounts Creek beginning 100 yards below the Old Crist Landing and extending upstream to the NC 33 bridge;
- (4) the waters of Battalina Creek, within the territorial limits of the Town of Belhaven;
- (5) the navigable portion of Nevils Creek extending upstream from its mouth at the Pamlico River; and

- (6) that portion of Blounts Creek beginning 50 yards on the south side and 300 yards on the north side of the Blounts Creek ~~Bridge~~ Bridge;

- (7) that portion of Tranters Creek beginning at 35°N 34' 9.3", 77°W 5' 29" and ending at 35°N 34' 1.3", 77°W 5' 23.3" as delineated by appropriate markers.

(b) Speed Limit. It is unlawful to operate a vessel at greater than no-wake speed in the regulated areas described in Paragraph (a) of this Rule.

(c) Placement and Maintenance of Markers. The Board of Commissioners of Beaufort County and the City Council of the City of Washington are designated as suitable agencies for placement and maintenance of the markers implementing this Rule.

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

15A NCAC 10F .0330 CARTERET COUNTY

(a) Regulated Areas. This Rule applies to the following waters in Carteret County:

- (1) the waters of Money Island Slough beginning at the east end of Money Island near the Anchorage Marina Basin and ending at the west end of Money Island where Brooks Avenue deadends at the slough;
- (2) the waters of Taylor Creek located within the territorial limits of the Town of Beaufort;
- (3) the waters of Pelletier Creek beginning at the entrance to Pelletier Creek at the Intracoastal Waterway and ending at U.S. Highway 70;
- (4) the waters of Bogue Sound in Morehead City between Sugar Loaf Island and the seawall on the south side of Evans, Shepard and Shackelford Streets and bounded on the east by the State Ports Authority and on the west by the eastern right-of-way margin of South 13th Street extended;
- (5) the waters of Gallant's Channel from the US 70 crossing over the Grayden Paul bridge to Taylor's Creek;
- (6) the waters of Cedar Island Bay and Harbor from U.S. 70 to Cedar Island Bay Channel Light 8;
- (7) the waters of the small cove on the west side of Radio Island immediately south of the B & M Railroad and US 70 Bridges across the Intracoastal Waterway in which Radio Island Marina and Morehead Sports Marina are located as delineated by appropriate markers;
- (8) the waters of the Newport River beginning at the north side of the Beaufort Drawbridge and ending at marker #6;
- (9) the waters of Spooners Creek within the territorial limits of the Town of Morehead City as delineated by appropriate markers;

- (10) the waters of Taylor's Creek from the eastern end of the current no wake zone eastward to Channel Marker #1A;
- (11) the waters of the Newport River at Bogue Sound including all waters surrounding the Port of Morehead City to Brandt Island as delineated by appropriate markers;
- (12) the waters of Morgans Creek as delineated by appropriate ~~markers~~ markers;
- (13) the waters of Cannonsgate Marina and the Cannonsgate Marina Channel, beginning at its intersection with Bogue Sound at 34°N 42' 6", 76°W 58' 53" as delineated by appropriate markers.

(b) Speed Limit. It is unlawful to operate a motorboat or vessel at a speed greater than no-wake speed while on the waters of the regulated areas designated in Paragraph (a) of this Rule.

(c) Placement and Maintenance of Markers. The Board of Commissioners of Carteret County, with respect to the regulated areas designated in Subparagraphs (1), (3), (5), (6), (7), (8), ~~(10)~~ and (12), (10), (12) and (13) of Paragraph (a) of this Rule, and the Board of Commissioners of the Town of Beaufort, with respect to the regulated area designated in Subparagraph (2) of Paragraph (a) of this Rule, and the Board of Commissioners of Morehead City, with respect to Subparagraph (4) and (9) of Paragraph (a) of this Rule, and the North Carolina Sate Ports Authority, with respect to the regulated area designed in Subparagraph (11) of Paragraph (a) of this Rule are designated as suitable agencies for placement and maintenance of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

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

15A NCAC 10F .0354 PITT COUNTY

(a) Regulated Areas. This Rule applies to the waters described in this Paragraph:

- (1) The entire inlet of Hardee Creek from the Tar River in Pitt County.
- (2) The Seine Beach area of the Tar River beginning at Chicod Creek and extending to the east side of the Grimesland Bridge as marked by appropriate markers.
- (3) That portion of Tranters Creek from 35°N 34' 9.3", 77°W 5' 29" to 35°N 34' 1.3", 77°W 5' 23.3" as delineated by appropriate markers.

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

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

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

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 25 - INTERPRETER AND TRANSLITERATOR LICENSING BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Interpreter and Transliterator Licensing Board intends to adopt the rule cited as 21 NCAC 25 .0406 and amend the rules cited as 21 NCAC 25 .0203-.0205 and .0501.

Proposed Effective Date: August 1, 2010

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): If you want the Board to schedule a public hearing on this rule, mail your written request for hearing to the North Carolina Interpreter and Transliterator Licensing Board, P. O. Box 1632, Garner, NC 27529.*

Reason for Proposed Action: *The Board proposes to adopt and amend these rules in order to comply with G.S. 93B-15(b), which provides that: Occupational licensing boards shall adopt rules to postpone or waive continuing education, payment of renewal and other fees, and any other requirements or conditions relating to the maintenance of licensure by an individual who is currently licensed by and in good standing with the board, is serving in the armed forces of the United States, and to whom G.S. 105-249.2 grants an extension of time to file a tax return.*

Procedure by which a person can object to the agency on a proposed rule: *If you wish to object to the adoption of any one or more of these proposed rules, state the reasons for your objection in a written comment and mail your written comment to the North Carolina Interpreter and Transliterator Licensing Board, P. O. Box 1632, Garner, NC 27529.*

Comments may be submitted to: *Laurie Shaw, Executive Secretary, North Carolina Interpreter and Transliterator Licensing Board, P.O. Box 1632, Garner, NC 27529; phone (919) 779-5709; fax (919) 779-5642; email lshaw@mgmt4u.com*

Comment period ends: June 1, 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**

SECTION .0200 – LICENSING

21 NCAC 25 .0203 APPLICATION FEES

(a) The Board shall not review a license application until the appropriate license fee has been paid pursuant to the following fee schedule:

Application for Initial Full License under G.S. 90D-7 and -9	\$225.00
Application for Renewal of Full License	\$150.00
Application for Initial Provisional License under G.S. 90D-8	\$225.00
Application for Renewal of Provisional License	\$150.00
Application for Initial Full License under S. L. 2002-182, s. 7 (Grandfather provision)	\$75.00
Application for Replacement of Lost, Damaged or Destroyed License	\$10.00

(b) These fees shall be nonrefundable and shall be paid by cash or by cashier's check, certified check, or money order made payable to the North Carolina Interpreter and Transliterator Licensing Board.

(c) The Board shall waive the license application renewal fee for any individual who is currently licensed by and in good standing with the Board if the individual is serving in the armed forces of the United States and if G.S. 105-249.2 grants the individual an extension of time to file a tax return. The waiver shall be in effect for any period that is disregarded under Section 7508 of the Internal Revenue Code in determining the taxpayer's liability for a federal tax.

Authority G.S. 90D-6(6); 90D-10(b); 93B-15; S.L. 2009-458.

21 NCAC 25 .0204 RENEWAL OF A FULL LICENSE

(a) An application for the renewal of a full license is not timely filed unless it is received by the Board on or before the expiration date of the license being renewed.

(b) If a licensee does not timely file an application for the renewal of a full license, the licensee shall not practice or offer to practice as an interpreter or transliterator for a fee or other consideration, represent himself or herself as a licensed interpreter or transliterator, or use the title "Licensed Interpreter for the Deaf", "Licensed Transliterator for the Deaf", or any other title or abbreviation to indicate that the person is a licensed interpreter or transliterator until he or she receives a new initial license.

(c) An untimely filed application for the renewal of a full license shall be processed as an application for a new initial license.

(d) The Board shall not review an untimely filed application for the renewal of a full license until the applicant pays the initial full license fee specified by Rule .0203 of this Section;

(e) If the license being renewed has been suspended by the Board, any renewal license issued to the applicant shall be suspended as well until the term of the suspension has expired.

(f) The Board shall extend the deadline for filing a license renewal application for any individual who currently holds a full license and is in good standing with the Board if the individual is serving in the armed forces of the United States and if G.S. 105-249.2 grants the individual an extension of time to file a tax return. The extension shall be in effect for any period that is disregarded under Section 7508 of the Internal Revenue Code in determining the taxpayer's liability for a federal tax.

Authority G.S. 90D-6; 90D-11; 90D-12; 93B-15; S.L. 2009-458.

21 NCAC 25 .0205 RENEWAL OF A PROVISIONAL LICENSE

(a) An application for the renewal of a provisional license is not timely filed unless it is received by the Board on or before the expiration date of the license being renewed.

(b) If a licensee does not timely file an application for the renewal of a provisional license, the licensee shall not practice or offer to practice as an interpreter or transliterator for a fee or other consideration, represent himself or herself as a licensed interpreter or transliterator, or use the title "Licensed Interpreter for the Deaf", "Licensed Transliterator for the Deaf", or any other title or abbreviation to indicate that the person is a licensed interpreter or transliterator until he or she receives either a renewed provisional license, as described in Paragraph (c) of this Rule, or an initial full license.

(c) An application to renew an expired provisional license shall be approved by the Board if it is received by the Board within one year after the provisional license expired and if the application demonstrates that the applicant continues to qualify for a provisional license. A provisional license cannot be renewed after it has expired a second time.

(d) If the license being renewed has been suspended by the Board, any renewal license issued to the applicant shall be suspended as well until the term of the suspension has expired.

(e) The Board shall renew a provisional license as many as three times upon receipt of timely applications that demonstrate that the applicant continues to qualify for a provisional license. The Board may, in its discretion, renew a provisional license a fourth or fifth time if the applicant timely files an application that demonstrates to the Board's satisfaction that the applicant's progress toward full licensure was delayed by:

- (1) a life-altering event, such as an acute or chronic illness suffered by either the applicant or a member of the applicant's immediate family;
- (2) active military service; or
- (3) a catastrophic natural event, such as a flood, hurricane, or tornado.

(f) The Board shall not for any reason renew a provisional license for a sixth time.

(g) The Board shall not issue an initial provisional license to anyone who has previously held a provisional license.

(h) The Board shall extend the deadline for filing a license renewal application for any individual who currently holds a provisional license and is in good standing with the Board if the individual is serving in the armed forces of the United States and if G.S. 105-249.2 grants the individual an extension of time to file a tax return. The extension shall be in effect for any period that is disregarded under Section 7508 of the Internal Revenue Code in determining the taxpayer's liability for a federal tax.

Authority G.S. 90D-6; 90D-8; 90D-11; 90D-12; 93B-15; S.L. 2009-458.

SECTION .0400 - REPORTING AND DISCLOSURE REQUIREMENTS

21 NCAC 25 .0406 EXTENSION OF REPORTING DEADLINES

The reporting deadlines in this Section are extended for any individual who is currently licensed by and in good standing with the Board if the individual is serving in the armed forces of the United States and if G.S. 105-249.2 grants the individual an extension of time to file a tax return. The extension shall be in effect for any period that is disregarded under Section 7508 of the Internal Revenue Code in determining the taxpayer's liability for a federal tax.

Authority G.S. 93B-15; S.L. 2009-458.

SECTION .0500 - CONTINUING EDUCATION

21 NCAC 25 .0501 CONTINUING EDUCATION REQUIREMENTS

(a) A licensee shall earn at least two continuing education units ("CEUs") each licensure year. At least 1.0 of those CEUs shall be earned in professional studies and at least 1.0 of those CEUs shall be earned in a setting in which three or more persons come together at the same location at the same time as a group to listen to a lecture, to view a demonstration, to participate in group discussions, or to learn through any combination of these or similar activities.

(b) Surplus CEUs shall not be carried forward from the licensure year in which they were earned to any subsequent licensure year.

(c) A licensee may not earn CEUs while interpreting, whether or not the licensee is compensated for his or her services.

(d) The Board shall waive the continuing education requirements in this Section for any individual who is currently licensed by and in good standing with the Board if the individual is serving in the armed forces of the United States and if G.S. 105-249.2 grants the individual an extension of time to file a tax return. The waiver shall be in effect for any period that is disregarded under Section 7508 of the Internal Revenue Code in determining the taxpayer's liability for a federal tax.

Authority G.S. 90D-6; 90D-8; 90D-11; 93B-15; S.L. 2009-458.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Interpreter and Transliterator Licensing Board intends to adopt the rule cited as 21 NCAC 25 .0211.

Proposed Effective Date: August 1, 2010

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): If you want the Board to schedule a public hearing on this rule, mail your written request for hearing to: The North Carolina Interpreter and Transliterator Licensing Board, PO Box 1632, Garner, NC 27529.*

Reason for Proposed Action: *The Board proposes to adopt this rule in order to comply with the requirements of G.S. 93B-2(d).*

Procedure by which a person can object to the agency on a proposed rule: *If you wish to object to the adoption of this rule, state the reasons for your objection in a written comment and mail your written comment to: The North Carolina Interpreter and Transliterator Licensing Board, PO Box 1632, Garner, NC 27529.*

Comments may be submitted to: *Laurie Shaw, Executive Secretary, North Carolina Interpreter and Transliterator Licensing Board, PO Box 1632, Garner, NC 27529, phone (919)779-5709, fax (919)779-5642, email lshaw@mgmt4u.com*

Comment period ends: June 1, 2010

Procedure for Subjecting a Proposed Rule to Legislative Review: *If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.*

Fiscal Impact:

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

SECTION .0200 – LICENSING

21 NCAC 25 .0211 SUSPENSION OF AUTHORITY TO EXPEND FUNDS

In the event the Board's authority to expend funds is suspended pursuant to G.S. 93B-2, the Board shall continue to issue and renew licenses and all fees tendered shall be placed in an escrow account maintained by the Board for this purpose. Once the Board's authority is restored, the funds shall be moved from the escrow account into the general operating account.

Authority G.S. 93B-2(d)

CHAPTER 32 – MEDICAL BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the Medical Board intends to adopt the rules cited as 21 NCAC 32B .1301-.1303, .1350, .1360, 1401-.1402, .1601-.1602, .1701-.1705, .2001; 32F .0106 and 32R .0105 and repeal the rules cited as 21 NCAC 32B .0101-.0102, .0104-.0106, .0301-.0302, .0304-.0309, .0311-.0315, .0401-.0402, .0501-.0508, .0603-.0608, .0701-.0707, .0901-.0902, .1101-.1105, .1201-.1207; 32J .0101-.0103.

Proposed Effective Date: *August 1, 2010*

Public Hearing:

Date: *June 1, 2010*

Time: *10:00 a.m.*

Location: *NC Medical Board, 1203 Front Street, Raleigh, 27609*

Reason for Proposed Action: *The purpose of the proposed amendments and repeals is to reorganize the current licensing rules.*

Procedure by which a person can object to the agency on a proposed rule: *A person may submit objections to the proposed amendments, in writing by 06/01/2010, to the Rules Coordinator, North Carolina Medical Board, 1203 Front Street, Raleigh, NC 27609 or email rules@ncmedboard.org using Licensing Rules on the subject line.*

Comments may be submitted to: *Rules Coordinator, phone (919)326-1100, fax (919)326-0036, email rules@ncmedboard.org*

Comment period ends: *June 1, 2010*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written

objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal Impact:

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

Note: Pursuant to G.S. 150B-21.17, the Codifier has determined that publication of the complete text of the rules proposed for repeal is impractical. The text of the repealed rules is accessible on the OAH Website: <http://www.ncoah.com>.

21 NCAC 32B .0101	DEFINITIONS
21 NCAC 32B .0102	DISCARDING APPLICATION MATERIAL
21 NCAC 32B .0104	CRIMINAL BACKGROUND CHECK
21 NCAC 32B .0105	FEDERATION CREDENTIAL VERIFICATION SERVICE PROFILE
21 NCAC 32B .0106	DATA BANK REPORTS
21 NCAC 32B .0301	MEDICAL EDUCATION
21 NCAC 32B .0302	ECFMG CERTIFICATION
21 NCAC 32B .0303	CITIZENSHIP
21 NCAC 32B .0304	APPLICATION FORMS
21 NCAC 32B .0305	EXAMINATION BASIS FOR ENDORSEMENT
21 NCAC 32B .0306	LETTERS OF RECOMMENDATION
21 NCAC 32B .0307	CERTIFIED PHOTOGRAPH AND CERTIFICATION OF GRADUATION
21 NCAC 32B .0308	FEE
21 NCAC 32B .0309	PERSONAL INTERVIEW
21 NCAC 32B .0311	ENDORSEMENT RELATIONS
21 NCAC 32B .0312	ROUTINE INQUIRIES
21 NCAC 32B .0313	GRADUATE MEDICAL EDUCATION AND TRAINING
21 NCAC 32B .0314	PASSING EXAM SCORE
21 NCAC 32B .0315	TEN-YEAR QUALIFICATION CREDENTIALS
21 NCAC 32B .0401	TEMPORARY LICENSE FEE
21 NCAC 32B .0402	APPLICATION FORM
21 NCAC 32B .0501	CERTIFICATION OF GRADUATION
21 NCAC 32B .0502	CERTIFIED PHOTOGRAPH
21 NCAC 32B .0503	LETTERS OF RECOMMENDATION
21 NCAC 32B .0504	APPOINTMENT LETTER
21 NCAC 32B .0505	FEE
21 NCAC 32B .0506	ECFMG CERTIFICATION
21 NCAC 32B .0507	MEDICAL EDUCATION
21 NCAC 32B .0508	CERTIFIED PHOTOGRAPH
21 NCAC 32B .0603	LETTERS OF RECOMMENDATION
21 NCAC 32B .0604	

21 NCAC 32B .0605	DIPLOMA OF PSYCHOLOGICAL MEDICINE
21 NCAC 32B .0606	FEE
21 NCAC 32B .0607	ECFMG CERTIFICATION
21 NCAC 32B .0608	PERSONAL INTERVIEW
21 NCAC 32B .0701	REQUEST FOR THE CERTIFICATE OF REGISTRATION
21 NCAC 32B .0702	MEDICAL LICENSURE
21 NCAC 32B .0703	LIMITATION
21 NCAC 32B .0704	DURATION
21 NCAC 32B .0705	PERSONAL INTERVIEW
21 NCAC 32B .0706	FEE FOR VISITING PROFESSORS CERTIFICATE OF REGISTRATION
21 NCAC 32B .0707	CERTIFIED PHOTOGRAPH
21 NCAC 32B .0901	DEFINITION OF PRACTICE
21 NCAC 32B .0902	QUALIFICATION FOR LICENSURE
21 NCAC 32B .1101	APPLICATION FORMS
21 NCAC 32B .1102	FEE
21 NCAC 32B .1103	PERSONAL INTERVIEW
21 NCAC 32B .1104	ROUTINE INQUIRIES
21 NCAC 32B .1105	CME
21 NCAC 32B .1201	APPLICATION FORMS
21 NCAC 32B .1202	LETTERS OF RECOMMENDATION
21 NCAC 32B .1203	FEE
21 NCAC 32B .1204	PERSONAL INTERVIEW
21 NCAC 32B .1205	ROUTINE INQUIRIES
21 NCAC 32B .1206	ECFMG CERTIFICATION
21 NCAC 32B .1207	TEN-YEAR QUALIFICATION
21 NCAC 32J .0101	APPLICATION FOR REINSTATEMENT
21 NCAC 32J .0102	CONSIDERATION BY BOARD
21 NCAC 32J .0103	HEARING UPON DENIAL

SUBCHAPTER 32B – LICENSE TO PRACTICE MEDICINE

SECTION .1300 - GENERAL

21 NCAC 32B .1301 DEFINITIONS

The following definitions apply to rules within this Subchapter:

- (1) ABMS - American Board of Medical Specialties
- (2) ACGME – Accreditation Council for Graduate Medical Education
- (3) AMA – American Medical Association
- (4) AMA Physician's Recognition Award – American Medical Association recognition of achievement by physicians who have voluntarily completed programs of continuing medical education.
- (5) AOA – American Osteopathic Association
- (6) AOIA – American Osteopathic Information Association
- (7) Board –The North Carolina Medical Board

- (8) CACMS – Committee for the Accreditation of Canadian Medical Schools
- (8) CAQ – Certificate of Added Qualification conferred by a specialty board recognized by the ABMS, the AOA, CCFP, FRCP or FRCS
- (9) CCPF – Certificant of the College of Family Physicians
- (10) CFPC – College of Family Physicians of Canada
- (11) COCA – Commission on Osteopathic Colleges Accreditation
- (12) CME – Continuing Medical Education
- (13) COMLEX – Comprehensive Osteopathic Medical Licensure Examination
- (14) COMVEX – Comprehensive Osteopathic Medical Variable-Purpose Examination
- (15) ECFMG – Educational Commission for Foreign Medical Graduates
- (16) FCVS – Federation Credential Verification Service
- (17) Fifth Pathway – an avenue for licensure as defined in the AMA's Council on Medical Education Report 1-I-07
- (18) FLEX – Federation Licensing Examination
- (19) FRCP – Fellowship of the Royal College of Physicians of Canada
- (20) FRCS – Fellowship of the Royal College of Surgeons of Canada
- (21) FSMB – Federation of State Medical Boards
- (22) GME – Graduate Medical Education
- (23) HIPDB – Healthcare Integrity and Protection Data Bank
- (24) IMG – International Medical Graduate – a physician who has graduated from a medical or osteopathic school not approved by the LCME, the CACMS or COCA
- (25) LCME – Liaison Commission on Medical Education
- (26) LMCC – Licentiate of the Medical Council of Canada
- (27) MCCQE – Medical Council of Canada Qualifying Examination
- (28) NBME – National Board of Medical Examiners
- (29) NBOME – National Board of Osteopathic Medical Examiners
- (30) NPDB – National Practitioner Data Bank
- (31) RCPSC – Royal College of Physicians and Surgeons of Canada
- (32) SPEX – Special Purpose Examination
- (33) USMLE – United States Medical Licensing Examination

Authority G.S. 90-6.

21 NCAC 32B .1302 SCOPE OF PRACTICE UNDER PHYSICIAN LICENSE

A physician holding a Physician License may practice medicine and perform surgery in North Carolina.

Authority G.S. 90-1.1.

21 NCAC 32B .1303 APPLICATION FOR PHYSICIAN LICENSE

(a) In order to obtain a Physician License, an applicant shall:

- (1) submit a completed application, attesting under oath that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) submit documentation of a legal name change, if applicable;
- (3) supply a certified copy of applicant's birth certificate or a certified copy of a valid and unexpired US passport if the applicant was born in the United States. If the applicant was not born in the United States, the applicant must provide information about applicant's immigration and work status which the Board will use to verify applicant's ability to work lawfully in the United States;
- (4) submit a recent photograph, at least two inches by two inches, affixed to the Board's Medical Education Certification form. The dean or other official of the applicant's medical school shall certify this as a true likeness of the applicant, and that the applicant has completed at least 130 weeks of medical education. The applicant's date of graduation from medical school shall be written in the designated space, and the school seal shall be stamped over the photograph;
- (5) for an applicant who has graduated from a medical or osteopathic school approved by the LCME, the CACMS or COCA, meet the requirements set forth in G.S. 90-9.1;
- (6) for an applicant graduating from a medical school not approved by the LCME, meet the requirements set forth in G.S. 90-9.2;
- (7) provide proof of passage of an examination testing general medical knowledge. In addition to the examinations set forth in G.S. 90-10.1 (a state board licensing examination; NBME; USMLE; FLEX, or their successors), the Board accepts the following examinations (or their successors) for licensure:
 - (A) COMLEX;
 - (B) NBOME, and
 - (C) MCCQE;
- (8) submit proof that the applicant has completed graduate medical education as required by G.S. 90-9.1 or 90-9.2, as follows:
 - (A) A graduate of a medical school approved by LCME, CACMS or COCA shall have satisfactorily completed at least one year of graduate medical education approved by ACGME, CFPC, RCPSC or AOA.

- (B) A graduate of a medical school not approved by LCME shall have satisfactorily completed three years of graduate medical education approved by ACGME, CFPC, RCPSC or AOA.
- (C) An applicant may satisfy the graduate medical education requirements of Part (A) or (B) of this Subparagraph by showing proof of current certification by a specialty board recognized by the ABMS, CCFP, FRCP, FRCS or AOA;
- (9) submit a FCVS profile, if an applicant has a completed FCVS profile;
- (10) If a graduate of a medical school other than those approved by LCME, AOA, COCA or CACMS, shall furnish an original ECFMG certification status report of a currently valid certification of the ECFMG. The ECFMG certification status report requirement shall be waived if:
 - (A) the applicant has passed the ECFMG examination and successfully completed an approved Fifth Pathway program (original ECFMG score transcript from the ECFMG required); or
 - (B) the applicant has been licensed in another state on the basis of a written examination before the establishment of the ECFMG in 1958;
- (11) submit reports from all relevant state medical or osteopathic boards from which the applicant has ever held a medical or osteopathic license, indicating the status of the applicant's license and whether or not any action has been taken against the license;
- (12) submit an AMA Physician Profile; and, if applicant is an osteopathic physician, also submit an AOA Physician Profile;
- (13) if applying on the basis of the USMLE, submit:
 - (A) a transcript from the FSMB showing a score of at least 75 on USMLE Step 1, both portions of Step 2 (clinical knowledge and clinical skills) and Step 3;
 - (B) proof that the applicant has passed each step within three attempts. However, the Board will waive this requirement if the applicant has been certified or recertified by an ABMS, CCFP, FRCP, FRCS or AOA approved specialty board within the past 10 years.
- (14) if applying on the basis of COMLEX, submit:
 - (A) a transcript from the NBOME showing a score of at least 75 on COMLEX;

- (B) proof that the applicant has passed COMLEX within three attempts. However, the Board will waive this requirement if the applicant has been certified or recertified by an ABMS, CCFP, FRCP, FRCS or AOA approved specialty board within the past ten years.
 - (15) if applying on the basis of any other board-approved examination, submit a transcript showing a passing score;
 - (16) submit a NPDB / HIPDB report, dated within 60 days of submission of the application;
 - (17) submit a FSMB Board Action Data Report;
 - (18) submit two completed fingerprint record cards supplied by the Board;
 - (19) submit a signed consent form allowing a search of local, state, and national files for any criminal record;
 - (20) provide two original references from persons with no family or marital relationship to the applicant. These references must be:
 - (A) from physicians who have observed the applicant's work in a clinical environment within the past three years;
 - (B) on forms supplied by the Board;
 - (C) dated within six months of the submission of the application; and
 - (D) bearing the original signature of the writer.
 - (21) pay to the Board a non-refundable fee pursuant to G.S. 90-13.1(a), plus the cost of a criminal background check; and
 - (22) upon request, supply any additional information the Board deems necessary to evaluate the applicant's competence and character.
- (b) In addition to the requirements of Paragraph (a) of this Rule, the applicant shall submit proof that the applicant has:
- (1) within the past ten years taken and passed either:
 - (A) an exam listed in G.S. 90-10.1 (a state board licensing examination; NBOME; USMLE; COMLEX; or MCCQE or their successors;
 - (B) SPEX (with a score of 75 or higher);
 - or
 - (C) COMVEX (with a score of 75 or higher); or
 - (2) within the past 10 years obtained certification or recertification or CAQ by a specialty board recognized by the ABMS, CCFP, FRCP, FRCS or AOA; or
 - (3) within the past ten years completed GME approved by ACGME, CFPC, RCPSC or AOA; or

- (4) within the past three years, received a practice-relevant, three-year AMA Physician's Recognition Award or AOA equivalent CME.
- (c) All reports must be submitted directly to the Board from the primary source, when possible.
- (d) An applicant may be required to appear in person for an interview with the Board or its agent.
- (e) An application must be completed within one year of submission. If not, the applicant shall be charged another application fee, plus the cost of another criminal background check.

Authority G.S. 90-8.1; 90-9.1; 90-9.2; 90-13.1.

21 NCAC 32B .1350 REINSTATEMENT OF PHYSICIAN LICENSE

(a) Reinstatement is for a physician who has held a North Carolina License, but whose license either has been inactive for more than one year, or whose license became inactive as a result of disciplinary action (revocation or suspension) taken by the Board. It also applies to a physician who has surrendered a license prior to charges being filed by the Board.

(b) All applicants for reinstatement shall:

- (1) submit a completed application, attesting under oath that information on the application is true and complete, and authorizing the release of the Board of all information pertaining to the application;
- (2) submit documentation of a legal name change, if applicable;
- (3) supply a certified copy of applicant's birth certificate or a certified copy of a valid and unexpired US passport, if the applicant was born in the United States. If the applicant was not born in the United States, the applicant must provide information about applicant's immigration and work status which the Board will use to verify applicant's ability to work lawfully in the United States;
- (4) If a graduate of a medical school other than those approved by LCME, AOA, COCA or CACMS, shall furnish an original ECFMG certification status report of a currently valid certification of the ECFMG. The ECFMG certification status report requirement shall be waived if:
 - (A) the applicant has passed the ECFMG examination and successfully completed an approved Fifth Pathway program (original ECFMG score transcript from the ECFMG required); or
 - (B) the applicant has been licensed in another state on the basis of a written examination before the establishment of the ECFMG in 1958;
- (5) submit reports from all state medical or osteopathic boards from which the applicant has ever held a medical or osteopathic license.

indicating the status of the applicant's license and whether or not any action has been taken against the license;

- (6) submit the AMA Physician Profile; and, if applicant is an osteopathic physician, also submit the AOA Physician Profile;
- (7) submit a NPDB/HIPDB report dated within 60 days of the application's submission;
- (8) submit a FSMB Board Action Data Bank report;
- (9) submit documentation of CME obtained in the last three years;
- (10) submit two completed fingerprint cards supplied by the Board;
- (11) submit a signed consent form allowing a search of local, state, and national files to disclose any criminal record;
- (12) provide two original references from persons with no family or material relationship to the applicant. These references must be:
 - (A) from physicians who have observed the applicant's work in a clinical environment within the past three years;
 - (B) on forms supplied by the Board;
 - (C) dated within six months of submission of the application; and
 - (D) bearing the original signature of the author.
- (13) pay to the Board a non-refundable fee pursuant to G.S. 90-13.1(a), plus the cost of a criminal background check;
- (14) upon request, supply any additional information the Board deems necessary to evaluate the applicant's qualifications.

(c) In addition to the requirements of Paragraph (b) of this Rule, the applicant shall submit proof that the applicant has:

- (1) within the past 10 years taken and passed either:
 - (A) an exam listed in G.S. 90-10.1 (a state board licensing examination; NBME; NBOME; USMLE; FLEX; COMLEX; or MCCQE or their successors);
 - (B) SPEX (with a score of 75 or higher); or
 - (C) COMVEX (with a score of 75 or higher); or
- (2) within the past ten years obtained certification or recertification of CAQ by a speciality board recognized by the ABMS, CCFP, FRCP, FRCS or AOA; or
- (3) within the past ten years completed GME approved by ACGME, CFPC, RCPSC or AOA; or
- (4) within the past three years, received a practice-relevant, three-year AMA Physician's Recognition Award or AOA equivalent CME.

(d) All reports must be submitted directly to the Board from the primary source, when possible.

(e) An applicant may be required to appear in person for an interview with the Board or its agent to evaluate the applicant's competence and character.

(f) An application must be complete within one year of submission. If not, the applicant shall be charged another application fee, plus the cost of another criminal background check.

Authority G.S.90-8.1; 90-9.1; 90-10.1; 90-13.1.

21 NCAC 32B .1360 REACTIVATION OF PHYSICIAN LICENSE

(a) Reactivation applies to a physician who has held a physician license in North Carolina, and whose license has been inactive for up to one year. Reactivation is not available to a physician whose license became inactive either while under investigation by the Board or because of disciplinary action by the Board.

(b) In order to reactivate a Physician License, an applicant shall:

- (1) submit a completed application, attesting under oath that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) supply a certified copy of applicant's birth certificate or a certified copy of a valid and unexpired US passport if applicant was born in the United States. If the applicant was not born in the United States, the applicant must provide information about applicant's immigration and work status which the Board will use to verify applicant's ability to work lawfully in the United States. (Note: there may be some applicants who are not present in the US and who do not plan to practice physically in the US. Those applicants shall submit a statement of that effect);
- (3) submit a FSMB Board Action Data Bank report;
- (4) submit documentation of CME obtained in the last three years;
- (5) submit two completed fingerprint record cards supplied by the Board;
- (6) submit a signed consent form allowing search of local, state, and national files for any criminal record;
- (7) pay to the Board the relevant, non-refundable fee, plus the cost of a criminal background check; and
- (8) upon request, supply any additional information the Board deems necessary to evaluate the applicant's competence and character.

(c) An applicant may be required to appear in person for an interview with the Board or its agent to evaluate the applicant's competence and character.

Authority G.S.90-8.1; 90-9.1; 90-12.1A; 90-13.1; 90-14(11a).

SECTION .1400 – RESIDENT'S TRAINING LICENSE

21 NCAC 32B .1401 SCOPE OF PRACTICE UNDER RESIDENT'S TRAINING LICENSE

A physician holding a limited license to practice in a medical education and training program may only practice within the confines of that program and under the supervision of its director.

Authority G.S. 90-12.01.

21 NCAC 32B .1402 APPLICATION FOR RESIDENT'S TRAINING LICENSE

(a) In order to obtain a Resident's Training License, an applicant shall:

- (1) submit a completed application, attesting under oath that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) submit documentation of a legal name change, if applicable;
- (3) supply a certified copy of applicant's birth certificate or a certified copy of a valid and unexpired US passport if applicant was born in the United States. If the applicant was not born in the United States, the applicant must provide information about applicant's immigration and work status which the Board will use to verify applicant's ability to work lawfully in the United States. (Note: there may be some applicants who are not present in the US and who do not plan to practice physically in the US. Those applicants shall submit a statement to the effect);
- (4) submit a recent photograph, at least two inches by two inches, affixed to the Board's Medical Education Certification form. The dean or other official of the applicant's medical school shall certify this as a true likeness of the applicant, and that the applicant has completed at least 130 weeks of medical education. The applicant's date of graduation from medical school shall be written in the designated space, and the school seal shall be stamped over the photograph;
- (5) If the graduate of a medical school other than those approved by LCME, AOA, COCA or CACMS, shall furnish an original ECFMG certification status report of a currently valid certification of the ECFMG. The ECFMG certification status report requirement shall be waived if:
 - (A) the applicant has passed the ECFMG examination and successfully completed an approved Fifth Pathway program (original ECFMG score transcript from the ECFMG required); or

(B) the applicant has been licensed in another state on the basis of a written examination before the establishment of the ECFMG in 1958;

- (6) submit an appointment letter from the program director of the GME program or his appointed agent verifying the applicant's appointment and commencement date;
 - (7) provide two original references from persons with no family or marital relationship to the applicant. These references must be:
 - (A) from physicians who have observed the applicant's work in a clinical setting;
 - (B) on forms supplied by the Board;
 - (C) dated within six months of the application; and
 - (D) bearing the original signature of the writer;
 - (8) submit two completed fingerprint record cards supplied by the Board;
 - (9) submit a signed consent form allowing a search of local, state, and national files for any criminal record;
 - (10) pay a non-refundable fee pursuant to G.S. 90-13.1(b), plus the cost of a criminal background check;
 - (11) upon request, supply any additional information the Board deems necessary to evaluate the applicant's competence and character.
- (b) An applicant may be required to appear in person for an interview with the Board or its agent to evaluate the applicant's competence and character.

Authority G.S. 90-8.1; 90-12.01; 90-13.1.

SECTION .1600 – SPECIAL PURPOSE LICENSE

21 NCAC 32B .1601 SCOPE OF PRACTICE UNDER SPECIAL PURPOSE LICENSE

The Board may limit the physician's scope of practice under a Special Purpose License by geography, term, practice setting, and type of practice.

Authority G.S. 90-12.2A.

21 NCAC 32B .1602 SPECIAL PURPOSE LICENSE – VISITING INSTRUCTOR

(a) The Special Purpose License is for physicians who wish to come to North Carolina for a limited time, scope and purpose, such as to demonstrate a new technique, procedure or piece of equipment, or to educate physicians or medical students in an emerging disease or public health issue.

(b) In order to obtain a Special Purpose License, an applicant shall:

- (1) submit a completed application, attesting under oath that the information on the application is true and complete, and

- authorizing the release to the Board of all information pertaining to the application;
- (2) submit documentation of a legal name change, if applicable;
- (3) supply a certified copy of applicant's birth certificate or a certified copy of a valid and unexpired US passport if applicant was born in the United States. If applicant was not born in the United States, the applicant must provide information about applicant's immigration and work status which the Board will use to verify applicant's ability to work lawfully in the United States;
- (4) comply with all requirements of G.S. 90-12.2A;
- (5) submit the Board's form, completed by the mentor, showing that the applicant has received an invitation from a medical school, medical practice, hospital, clinic or physician licensed in the state of North Carolina, outlining the need for the applicant to receive a special purpose license and describing the circumstances and timeline under which the applicant will practice medicine in North Carolina;
- (6) submit an AMA Physician Profile; and, if applicant is an osteopathic physician, also submit AOA Physician Profile;
- (7) submit an FSMB Board Action Data Bank report;
- (8) submit two completed fingerprint record cards supplied by the Board;
- (9) submit a signed consent form allowing a search of local, state, and national files for any criminal record;
- (10) pay to the Board a non-refundable fee pursuant to G.S. 90-13.1(a), plus the cost of a criminal background check;
- (11) upon request, supply any additional information the Board deems necessary to evaluate the applicant's competence and character.

(c) All reports must be submitted directly to the Board from the primary source, when possible.

(d) An applicant may be required to appear in person for an interview with the Board or its agent to evaluate the applicant's competence and character.

(e) An application must be completed within one year of submission. If not, the applicant shall be charged another application fee, plus the cost of another criminal background check.

Authority G.S. 90-8.1; 90-9.1; 90-12.2A; 90-13.1.

SECTION .1700 – OTHER LICENSES

21 NCAC 32B .1701 SCOPE OF PRACTICE UNDER MILITARY LIMITED VOLUNTEER LICENSE

The holder of a Military Limited Volunteer License may practice medicine and surgery only at clinics that specialize in the treatment of indigent patients, and may not receive any compensation for services rendered, either direct or indirect, monetary, in-kind, or otherwise for the provision of medical services.

Authority G.S. 90-8.1; 90-12.1A.

21 NCAC 32B .1702 APPLICATION FOR MILITARY LIMITED VOLUNTEER LICENSE

(a) The Military Limited Volunteer License is available to physicians working in the armed services or Veterans Administration who are not licensed in North Carolina, but who wish to volunteer at civilian indigent clinics.

(b) In order to obtain a Military Limited Volunteer License, an applicant shall:

- (1) submit a completed application, attesting under oath that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) submit documentation of a legal name change, if applicable;
- (3) submit proof of an active license from a state medical or osteopathic board indicating the status of the license and whether or not any action has been taken against the license;
- (4) supply a certified copy of applicant's birth certificate or a certified copy of a valid and unexpired US passport if the applicant was born in the United States. If the applicant was not born in the United States, the applicant must provide information about applicant's immigration and work status which the Board will use to verify applicant's ability to work lawfully in the United States ;
- (5) provide proof that the application is authorized to treat personnel enlisted in the United States armed services or veterans by submitting a letter signed by the applicant's commanding officer;
- (6) submit a FSMB Board Action Data Bank report;
- (7) submit two completed fingerprint record cards supplied by the Board;
- (8) submit a signed consent form allowing a search of local, state, and national files for any criminal record;
- (9) pay a non-refundable fee to cover the cost of a criminal background check;
- (10) upon request, supply any additional information the Board deems necessary to evaluate the applicant's competence and character.

(c) All reports must be submitted directly to the Board from the primary source, when possible.

(d) An applicant may be required to appear in person for an interview with the Board or its agent to evaluate the applicant's competence and character.

(e) An application must be completed within one year of the date of submission.

Authority G.S. 90-8.1; 90-12.1A.

21 NCAC 32B .1703 SCOPE OF PRACTICE UNDER RETIRED LIMITED VOLUNTEER LICENSE

The holder of a Retired Limited Volunteer License may practice medicine and surgery only at clinics that specialize in the treatment of indigent patients, and may not receive any compensation for services rendered, either direct or indirect, monetary, in-kind, or otherwise for the provision of medical services.

Authority G.S. 90-8.1; 90-12.1A.

21 NCAC 32B .1704 APPLICATION FOR RETIRED LIMITED VOLUNTEER LICENSE

(a) The Retired Limited Volunteer License is available to physicians who have been licensed in North Carolina or another state or jurisdiction, but who wish to volunteer at civilian indigent clinics.

(b) In order to obtain a Retired Limited Volunteer License, an applicant who holds an active license in another state or jurisdiction shall:

- (1) submit a completed application, attesting under oath that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) submit documentation of a legal name change, if applicable;
- (3) submit a certified copy of applicant's birth certificate or a certified copy of a valid and unexpired US passport if applicant was born in the United States. If applicant was not born in the United States, the applicant must provide information about applicant's immigration and work status which the Board will use to verify applicant's ability to work lawfully in the United States;
- (4) submit proof of an active license from another state medical or osteopathic board indicating the status of the license and whether or not any action has been taken against it;
- (5) submit two completed fingerprint record cards supplied by the Board;
- (6) submit a signed consent form allowing a search of local, state and national files for any criminal record;
- (7) pay a non-refundable fee to cover the cost of a criminal background check;
- (8) submit a FSMB Board Action Data Bank report;
- (9) submit documentation of CME obtained in the last three years;

(10) upon request, supply any additional information the Board deems necessary to evaluate the applicant's competence and character.

(11) All materials must be submitted to the Board from the primary source, when possible.

(c) An applicant who holds an active North Carolina physician license may convert that to a Retired Limited Volunteer License by completing the Board's form.

(d) An applicant who has been licensed in North Carolina but has been inactive less than six months may convert that to a Retired Limited Volunteer License by completing the Board's license renewal questions.

(e) An applicant who has been licensed in North Carolina but who has been inactive for more than six months but less than two years must use the reactivation process set forth in 21 NCAC 32B .1360. An applicant who does not have a North Carolina license, but has an inactive license to practice medicine and surgery in another state or jurisdiction, and who has been inactive for more than six months but less than two years must comply with the requirements for reactivation of physician license under 21 NCAC 32B .1360.

(f) A physician who has been inactive for more than two years will be required to complete a reentry program.

(g) An applicant may be required to appear in person for an interview with the Board or its agent to evaluate the applicant's competence and character.

(h) An application must be completed within one year of the date of submission.

Authority G.S. 90-8.1; 90-12.1A.

21 NCAC 32B .1705 LIMITED PHYSICIAN LICENSE FOR DISASTERS AND EMERGENCIES

(a) The Board may, pursuant to G.S. 90-12.5, issue a Limited Physician License for Disasters and Emergencies whenever the Governor of the State of North Carolina has declared a disaster or states of emergency, or in the event of an occurrence for which a county or municipality has enacted an ordinance to deal with state of emergency under G.S. 14-288.12, 14-288.13, or 14-288.14, or to protect the public health, safety or welfare of its citizens under Article 22 of Chapter 130A of the General Statutes, G.S. 160A-174(a) or G.S. 153A-12(a);

(b) In order to obtain a Limited Physician License for Disasters and Emergencies, an applicant shall:

- (1) provide government-issued photo identification;
- (2) provide proof of current licensure to practice medicine in another state or jurisdiction; and
- (3) submit a completed application, attesting under oath that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;

(c) The Board may obtain any additional information it deems necessary to evaluate the applicant's competence and character.

(d) The Board may limit the physician's scope of practice as to geography; term; type of practice; and prescribing.

(e) A physician holding a Limited Physician License for Disasters and Emergencies shall not receive any compensation, either direct or indirect, monetary, in-kind, or otherwise for the provision of medical services.

Authority G.S. 90-12.5.

**SECTION .2000 – EXPEDITED APPLICATION FOR
PHYSICIAN LICENSE**

**21 NCAC 32B .2001 EXPEDITED APPLICATION
FOR PHYSICIAN LICENSE**

(a) A specialty board-certified physician who has been licensed in at least one other state, the District of Columbia, U.S. Territory or Canadian province for at least five years, has been in active clinical practice the past two years; and who has a clean license application, as defined in Paragraph (c) of this Rule may apply for a license on an expedited basis.

(b) An applicant for an expedited Physician License shall:

- (1) complete the Board's application form, attesting under oath that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) submit documentation of a legal name change, if applicable;
- (3) on the Board's form, submit a photograph taken within the past year, at least two inches by two inches, certified as a true likeness of the applicant by a notary public;
- (4) supply a certified copy of applicant's birth certificate or a certified copy of a valid and unexpired U.S. passport if applicant was born in the United States. If applicant was not born in the United States, the applicant must provide information about applicant's immigration and work status which the Board will use to verify applicant's ability to work lawfully in the United States. (Note: there may be some applicants who are not present in the U.S. and who do not plan to practice physically in the U.S. Those applicants shall submit a statement to the effect);
- (5) provide proof that applicant has held an active license to practice medicine in at least one other state, the District of Columbia, U.S. Territory or Canadian province for at least five years immediately preceding this application;
- (6) provide proof of clinical practice providing patient care for an average of 20 hours or more per week, for at least the last two years;
- (7) provide proof of certification or recertification by an ABMS, CCFP, FRCP, FRCS, or AOA approved specialty board within the past ten years;
- (8) submit an AMA Physician Profile; and, if applicant is an osteopathic physician, submit an AOA Physician Profile;

- (9) submit a NPDB/HIPDB report dated within 60 days of the applicant's oath;
- (10) submit a FSMB Board Action Data Bank report;
- (11) submit two completed fingerprint record cards supplied by the Board;
- (12) submit a signed consent form allowing a search of local, state and national files to disclose any criminal record;
- (13) pay to the Board a non-refundable fee of three hundred fifty dollars (\$350.00), plus the cost of a criminal background check; and
- (14) upon request, supply any additional information the Board deems necessary to evaluate the applicant's qualifications.

(c) A clean license application means that the physician has none of the following:

- (1) professional liability insurance claim(s) or payment(s);
- (2) criminal record;
- (3) medical condition(s) which could affect the physician's ability to practice safely;
- (4) regulatory board complaint(s), investigation(s), or action(s) (including applicant's withdrawal of a license application);
- (5) adverse action taken by a health care institution;
- (6) investigation(s) or action(s) taken by a federal agency, the U.S. military, medical societies or associations;
- (7) suspension or expulsion from any school, including medical school.
- (8) graduation from any United States or Canadian medical school that is not LCME or CACMS approved; or
- (9) has passed no licensing examination other than Puerto Rico Written Examination/Revalida.

(d) All reports must be submitted directly to the Board from the primary source, when possible.

(e) The application process must be completed within one year of the date on which the application fee is paid. If not, the applicant shall be charged a new applicant fee.

Authority G.S. 90-9.1; 90-5; 90-11; 90-13.1.

**21 NCAC 32F .0106 WAIVER FOR LICENSEES
SERVING ON ACTIVE DUTY IN THE ARMED
SERVICES OF THE US**

The Board shall waive continuing education, payment of renewal and other fees, and any other requirements or conditions relating the maintenance of licensure by an individual who is:

- (1) currently licensed by and in good standing with the Board;
- (2) serving in the armed forces of the United States or serving in support of such armed forces; and

- (3) serving in a combat zone, or serving with respect to a military contingency operation as defined by 10 U.S.C. 101(a)(13).

Authority G.S. 105-249.2; S. L. 2009-458 Section 7508 of the Internal Revenue Code; 10 U.S.C. 101.

21 NCAC 32R .0105 WAIVER FOR LICENSEES SERVING ON ACTIVE DUTY IN THE ARMED SERVICES OF THE US

The Board shall waive continuing education, payment of renewal and other fees, and any other requirements or conditions relating the maintenance of licensure by an individual who is:

- (1) currently licensed by and in good standing with the Board;
 (2) serving in the armed forces of the United States or serving in support of such armed forces; and
 (3) serving in a combat zone, or serving with respect to a military contingency operation as defined by 10 U.S.C. 101(a)(13).

Authority G.S. 105-249.2; S. L. 2009-458 Section 7508 of the Internal Revenue Code; 10 U.S.C. 101.

CHAPTER 34 - BOARD OF FUNERAL SERVICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Funeral Service intends to adopt the rules cited as 21 NCAC 34A .0203; 34B .0311 and 34D .0203 and repeal the rules cited as 04 NCAC 04 .0101-.0103, .0303-.0305, .0601-.0608.

Proposed Effective Date: *August 1, 2010*

Public Hearing:

Date: *May 19, 2010*

Time: *9:00 a.m.*

Location: *1033 Wade Avenue, Suite 108, Raleigh, NC 27605*

Reason for Proposed Action: *To comply with rulemaking requirements imposed by the General Assembly for annual reports and military licensing; to create procedures for preneed surety bond requirements; to repeal unnecessary rules for mutual burial associations.*

Procedure by which a person can object to the agency on a proposed rule: *Interested parties can submit written comments or attend the public hearing.*

Comments may be submitted to: *Paul Harris, Rulemaking Coordinator, 1033 Wade Avenue, Suite 108, Raleigh, NC 27605, phone (919)733-9380, fax (919)733-8271, email wpharris@ncbfs.org*

Comment period ends: *June 1, 2010*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal Impact:

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

CHAPTER 04 - BURIAL COMMISSION

SECTION .0100 - GENERAL PROVISIONS

04 NCAC 04 .0101 NAME AND ADDRESS

~~The North Carolina Burial Commission is located at 430 North Salisbury Street, Raleigh, North Carolina, 27611 and its mailing address is Post Office Box 25249. Office hours are from 8:00 a.m. to 5:30 p.m., Monday through Friday.~~

Authority G.S. 90-210.80.

04 NCAC 04 .0102 PURPOSE

~~The purpose of the North Carolina Burial Commission is to supervise and audit the mutual burial associations in North Carolina. This division is established under the Department of Commerce.~~

Authority G.S. 90-210.80.

04 NCAC 04 .0103 STRUCTURE

~~The chief officer of the North Carolina Burial Commission is the administrator. Within the division there are field auditors and a clerical staff. The field auditors audit the mutual burial associations at least once each year and more often if deemed necessary by the administrator. If it is necessary that additional work be done on the books of any association, a fee of ten dollars (\$10.00) per hour has been approved by the North Carolina Mutual Burial Association Commission.~~

Authority G.S. 90-210.80.

SECTION .0300 - LICENSING: SUPERVISION AND AUDIT OF MUTUAL BURIAL ASSOCIATIONS

04 NCAC 04 .0303 MERGER

The Burial Association Commission, in its discretion will, upon application, permit one or more burial associations operating in North Carolina to merge with another burial association operating in North Carolina, and will, in its discretion, upon application, permit two or more burial associations operating in North Carolina to consolidate into a new burial association. The commission, in determining whether to permit or deny such application, will determine whether such consolidation or merger would be in the best interest of the members of the associations involved in any proposed plan of merger or consolidation.

Authority G.S. 90-210.80.

04 NCAC 04 .0304 SURPLUS OR RESERVE ACCOUNT

All sums of money required by G.S. 58-241.9, Article 13(b) to be paid into a surplus account or a reserve account, shall be held in said account by the burial association as required by law.

Authority G.S. 90-210.80.

04 NCAC 04 .0305 BONDING

The secretary or secretary-treasurer of each burial association shall execute a bond payable to the Burial Association Administrator as trustee for the burial association in some bonding company licensed to do business in this state, as approved by the Burial Association Administrator, in an amount required by G.S. 58-241.23. The amount of such bond will be reviewed annually by the administrator for the purpose of determining whether such bond shall be increased or decreased to comply with this Regulation.

Authority G.S. 90-210.80.

SECTION .0600 - ASSUMPTION OF ASSETS AND LIABILITIES

04 NCAC 04 .0601 DEFINITIONS

Definitions as used in this Section:

- (1) "Domestic Mutual Burial Association" means a North Carolina mutual burial association or associations whose assets and liabilities are assumed or sought to be assumed by a North Carolina or foreign mutual burial association or by a North Carolina or foreign insurance company;
- (2) "Assume" means to legally be responsible for the assets and liabilities of, merge or consolidate two or more domestic mutual burial associations with a North Carolina or foreign mutual burial association or North Carolina or foreign insurance company;
- (3) "North Carolina Mutual Burial Association" means any mutual burial association organized in North Carolina other than a domestic mutual burial association;

- (4) "Foreign Mutual Burial Association" is a mutual burial association organized under the laws of a state other than North Carolina;
- (5) "Foreign Insurance Company" is an insurance company organized under the laws of a state other than North Carolina.

Authority G.S. 90-210.80.

04 NCAC 04 .0602 NOTICE OF N.C. MUTUAL BURIAL ASSOCIATION COMMISSION

Whenever either a North Carolina or foreign insurance company or North Carolina or foreign mutual burial association desires to assume the assets and liabilities of one or more North Carolina domestic mutual burial association(s), it shall notify the state burial administrator in writing at least 30 days prior to the public meeting of mutual burial association members hereinafter required.

Authority G.S. 90-210.80.

04 NCAC 04 .0603 NOTICE TO MEMBERS OF DOMESTIC MUTUAL BURIAL ASSOCIATION

Such North Carolina or foreign insurance company or mutual burial association referred to in Rule .0602 shall cause to be published for two consecutive weeks in a newspaper published in the county or an adjoining county where such domestic mutual burial association or mutual burial associations are located, at least 30 days prior to the second publication, a notice of a public meeting of the members of the domestic mutual burial association. Such notice shall contain notification of the purpose of the meeting and the time and place of such meeting. In the event the assets and liabilities of more than one domestic mutual burial association are desired to be assumed, separate notices and separate meetings shall be held.

Authority G.S. 90-210.80.

04 NCAC 04 .0604 CONDUCT OF PUBLIC MEETING

At the public meeting or meetings required by Rule .0603, a representative or representatives of the North Carolina or foreign insurance company or mutual burial association shall explain to the attending members of the domestic mutual burial association the proposed terms of the assumption of the assets and liabilities of the domestic mutual burial association. A quorum of domestic mutual burial association members shall conclusively be presumed if 15 of the paid-up members of the domestic mutual burial association are present.

At such meeting a voice or ballot vote, at the discretion of the president or vice president of the domestic mutual burial association who shall preside, shall be taken on the question of whether the domestic mutual burial association shall permit its assets and liabilities to be assumed by the domestic or foreign mutual burial association or insurance company seeking such action.

The assumption of such assets and liabilities shall be deemed approved if a simple majority of those currently paid-up members present and voting vote in the affirmative.

~~In the event the proposed assumption is disapproved by a majority of those eligible voters present and voting, no additional vote may be had as to the proposed assumption by the same foreign or North Carolina insurance company or North Carolina or foreign mutual burial association seeking assumption for a period of one year.~~

Authority G.S. 90-210.80.

04 NCAC 04 .0605 APPROVAL OF ASSUMPTION

~~In the event the assumption of a domestic mutual burial association's assets and liabilities is approved by its members as hereinabove set out, such assumption shall not be deemed completed until the Burial Association Administrator has satisfied himself that the proposed terms of such assumption fully protects the existing financial interest of the present members of the domestic mutual burial association.~~

~~Approval or disapproval will be made in writing by the administrator to all interested parties within 30 days of the vote required by Rule .0604.~~

~~A party or parties aggrieved by the Administrator's decision may, within 30 days of such decision, appeal in writing to the Burial Association Commission, which may affirm, modify or reverse the Administrator's decision after holding a public hearing pursuant to the provisions of Chapter 150B of the General Statutes. Further appeal by an aggrieved party will be pursuant to Chapter 150B.~~

Authority G.S. 90-210.80.

04 NCAC 04 .0606 AUTHORITY TO CONTINUE ISSUANCE OF POLICIES

~~Once the assumption of one or more domestic mutual burial associations has been completed by a North Carolina or foreign insurance company or North Carolina or foreign mutual burial association, pursuant to Rules .0602 through .0605, and the time for appeal has expired, the assuming insurance company or mutual burial association may continue to issue burial association insurance policies to qualified applicants, in its discretion, in amounts of one hundred dollars (\$100.00) or two hundred dollars (\$200.00). However, the issuing insurance company or mutual burial association must comply with the provisions of Rule .0608.~~

Authority G.S. 90-210.80.

04 NCAC 04 .0607 ISSUANCE OF POLICIES IN EXCESS OF TWO HUNDRED DOLLARS

~~Any foreign or North Carolina insurance company or North Carolina or foreign mutual burial association which after its assumption of one or more domestic mutual burial associations sells no burial association insurance of two hundred dollars (\$200.00) or less will not be audited by the office of the burial association administrator, nor will it pay any fees to the burial association administrator. However, such insurance company or mutual burial association shall yearly, no later than January 31, file in the office of the burial association administrator, on forms supplied by the administrator, such information as the administrator may require, in his discretion, pertaining to the~~

~~present policyholders who own burial association insurance in amounts not exceeding two hundred dollars (\$200.00). The administrator may also, in his discretion, require a list of members who had burial association insurance of two hundred dollars (\$200.00) or less who have died during the preceding 12 months and the benefits paid.~~

Authority G.S. 90-210.80.

04 NCAC 04 .0608 REQUIREMENTS OF COMPANIES WRITING POLICIES

~~Any foreign or domestic insurance company or North Carolina or foreign mutual burial association which assumes the assets and liabilities of one or more domestic mutual burial associations and which continues to write burial association insurance policies in the amount of one hundred dollars (\$100.00) or two hundred dollars (\$200.00) to qualified applicants shall continue to be subject to all the laws of North Carolina, and the rules and regulations of the North Carolina Mutual Burial Association Commission, specifically including, but not limited to, audits, reports, and fees with respect to all burial association insurance written in the amount of one hundred dollars (\$100.00) or two hundred dollars (\$200.00).~~

Authority G.S. 90-210.80.

CHAPTER 34 - BOARD OF FUNERAL SERVICE

SUBCHAPTER 34A - BOARD FUNCTIONS

SECTION .0200 - FEES AND OTHER PAYMENTS

21 NCAC 34A .0203 REPORT TO GENERAL ASSEMBLY

No later than October 31 of each calendar year, the Board shall file the reports required by G.S. 93B-2. If the Board fails to timely file a report, all funds received after October 31 shall be deposited into an escrow account with a financial institution, as such term is defined in G.S. 90-210.60(2), until the report has been filed. Except where the provisions of G.S. 93B-2(d) are preempted by federal law or where otherwise allowed by law, the Board shall not expend any funds until the report has been filed; provided, however, that such suspension shall be lifted and such escrow shall terminate immediately upon deposit of the delinquent report into the custody of the U.S. Postal Service by certified U.S. mail return receipt requested. Any period of suspension under G.S. 93B-2(d) shall have no effect upon the right of a license or permit applicant to the issue or renewal of any license or permit upon meeting all legal requirements; provided, however, that this Rule shall not impose any duty upon the Board to issue any license or permit outside its normal operating procedures.

Authority G.S. 90-210.23(a); 93B-2(d).

SUBCHAPTER 34B - FUNERAL SERVICE

SECTION .0300 - LICENSING

21 NCAC 34B .0311 SPECIAL PROCEDURES FOR LICENSING OF ACTIVE MILITARY PERSONNEL

(a) Definitions. As used in this Rule:

- (1) "Active military personnel" shall mean any person holding an applicable license or permit from the Board who meets the conditions of G.S. 105-249.2(a) and would be subject to any continuing education requirement, renewal fee, or renewal application to renew or reinstate any permit or license issued by the Board.
- (2) "Active military status" shall mean any active military personnel who is not actively practicing because of military service.
- (3) "Applicant" shall mean the active military personnel or any person authorized to conduct business affairs for the active military personnel under the authority granted by a power of attorney executed under the laws of any state.

(b) The following provisions shall apply to funeral director, funeral service, and embalmer licenses only:

- (1) Active military personnel wishing to claim active military status shall file a form prescribed by the Board. The applicant shall furnish the full name of the active military personnel, license number, address and telephone number of the active military personnel, date of active military service, anticipated date the licensee will resume practice, if known, and documentation from the branch of service demonstrating entitlement to active military status. The Board shall notify the applicant in writing of its decision on the application and shall place the active military personnel on inactive status upon approving the application.
- (2) No fees or renewal applications shall be required during the period of active military status. Continuing education shall not be required for any calendar year when active military status is effective. Time spent on active military status shall apply to the total years of continuing education required by a licensee under G.S. 90-210.25(a)(5)e.
- (3) Active military status shall terminate upon the earlier of return to active status or upon six months after severance from active duty. Active military personnel may claim active military status retroactively within six months from severance from active duty with a branch of the armed forces. Active military personnel who fail to renew the license before the termination of active military status shall be subject to the provisions of reinstatement under G.S. 90-210.25(a)(5)b. for a lapsed license and shall not be entitled to any waivers of continuing education, renewal fees, or reinstatement fees.

- (4) To return to active status, the licensee shall file an application for renewal and renewal fee for the calendar year regardless of the date of application.

(c) If any funeral establishment, crematory, or preneed establishment ceases operations because the active military personnel claims active military status, all such licenses or permits shall terminate upon transfer of the active military personnel to inactive status. If the active military personnel resumes active status, any funeral establishment, preneed establishment, or crematory shall be required to apply for a new license or permit but shall only be required to pay the renewal fee to issue the new license or permit.

Authority G.S. 90-210.23(a); 90-210.25(a)(5), (a1); 93B-15(b).

SUBCHAPTER 34D - PRENEED FUNERAL CONTRACTS

SECTION .0200 – LICENSING

21 NCAC 34D .0203 SURETY BONDS

(a) Any applicant for a new preneed funeral establishment license or any preneed licensee required to maintain a surety bond under G.S. 90-210.67(b) shall submit a copy of the bond with its initial application and with each renewal application. The bond shall cover all insurance premiums paid under a preneed insurance policy and all trust payments under a preneed funeral trust. The bond shall name the Board as trustee and shall be issued by a bonding company licensed to do business in this State. The Board shall recognize all surety bond forms approved by the N.C. Department of Insurance.

(b) Any preneed establishment licensee required to obtain a bond may petition the Board to repeal the requirement one year after obtaining the bond. The preneed establishment licensee shall establish that the firm is solvent. For purposes of this Paragraph, solvency shall be defined as assets in excess of liabilities; provided, however, that goodwill shall not be considered an asset and that unperformed preneed funeral contracts shall be treated as both an asset and a liability of equal value. A preneed establishment may demonstrate solvency by submitting a balance sheet prepared by a certified public accountant that is no more than 90 days old or through other financial evidence generally recognized as valid by certified public accountants.

(c) All petitions must be filed on a form prescribed by the Board. The petition form shall require the applicant to furnish the name of the preneed establishment; certifications that the firm is solvent, has no unsatisfied civil judgments against it, and has not paid a claim on the bond; and any other information that the Board deems necessary and is required by law. The form shall be verified by as correct before a notary public by the owner, a corporate officer, partner, or member of the limited liability company owning the preneed establishment.

Authority G.S. 90-210.69(a); 90-210.67(b).

CHAPTER 46 – PHARMACY BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Pharmacy intends to adopt the rule cited as 21 NCAC 46.1614.

Proposed Effective Date: August 1, 2010

Public Hearing:

Date: June 14, 2010

Time: 5:00 p.m.

Location: North Carolina Board of Pharmacy, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517

Reason for Proposed Action: To adopt rules necessary to effectuate Session Law 2009-125, which became effective October 1, 2009.

Procedure by which a person can object to the agency on a proposed rule: Any person may object to the proposed rule by objecting to the proposed adoption by attending the public hearing on June 14, 2010 and/or by submitting a written objection by June 14, 2010 to Jay Campbell, Executive Director, North Carolina Board of Pharmacy, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517, fax (919)246-1056, e-mail jcampbell@ncbop.org. The North Carolina Board of Pharmacy is interested in all comments pertaining to the proposed rule. All persons interested and potentially affected by the proposal are strongly encouraged to read this entire notice and make comments on the proposed rule.

Comments may be submitted to: Jay Campbell, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517, fax (919)246-1056, email jcampbell@ncbop.org

Comment period ends: June 14, 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

SECTION .1600 - LICENSES AND PERMITS

21 NCAC 46 .1614 SUSPENSION OF AUTHORITY TO EXPEND FUNDS

In the event that the Board's authority to expend funds is suspended pursuant to G.S. 93B-2(d), the Board shall continue to issue and renew licenses, registrations and permits and collect all fees set forth in G.S. 90-85.24, but all fees tendered shall be placed in an escrow account maintained by the Board for this purpose. Once the Board's authority is restored, the funds shall be moved from the escrow account into the general operating account.

Authority G.S. 90-85.6; 90-85.24.

*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 February 18, 2010.

**REGISTER CITATION TO THE
NOTICE OF TEXT**

HHS - MEDICAL ASSISTANCE, DIVISION OF

<u>Pharmacy of Record</u>	10A	NCAC	21C	.0103	24:10 NCR
<u>Patient Counseling</u>	10A	NCAC	22M	.0201*	24:10 NCR
<u>Retrospective Drug Use Review (DUR)</u>	10A	NCAC	22M	.0301*	24:10 NCR
<u>Prescribed Drugs</u>	10A	NCAC	22O	.0407	24:10 NCR

HOME INSPECTOR LICENSURE BOARD

<u>Meetings</u>	11	NCAC	08	.1002	24:09 NCR
<u>Purpose and Scope</u>	11	NCAC	08	.1103*	24:09 NCR

INSURANCE, DEPARTMENT OF

<u>Actuarial Memorandum with Asset Adequacy Analysis</u>	11	NCAC	11F	.0307	24:10 NCR
<u>Basic and Premium Deficiency Reserves</u>	11	NCAC	11F	.0403*	24:10 NCR
<u>Model Regulation Permitting the Recognition of Preferred</u>	11	NCAC	11F	.0801	24:10 NCR
<u>Unfair or Deceptive Acts or Practices</u>	11	NCAC	12	.1902*	24:09 NCR
<u>Justification of Adverse Insurance Decisions</u>	11	NCAC	12	.1903*	24:09 NCR

SHERIFFS EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Instructors</u>	12	NCAC	10B	.2004	24:10 NCR
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LABOR, DEPARTMENT OF

<u>Incorporation by Reference</u>	13	NCAC	07A	.0301*	24:10 NCR
<u>Scope and Application</u>	13	NCAC	07A	.0901*	24:10 NCR
<u>Responsible Persons</u>	13	NCAC	07A	.0902*	24:10 NCR
<u>Security Procedures; Retention and Destruction of Records</u>	13	NCAC	07A	.0903*	24:10 NCR
<u>Intra-Agency Use and Transfer</u>	13	NCAC	07A	.0904*	24:10 NCR
<u>Inter-Agency Transfer and Public Disclosure</u>	13	NCAC	07A	.0905	24:10 NCR

ENVIRONMENTAL MANAGEMENT COMMISSION

<u>Toxic Air Pollutant Guidelines</u>	15A	NCAC	02D	.1104*	n/a G.S. 150B-21.5(a)(5)
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COASTAL RESOURCES COMMISSION

<u>Coastal Shorelines</u>	15A	NCAC	07H	.0209*	n/a G.S. 150B-21.5(3)
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BARBER EXAMINERS, BOARD OF

<u>Manager</u>	21	NCAC	06F	.0102*	24:07 NCR
<u>Roster and Student Records</u>	21	NCAC	06F	.0110	24:07 NCR
<u>Students with Criminal Records</u>	21	NCAC	06F	.0116*	24:07 NCR
<u>Renewal as Registered Apprentice</u>	21	NCAC	06J	.0103*	24:07 NCR
<u>Separation From Other Businesses; Residential Shops; Mobi...</u>	21	NCAC	06L	.0106	24:07 NCR
<u>Inspections of Shops</u>	21	NCAC	06L	.0115	24:07 NCR
<u>Barber Failing to Maintain or Produce Exemption Log</u>	21	NCAC	06O	.0117	24:07 NCR
<u>Registered Sex Offender</u>	21	NCAC	06Q	.0103	24:07 NCR

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 21C .0103 PHARMACY OF RECORD

History Note: Authority G.S. 108A-54;
Eff. September 1, 1984;
Amended Eff. August 1, 1990;
Repealed Eff. April 1, 2010.

10A NCAC 22M .0201 PATIENT COUNSELING

Rule 21 NCAC 46 .2504 as adopted by the North Carolina Board of Pharmacy applies to Medicaid and is incorporated by reference including subsequent amendments. A copy of 21 NCAC 46 .2504 may be downloaded from the N.C. Board of Pharmacy website (<http://www.ncbop.org/LawsRules/rules.2500.pdf>). There is no charge. If a pharmacy fails to comply with the requirements of 21 NCAC 46 .2504, any claim for reimbursement associated with the pharmacy's non-compliance shall be denied, or if already paid, shall be recouped.

History Note: Authority G.S. 108A-68; 42 U.S.C. 1396r-8(g)(2)(A)(ii);
Eff. June 1, 1993;
Amended Eff. March 1, 2010.

10A NCAC 22M .0301 RETROSPECTIVE DRUG USE REVIEW (DUR)

Retrospective DUR is designed for the DUR Board to review Medicaid paid claims to identify prescribing patterns of behavior involving physicians, pharmacists, and recipients such as over treatment, under treatment, treatment failure, drug-drug interactions, adverse effects, therapeutic duplication, iatrogenic effects, drug-disease contraindications, and empiric prescribing. The Division of Medical Assistance exempts nursing facility patients from the retrospective portion of the Drug Use Review. If a nursing facility is determined to be out of compliance with the drug regimen review procedures prescribed for such facilities in regulations implementing section 1919 of the Social Security

Act, currently at section 483.60 of title 42, of the Code of Federal Regulations, the retrospective portion of the Drug Use Review requirements of this Section applies. Retrospective DUR is designed for the DUR Board to review Medicaid paid claims to identify prescribing patterns of behavior involving physicians, pharmacists, and recipients such as over treatment, under treatment, treatment failure, drug-drug interactions, adverse effects, therapeutic duplication, iatrogenic effects, drug-disease contraindications, and empiric prescribing.

History Note: Authority G.S. 108A-68; 42 U.S.C. 1396R-8(2)(b)-(C);
Eff. January 4, 1993;
Amended March 1, 2010.

10A NCAC 22O .0407 PRESCRIBED DRUGS

History Note: Authority G.S. 108A-25(b); 143B-10; S.L. 1985, c. 479, s. 86; 42 C.F.R. 440.120; 42 C.F.R. 440.230(d)
Eff. February 1, 1976
Amended Eff. October 1, 1977;
Readopted Eff. October 31, 1977
Amended Eff. May 1, 1990; August 1, 1983; April 1, 1982;
Repealed Eff. April 1, 2010.

TITLE 11 – DEPARTMENT OF INSURANCE

11 NCAC 08 .1002 MEETINGS

History Note: Authority G.S. 143-151.48(a);
Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996;
Temporary Adoption Eff. October 24, 1996;
Eff. July 1, 1998;
Repealed Eff. March 1, 2010.

11 NCAC 08 .1103 PURPOSE AND SCOPE

(a) Home inspections performed according to this Section shall provide the client with an understanding of the property conditions, as inspected at the time of the home inspection.

(b) Home inspectors shall:

- (1) Provide a written contract, signed by the client, before the home inspection is performed that shall:
 - (A) State that the home inspection is in accordance with the Standards of Practice of the North Carolina Home Inspector Licensure Board;
 - (B) Describe what services shall be provided and their cost; and
 - (C) State, when an inspection is for only one or a limited number of systems or components, that the inspection is limited to only those systems or components;
- (2) Inspect readily visible and readily accessible installed systems and components listed in this Section; and
- (3) Submit a written report to the client that shall:
 - (A) Describe those systems and components required to be described in Rules .1106 through .1115 of this Section;
 - (B) State which systems and components designated for inspection in this Section have been inspected, and state any systems or components designated for inspection that were not inspected, and the reason for not inspecting;
 - (C) State any systems or components so inspected that do not function as intended, allowing for normal wear and tear, or adversely affect the habitability of the dwelling;
 - (D) State whether the condition reported requires repair or subsequent observation, or warrants further investigation by a specialist. The statements shall describe the component or system and how the condition is defective, explain the consequences of the condition, and direct the recipient to a course of action with regard to the condition or refer the recipient to a specialist; and
 - (E) State the name, license number, and signature of the person supervising the inspection and the name, license number, and signature of the person conducting the inspection.

(c) This Section does not limit home inspectors from:

- (1) Reporting observations and conditions or rendering opinions of items in addition to those required in Paragraph (b) of this Rule; or
- (2) Excluding systems and components from the inspection if requested by the client, and so stated in the written contract.

History Note: Authority G.S. 143-151.49; Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996; Temporary Adoption Eff. October 24, 1996; Eff. July 1, 1998; Amended Eff. March 1, 2010; February 1, 2009; February 1, 2007; April 1, 2005; May 1, 2003; July 1, 2000.

11 NCAC 11F .0307 ACTUARIAL MEMORANDUM WITH ASSET ADEQUACY ANALYSIS

(a) General:

- (1) In accordance with G.S. 58-58-50(i) and (j), the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of his or her opinion regarding the reserves under an opinion prescribed by Rule .0306 of this Section. The memorandum shall be made available for examination by the Commissioner upon request and shall be returned to the company after the examination and shall not be subject to automatic filing with the Commissioner.
- (2) In preparing the memorandum, the appointed actuary may rely on, and include as a part of his or her own memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of Rule .0303(b) of this Section, with respect to the areas covered in such memoranda, and so state in their memoranda.
- (3) If the Commissioner requests a memorandum and no such memorandum exists or if the Commissioner finds that the analysis described in the memorandum fails to meet the standards of the Board or the standards and requirements of this Section, the Commissioner shall designate a qualified actuary to review the opinion and prepare such supporting memorandum as is required for review. The reasonable and necessary expense of the independent review shall be paid by the company but shall be directed and controlled by the Commissioner.
- (4) The reviewing actuary shall have the same status as an examiner for purposes of obtaining data from the company and the work papers and documentation of the reviewing actuary shall be retained by the Commissioner; provided, however, that any information provided by the company to the reviewing actuary and included in the work papers shall be considered as material provided by the company to the Commissioner and shall be kept confidential to the same extent as is prescribed by law with respect to other material provided by the company to the Commissioner under G.S. 58-58-50(j). The

reviewing actuary shall not be an employee of a consulting firm involved with the preparation of any prior memorandum or opinion for the company under this Section for any one of the current year or the preceding three years.

- (5) In accordance with G.S. 58-58-50(j), the appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in Paragraph (c) of this Rule. The regulatory asset adequacy issues summary shall be submitted no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required. The regulatory asset adequacy issues summary shall be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

(b) When an actuarial opinion under Rule .0306 of this Section is provided, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in Rule .0303(d) of this Section and any additional standards under this Section. It shall specify:

- (1) For reserves:
- (A) Product descriptions, including market description, underwriting, and other aspects of a risk profile, and the specific risks the appointed actuary deems to be significant;
 - (B) Source of liability in force;
 - (C) Reserve method and basis;
 - (D) Investment reserves;
 - (E) Reinsurance arrangements;
 - (F) Identification of any explicit or implied guarantees made by the general account in support of benefits provided through a separate account or under a separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis;
 - (G) Documentation of assumptions to test reserves for the following:
 - (i) Lapse rates (both base and excess);
 - (ii) Interest crediting rate strategy;
 - (iii) Mortality;
 - (iv) Policyholder dividend strategy;
 - (v) Competitor or market interest rate;
 - (vi) Annuitization rates;
 - (vii) Commissions and expenses; and
 - (viii) Morbidity.

The documentation of assumptions shall be such that an actuary reviewing the actuarial memorandum

could form a conclusion as to the reasonableness of the assumptions.

- (2) For assets:
- (A) Portfolio descriptions, including a risk profile disclosing the quality, distribution, and types of assets;
 - (B) Investment and disinvestment assumptions;
 - (C) Source of asset data;
 - (D) Asset valuation bases; and
 - (E) Documentation of assumptions made for:
 - (i) Default costs;
 - (ii) Bond call function;
 - (iii) Mortgage prepayment function;
 - (iv) Determining market value for assets sold due to disinvestment strategy; and
 - (v) Determining yield on assets acquired through the investment strategy.

The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions.

- (3) For the analysis basis:
- (A) Methodology;
 - (B) Rationale for inclusion or exclusion of different blocks of business and how pertinent risks were analyzed;
 - (C) Rationale for degree of rigor in analyzing different blocks of business (including in the rationale the level of "materiality" that was used in determining how rigorously to analyze different blocks of business);
 - (D) Criteria for determining asset adequacy (including in the criteria the precise basis for determining if assets are adequate to cover reserves under "moderately adverse conditions" or other conditions as specified in relevant actuarial standards of practice); and
 - (E) Effect of federal income taxes, reinsurance, and other actuarially or financially relevant factors.

- (4) Summary of any changes in methods, procedures, or assumptions from the prior year's asset adequacy analysis which the appointed actuary considers to be material.

- (5) Summary of results.

- (6) Conclusions.

(c) The regulatory asset adequacy issues summary shall include:

- (1) Descriptions of the scenarios tested (including whether those scenarios are stochastic or

deterministic) and the sensitivity testing done relative to those scenarios. If negative ending surplus results under any tests in the aggregate, the actuary shall describe those tests and the amount of additional reserve as of the valuation date that, if held, would eliminate the negative aggregate surplus values. Ending surplus values shall be determined by either extending the projection period until the in force and associated assets and liabilities at the end of the projection period are considered by the appointed actuary to be immaterial or by adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that can reasonably be expected to arise from the assets and liabilities remaining in force;

- (2) The extent to which the appointed actuary uses assumptions in the asset adequacy analysis that are considered by the appointed actuary to be materially different than the assumptions used in the previous asset adequacy analysis;
- (3) The amount of reserves and the identity of the product lines that had been subjected to asset adequacy analysis in the prior opinion but were not subject to analysis for the current opinion;
- (4) Comments on any interim results that may be of concern to the appointed actuary, such as the effect of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods;
- (5) The methods used by the actuary to recognize the impact of reinsurance on the company's cash flows, including both assets and liabilities, under each of the scenarios tested; and
- (6) Whether the actuary has been satisfied that all options whether explicit or embedded, in any asset or liability (including those affecting cash flows embedded in fixed income securities) and equity-like features in any investments have been appropriately considered in the asset adequacy analysis.

(d) The regulatory asset adequacy issues summary shall contain the name of the company for which the regulatory asset adequacy issues summary is being supplied, and shall be signed and dated by the appointed actuary rendering the actuarial opinion.

(e) The memorandum shall include a statement:

"Actuarial methods, considerations and analyses used in the preparation of this memorandum conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis for this memorandum."

(f) An appropriate allocation of assets in the amount of the interest maintenance reserve (IMR), whether positive or negative, shall be used in any asset adequacy analysis. Analysis

of risks regarding asset default may include an appropriate allocation of assets supporting the asset valuation reserve (AVR); these AVR assets may not be applied for any other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support. The amount of the assets used for the AVR shall be disclosed in the table of reserves and liabilities of the opinion and in the memorandum. The method used for selecting particular assets or allocated portions of assets shall be disclosed in the memorandum.

(g) The appointed actuary shall retain on file, for at least seven years, all documentation necessary to determine the procedures followed, the analyses performed, the bases for the assumptions, and the results obtained.

History Note: Authority G.S. 58-2-40; 58-58-50(i); 58-58-50(j);

Eff. December 1, 1994;

Amended Eff. March 1, 2010; August 1, 2004.

11 NCAC 11F .0403 BASIC AND PREMIUM DEFICIENCY RESERVES

(a) At the election of the company for any one or more specified plans of life insurance, the minimum mortality standard for basic reserves may be calculated using the 1980 CSO valuation tables with select mortality factors (or any other valuation mortality table adopted by the NAIC after January 1, 2000, and adopted as a rule by the Commissioner for this purpose). If select mortality factors are elected, they may be:

- (1) The ten-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law;
- (2) The select mortality factors in the NAIC Model Regulation entitled "Valuation of Life Insurance Policies Model Regulation"; or
- (3) Any other table of select mortality factors adopted by the NAIC after January 1, 2000, and adopted as a rule by the Commissioner for the purpose of calculating basic reserves.

(b) Deficiency reserves, if any, are calculated for each policy as the excess, if greater than zero, of the quantity A over the basic reserve. The quantity A is obtained by recalculating the basic reserve for the policy using guaranteed gross premiums instead of net premiums when the guaranteed gross premiums are less than the corresponding net premiums. At the election of the company for any one or more specified plans of insurance, the quantity A and the corresponding net premiums used in the determination of quantity A may be based upon the 1980 CSO valuation tables with select mortality factors (or any other valuation mortality table adopted by the NAIC after January 1, 2000, and adopted as a rule by the Commissioner). If select mortality factors are elected, they may be any of the following:

- (1) The ten-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law;
- (2) The select mortality factors in the NAIC Model Regulation entitled "Valuation of Life Insurance Policies Model Regulation";

- (3) For durations in the first segment, X percent of the select mortality factors in the NAIC Model Regulation entitled "Valuation of Life Insurance Policies Model Regulation," subject to the following:
- (A) X may vary by policy year, policy form, underwriting classification, issue age, or any other policy factor expected to affect mortality experience;
 - (B) X is such that, when using the valuation interest rate used for basic reserves, Item (i) is greater than or equal to Item (ii):
 - (i) The actuarial present value of future death benefits calculated using the mortality rates resulting from the application of X;
 - (ii) The actuarial present value of future death benefits calculated using anticipated mortality experience without recognition of mortality improvement beyond the valuation date;
 - (C) X is such that the mortality rates resulting from the application of X are at least as great as the anticipated mortality experience, without recognition of mortality improvement beyond the valuation date, in each of the first five years after the valuation date;
 - (D) The appointed actuary shall increase X at any valuation date where it is necessary to continue to meet all requirements of this Rule;
 - (E) The appointed actuary may decrease X at any valuation date as long as X continues to meet all the requirements of this Rule;
 - (F) The appointed actuary shall take into account the adverse effect on expected mortality and lapsation of any anticipated or actual increase in gross premiums; and
 - (G) If X is less than 100 percent at any duration for any policy, the following requirements shall be met:
 - (i) The appointed actuary shall annually prepare an actuarial opinion and memorandum for the company in conformance with the requirements of 11 NCAC 11F .0300;
 - (ii) The appointed actuary shall disclose, in the Regulatory
- Asset Adequacy Issues Summary, the effect of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods; and
- (iii) The appointed actuary shall annually opine for all policies subject to this Section as to whether the mortality rates resulting from the application of X meet the requirements of this Rule. This opinion shall be supported by an actuarial report, subject to appropriate Actuarial Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries. The X factors shall reflect anticipated future mortality, without recognition of mortality improvement beyond the valuation date, taking into account relevant emerging experience;
- (4) Any other table of select mortality factors adopted by the NAIC after January 1, 2000, and adopted as a rule by the Commissioner for the purpose of calculating deficiency reserves.
- (c) This Rule applies to both basic reserves and deficiency reserves. Any set of select mortality factors may be used only for the first segment. However, if the first segment is less than 10 years, the appropriate 10-year select mortality factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law, may be used thereafter through the tenth policy year from the date of issue.
- (d) In determining basic reserves or deficiency reserves, guaranteed gross premiums without policy fees may be used where the calculation involves the guaranteed gross premium, but only if the policy fee is a level dollar amount after the first policy year. In determining deficiency reserves, policy fees may be included in guaranteed gross premiums even if they are not included in the actual calculation of basic reserves.
- (e) Reserves for policies that have changes to guaranteed gross premiums, guaranteed benefits, guaranteed charges, or guaranteed credits that are unilaterally made by the insurer after issue and that are effective for more than one year after the date of the change shall be the greatest of the following:
- (1) Reserves calculated ignoring the guarantee;
 - (2) Reserves assuming the guarantee was made at issue; or
 - (3) Reserves assuming that the policy was issued on the date of the guarantee.

History Note: Authority G.S. 58-2-40; 58-58-50(d); 58-58-50(k);
Eff. January 1, 1998;
Temporary Amended Eff. January 1, 2000;
Amended Eff. March 1, 2010; July 1, 2000.

**11 NCAC 11F .0801 MODEL REGULATION
 PERMITTING THE RECOGNITION OF PREFERRED
 MORTALITY TABLES FOR USE IN DETERMINING
 MINIMUM RESERVE LIABILITIES**

(a) The North Carolina Department of Insurance incorporates by reference, including subsequent amendments and editions, the National Association of Insurance Commissioners Model No. 815, Model Regulation Permitting the Recognition of Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities. Copies of Model No. 815 may be obtained from: The National Association of Insurance Commissioners, 2301 McGee Street, Kansas City, MO 64108-1662; the North Carolina Department of Insurance, Actuarial Services Division, 1201 Mail Service Center, Raleigh, NC 27699-1201; and from the Department of Insurance web page at <http://www.ncdoi.com/>.

(b) For purposes of this Rule, Section 2 of Model No. 815 shall read as follows:

The purpose of this regulation is to recognize, permit and prescribe the use of mortality tables that reflect differences in mortality between Preferred and Standard lives in determining minimum reserve liabilities in accordance with G.S. 58-58-50 (c)(2)(a), 11 NCAC 11F .0403(a), and 11 NCAC 11F .0403(b).

(c) For purposes of this Rule, Section 4 of Model No. 815 shall read as follows:

At the election of the company, for each calendar year of issue, for any one or more specified plans of insurance and subject to satisfying the conditions stated in this regulation, the 2001 CSO Preferred Class Structure Mortality Table may be substituted in place of the 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum valuation standard for policies issued on or after January 1, 2007. For policies issued on or after January 1, 2005 and before January 1, 2007, these tables may be substituted with the consent of the Commissioner and subject to the conditions of Section 5. In determining such consent, the Commissioner shall consider the consent of the insurance regulator of the company's state of domicile. No such election shall be made until the company demonstrates that at least 20% of the business to be valued on this table is in one or more of the preferred classes. A table from the 2001 CSO Preferred Class Structure Mortality Table used in place of a 2001 CSO Mortality Table, pursuant to the requirements of this regulation, shall be treated as part of the 2001 CSO Mortality Table only for purposes of reserve valuation pursuant to the requirements of 11 NCAC 11F .0601, 11 NCAC 11F .0602, 11 NCAC 11F .0603, and 11 NCAC 11F .0604.

(d) For purposes of this Rule, Paragraph C of Section 3, and Paragraph C of Section 5 of Model No. 815 are not applicable.

(e) For purposes of this Rule, Sections 1 and 7 of Model No. 815 are not applicable.

History Note: Authority G.S. 58-2-40; 58-58-50(k);
Eff. April 1, 2007;
Amended Eff. March 1, 2010.

**11 NCAC 12 .1902 UNFAIR OR DECEPTIVE ACTS
 OR PRACTICES**

(a) The following are unfair or deceptive acts or practices in the business of insurance:

- (1) To deny, refuse to issue, renew or reissue, cancel or otherwise terminate a health benefit plan, or restrict or exclude health benefit plan coverage or add a premium differential to any health benefit plan on the basis of the applicant's or insured's abuse status;
- (2) To exclude or limit coverage for losses or deny a claim incurred by an insured on the basis of the insured's abuse status;
- (3) To request information relating to acts of abuse or an applicant's or insured's abuse status, or make use of that information, however obtained, except for the limited purposes of complying with legal obligations or verifying a person's claim to be a subject of abuse; or
- (4) To terminate group coverage for a subject of abuse because coverage was originally issued in the name of the abuser and the abuser has divorced, separated from, or lost custody of the subject of abuse, or the abuser's coverage has terminated voluntarily or involuntarily. Nothing in this Rule prohibits the insurer or insurance professional from requiring the subject of abuse to pay the full premium for coverage under the health benefit plan or from requiring as a condition of coverage that the subject of abuse reside or work within the insurer's service area, if the requirements are applied to all insureds of the insurer or insurance professional. The health carrier or insurance professional may terminate group coverage after the continuation coverage required by this subsection has been in force for 18 months, if it offers conversion to an individual plan as provided in Part 2 of Article 53 of Chapter 58 of the General Statutes. The continuation coverage required by this section shall be satisfied by coverage required under P.L. 99-272, the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985, or under state continuation coverage required under Part 1 of Article 53 of Chapter 58 of the General Statutes, and is not intended to be in addition to coverage provided under COBRA or state continuation. Nothing in this

Subparagraph is intended to supersede or interfere with the provisions of G.S. 58-68-60 when the subject of abuse is an "eligible individual" as defined in G.S. 58-68-60(b).

(b) Subparagraph (a)(3) of this Rule does not prohibit an insurer or insurance professional from asking about a medical condition or from using medical information to underwrite or to carry out its duties under the policy, even if the medical information is related to a medical condition that the insurer or insurance professional knows or has reason to know is abuse-related, to the extent otherwise permitted under this Rule and other applicable law.

History Note: Authority G.S. 58-2-40; 58-53-5; 58-63-65; 58-68-60;
Eff. April 1, 2010.

11 NCAC 12 .1903 JUSTIFICATION OF ADVERSE INSURANCE DECISIONS

An insurer or insurance professional that takes an action that adversely affects an applicant or insured on the basis of a medical condition that the health insurer or insurance professional knows or has reason to know is abuse-related shall explain the reason for its action to the applicant or insured in writing and shall be able to demonstrate that its action, and any applicable plan provision:

- (1) Does not have the purpose or effect of treating abuse status as a medical condition or underwriting criterion;
- (2) Is not based upon any actual or perceived correlation between a medical condition and abuse;
- (3) Is otherwise permissible by law and applies in the same manner and to the same extent to all applicants and insureds with a similar medical condition without regard to whether the condition or claim is abuse-related; and
- (4) Except for claim actions, is based on a determination, made in conformance with sound actuarial principles and supported by actual or reasonably anticipated experience, that there is a correlation between the medical condition and a material increase in insurance risk.

History Note: Authority G.S. 58-2-40; 58-63-65;
Eff. April 1, 2010.

TITLE 12 – DEPARTMENT OF JUSTICE

12 NCAC 10B .2004 INSTRUCTORS

The following requirements and responsibilities are hereby established for instructors who conduct a Commission-mandated In-Service Training Program:

- (1) The instructors shall:
 - (a) hold General Instructor Certification as issued by the North Carolina Criminal Justice Education and

Training Standards Commission as set out in 12 NCAC 09B .0302, .0304, and .0306;

- (b) hold Professional Lecturer Instructor certification issued by either the Commission as set out in either 12 NCAC 10B .0906 or .0916, or the Criminal Justice Education and Training Standards Commission as set out in 12 NCAC 09B .0306, or General Instructor Certification as issued by the North Carolina Criminal Justice Education and Training Standards Commission as set out in 12 NCAC 09B .0302, .0304, and .0306, when teaching a legal block of instruction;
- (c) hold Professional Lecturer Instructor certification issued by the Criminal Justice Education and Training Standards Commission as set out in 12 NCAC 09B .0306, when teaching a medical or psychological block of instruction; or
- (d) hold Specific Instructor Certification issued by the Criminal Justice Education and Training Standards Commission when teaching the lesson plans published by the NC Justice Academy as follows:
 - (i) Firearms must be taught by a Firearms Instructor certified in accordance with 12 NCAC 09B .0304(e);
 - (ii) Weapons Retention and Disarming Techniques must be taught by Subject Control Arrest Techniques Instructor certified in accordance with 12 NCAC 09B .0304(e);
 - (iii) Spontaneous Attack Defense and Subject Control/Arrest Techniques must be taught by a Subject Control Arrest Techniques Instructor certified in accordance with 12 NCAC 09B .0304(b);
 - (iv) Handcuffing and Impact Weapons Refresher must be taught by a Subject Control Arrest Techniques Instructor certified in accordance with 12 NCAC 09B .0304(e);
 - (v) Wellness and Stress Awareness and Health and Fitness for Detention Officers must be taught by a Physical Fitness Instructor

- (vi) certified in accordance with 12 NCAC 09B .0304(g); and Law Enforcement Driver Training (classroom and practical) must be taught by a Specialized Law Enforcement Driver Training Instructor certified in accordance with 12 NCAC 09B .0304(f).

In addition, each instructor certified by the Criminal Justice Commission to teach in a Commission-certified course shall remain competent in his/her specific or specialty areas. Such competence includes remaining current in the instructor's area of expertise, which may be demonstrated by attending and successfully completing all instructor updates issued by the Commission.

- (2) The use of guest participants is permitted provided they are subject to the direct on-site supervision of a commission-certified instructor.
- (3) The instructor shall deliver the training consistent with the specifications as established in the rules in this Section.
- (4) The instructor shall document the successful or unsuccessful completion of training for each person attending a training program and forward a record of their completion to each person's Sheriff or Department Head.

History Note: Authority G.S. 17E-4; 17E-7; Eff. January 1, 2007; Amended Eff. March 1, 2010; January 1, 2009.

TITLE 13 – DEPARTMENT OF LABOR

13 NCAC 07A .0301 INCORPORATION BY REFERENCE

(a) The provisions for Occupational Safety and Health Act Operational Procedures - Inspections, Citations and Proposed Penalties - contained in 29 CFR 1903; Recording and Reporting Occupational Injuries and Illnesses - contained in 29 CFR 1904; and Consultative Agreements - contained in 29 CFR 1908, have been incorporated by reference in accordance with G.S. 150B-21.6 except that where applicable:

- (1) All references to the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1590 et seq., 29 U.S.C. 651 et seq) shall mean the Occupational Safety and Health Act of North Carolina, G.S. 95, Article 16;
- (2) All references to the Occupational Safety and Health Review Commission shall mean the Safety and Health Review Board as established in G.S. 95-135;
- (3) All references to Area Offices of the Occupational Safety and Health

Administration, U.S. Department of Labor, shall mean the North Carolina Department of Labor, Division of Occupational Safety and Health (or OSHA), the name used to denote the office of occupational safety and health;

- (4) All references to the Secretary or Assistant Secretary shall mean the Commissioner of the North Carolina Department of Labor or his authorized representative;
- (5) All references to Area Director, Regional Administrator, or Assistant Regional Director shall mean the Director of the Division of Occupational Safety and Health (North Carolina Department of Labor) or his authorized representative;
- (6) All references to Regional Solicitor or Solicitor of Labor shall mean the Attorney General, Labor Division, North Carolina Department of Justice;
- (7) All references to Compliance Officers shall mean State compliance safety and health officers;
- (8) All references to the Federal Rules of Civil Procedure shall mean the North Carolina Rules of Civil Procedure;
- (9) Within 29 CFR 1903.14, "Citations; notices of de minimis violations", any reference to a notice of de minimis violations is deleted as North Carolina does not have a procedure for issuance of a notice with respect to de minimis violations that have no direct or immediate relationship to safety or health;
- (10) 29 CFR 1903.14a(c)(1) that requires the posting of a petition for modification for a period of 10 working days shall be for a period of 15 working days, and 29 CFR 1903.14a(c)(2) that refers to the failure to file an objection within 10 working days of the date of posting shall be 15 working days of the posting;
- (11) 29 CFR 1903.22, "Definitions", is not incorporated;
- (12) 29 CFR 1908 shall be applicable to private sector consultations, and shall be used as guidance for consultations to state and local governments in North Carolina under the State Plan.

(b) The Code of Federal Regulations incorporated by reference in this Subchapter shall automatically include any subsequent amendments thereto as allowed by G.S. 150B-21.6.

History Note: Authority G.S. 95-133; 150B-21.6; Eff. August 2, 1993; Amended Eff. March 1, 2010; December 1, 2003; June 1, 1995.

13 NCAC 07A .0901 SCOPE AND APPLICATION

(a) The provisions of 29 CFR 1913.10 concerning OSH Division access to employee medical records do not apply.

Rather, the rules in this Section apply to all requests by OSH Division personnel to obtain access to employee medical records in order to examine or copy personally identifiable medical information.

(b) For the purposes of the rules in this Section, "personally identifiable medical information" means employee medical information accompanied by either direct identifiers (name, address, social security number, payroll number) or by information which could reasonably be used in the particular circumstances indirectly to identify specific employees (exact age, height, weight, race, sex, date of initial employment, job title).

(c) The examination of personally identifiable medical information shall, to the extent practicable, be performed on-site. OSH Division personnel shall only take medical information in a personally identifiable form off-site if such information is necessary for the investigation.

(d) The rules in this Section do not apply to access to, or the use of, aggregate employee medical information or medical records on individual employees by OSH Division personnel which is not in a personally identifiable form.

(e) The rules in this Section do not apply to records required by 29 CFR 1904, to death certificates, or to employee exposure records, including biological monitoring records treated by 29 CFR 1910.1020(c)(5) or by specific occupational safety and health standards as exposure records.

(f) The rules in this Section do not apply where OSH Division personnel conduct an examination of employee medical records solely to verify employer compliance with the medical surveillance recordkeeping requirements of an occupational safety and health standard or with the employee exposure and medical record requirements of 29 CFR 1910.1020. An examination of this nature shall be conducted onsite and, if requested, shall be conducted under the observation of the record holder and the OSH Division personnel shall not record and take offsite any information from these medical records other than documentation of the fact of compliance or non-compliance.

(g) The rules in this Section do not apply to access to, or the use of, personally identifiable medical information obtained in the course of litigation.

*History Note: Authority G.S. 95-133;
Eff. March 1, 2010.*

13 NCAC 07A .0902 RESPONSIBLE PERSONS

(a) The Commissioner is responsible for the overall administration and implementation of the procedures contained in the rules in this Section, including making the final determinations concerning:

- (1) Access to personally identifiable medical information; and
- (2) Inter-agency transfer or public disclosure of personally identifiable medical information.

(b) Medical Records Coordinator. The Commissioner shall designate an OSH Division employee to oversee the security procedures established in the rules in this Section.

(c) Medical Records Administrators. The Commissioner shall designate an OSH Division employee at each field location to maintain a log of uses and transfers of personally identifiable medical information for each file, including the name of each

person accessing the information. The Medical Records Administrators shall also have primary control of the locked cabinet or vault where such records are stored and shall not allow access to the information contained in the cabinet to any person not authorized by the rules in this Section.

(d) Principal OSH Investigator. The Principal OSH Investigator shall be the OSH Division employee in each instance of access to personally identifiable employee medical information who is made primarily responsible for ensuring that the examination and use of this information is performed in the manner prescribed by the rules in this Section.

*History Note: Authority G.S. 95-133;
Eff. March 1, 2010.*

13 NCAC 07A .0903 SECURITY PROCEDURES; RETENTION AND DESTRUCTION OF RECORDS

(a) All medical information obtained pursuant to an investigation that contains direct personal identifiers shall be separated from the rest of the investigation file and coded with a unique identifying number for each employee. The medical information with its numerical code shall thereafter be secured in a locked cabinet or vault.

(b) The photocopying or other duplication of personally identifiable medical information shall be limited to what is necessary to accomplish the purposes for which the information was obtained.

(c) The protective measures established by the rules in this Section apply to all worksheets, duplicate copies, or other documents containing personally identifiable medical information.

(d) Transfers of personally identifiable medical information shall be by hand delivery, certified mail, or other equally protective means.

(e) In accordance with the Department records retention schedule, personally identifiable medical information and lists of coded direct personal identifiers shall be destroyed or returned to the original record holder when no longer needed for the purposes for which they were obtained or when the case file is closed.

*History Note: Authority G.S. 95-133;
Eff. March 1, 2010.*

13 NCAC 07A .0904 INTRA-AGENCY USE AND TRANSFER

(a) The Medical Records Administrator at each field location shall ensure that personally identifiable medical information is secured in accordance with the rules in this Section.

(b) The Principal OSH Investigator, the Medical Records Administrator, or the Director or his designee, may permit the examination or use of personally identifiable medical information by OSH Division employees who have a need for access. No OSH Division employee, other than the Principal OSH Investigator, shall examine or otherwise use personally identifiable medical information unless so permitted.

(c) Medical records shall not be transferred to Department employees outside of the OSH Division unless authorized by the Director or his designee.

(d) OSH Division employees and other Department employees are only authorized to use personally identifiable medical information for the purposes for which it was obtained, unless the written consent of the employee is obtained for a secondary purpose.

*History Note: Authority G.S. 95-133;
Eff. March 1, 2010.*

13 NCAC 07A .0905 INTER-AGENCY TRANSFER AND PUBLIC DISCLOSURE

(a) Personally identifiable medical information shall not be transferred to another agency except as noted in Paragraph (c) of this Rule, or disclosed to the public (other than the affected employee or the original record holder) except when required by law or approved by the Commissioner or his designee.

(b) The Commissioner or his designee shall not approve a request for an inter-agency transfer or for the public disclosure of personally identifiable medical information which the affected employee has not consented to unless there are compelling circumstances affecting the health or safety of an individual or the public.

(c) Upon approval of the Commissioner or his designee, personally identifiable medical information may be transferred to:

- (1) The North Carolina Attorney General's Office; or
- (2) The North Carolina Occupational Safety and Health Review Commission when an employee files a notice of contest pursuant to G.S. 95-137.

*History Note: Authority G.S. 95-133;
Eff. March 1, 2010.*

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

15A NCAC 02D .1104 TOXIC AIR POLLUTANT GUIDELINES

A facility shall not emit any of the following toxic air pollutants in such quantities that may cause or contribute beyond the premises (adjacent property boundary) to any significant ambient air concentration that may adversely affect human health. In determining these significant ambient air concentrations, the Division shall be guided by the following list of acceptable ambient levels in milligrams per cubic meter at 77° F (25° C) and 29.92 inches (760 mm) of mercury pressure (except for asbestos):

Pollutant (CAS Number)	Annual (Carcinogens)	24-hour (Chronic Toxicants)	1-hour (Acute Systemic Toxicants)	1-hour (Acute Irritants)
acetaldehyde (75-07-0)				27
acetic acid (64-19-7)				3.7
acrolein (107-02-8)				0.08
acrylonitrile (107-13-1)		0.03	1	
ammonia (7664-41-7)				2.7
aniline (62-53-3)			1	
arsenic and inorganic arsenic compounds	2.3×10^{-7}			
asbestos (1332-21-4)	2.8×10^{-11} fibers/ml			
aziridine (151-56-4)		0.006		
benzene (71-43-2)	1.2×10^{-4}			
benzidine and salts (92-87-5)	1.5×10^{-8}			
benzo(a)pyrene (50-32-8)	3.3×10^{-5}			
benzyl chloride (100-44-7)			0.5	
beryllium (7440-41-7)	4.1×10^{-6}			
beryllium chloride (7787-47-5)	4.1×10^{-6}			
beryllium fluoride (7787-49-7)	4.1×10^{-6}			
beryllium nitrate (13597-99-4)	4.1×10^{-6}			
bioavailable chromate pigments, as chromium (VI) equivalent	8.3×10^{-8}			
bis-chloromethyl ether (542-88-1)	3.7×10^{-7}			
bromine (7726-95-6)				0.2
1,3-butadiene (106-99-0)	4.4×10^{-4}			
cadmium (7440-43-9)	5.5×10^{-6}			
cadmium acetate (543-90-8)	5.5×10^{-6}			

APPROVED RULES

Pollutant (CAS Number)	Annual (Carcinogens)	24-hour (Chronic Toxicants)	1-hour (Acute Systemic Toxicants)	1-hour (Acute Irritants)
cadmium bromide (7789-42-6)	5.5×10^{-6}			
carbon disulfide (75-15-0)		0.186		
carbon tetrachloride (56-23-5)	6.7×10^{-3}			
chlorine (7782-50-5)		0.0375		0.9
chlorobenzene (108-90-7)		2.2		
chloroform (67-66-3)	4.3×10^{-3}			
chloroprene (126-99-8)		0.44	3.5	
cresol (1319-77-3)			2.2	
p-dichlorobenzene (106-46-7)				66
dichlorodifluoromethane (75-71-8)		248		
dichlorofluoromethane (75-43-4)		0.5		
di(2-ethylhexyl)phthalate (117-81-7)		0.03		
dimethyl sulfate (77-78-1)		0.003		
1,4-dioxane (123-91-1)		0.56		
epichlorohydrin (106-89-8)	8.3×10^{-2}			
ethyl acetate (141-78-6)			140	
ethylenediamine (107-15-3)		0.3	2.5	
ethylene dibromide (106-93-4)	4.0×10^{-4}			
ethylene dichloride (107-06-2)	3.8×10^{-3}			
ethylene glycol monoethyl ether (110-80-5)		0.12	1.9	
ethylene oxide (75-21-8)	2.7×10^{-5}			
ethyl mercaptan (75-08-1)			0.1	
fluorides		0.016	0.25	
formaldehyde (50-00-0)				0.15
hexachlorocyclopentadiene (77-47-4)		0.0006	0.01	
hexachlorodibenzo-p-dioxin (57653-85-7)	7.6×10^{-8}			
n-hexane (110-54-3)		1.1		
hexane isomers except n-hexane				360
hydrazine (302-01-2)		0.0006		
hydrogen chloride (7647-01-0)				0.7
hydrogen cyanide (74-90-8)		0.14	1.1	
hydrogen fluoride (7664-39-3)		0.03		0.25
hydrogen sulfide (7783-06-4)		0.12		
maleic anhydride (108-31-6)		0.012	0.1	
manganese and compounds		0.031		
manganese cyclopentadienyl tricarbonyl (12079-65-1)		0.0006		
manganese tetroxide (1317-35-7)		0.0062		
mercury, alkyl		0.00006		
mercury, aryl and inorganic compounds		0.0006		
mercury, vapor (7439-97-6)		0.0006		
methyl chloroform (71-55-6)		12		245
methylene chloride (75-09-2)	2.4×10^{-2}		1.7	
methyl ethyl ketone (78-93-3)		3.7		88.5
methyl isobutyl ketone (108-10-1)		2.56		30
methyl mercaptan (74-93-1)			0.05	
nickel carbonyl (13463-39-3)		0.0006		

Pollutant (CAS Number)	Annual (Carcinogens)	24-hour (Chronic Toxicants)	1-hour (Acute Systemic Toxicants)	1-hour (Acute Irritants)
nickel metal (7440-02-0)		0.006		
nickel, soluble compounds, as nickel		0.0006		
nickel subsulfide (12035-72-2)	2.1×10^{-6}			
nitric acid (7697-37-2)				1
nitrobenzene (98-95-3)		0.06	0.5	
n-nitrosodimethylamine (62-75-9)	5.0×10^{-5}			
non-specific chromium (VI) compounds, as chromium (VI) equivalent	8.3×10^{-8}			
pentachlorophenol (87-86-5)		0.003	0.025	
perchloroethylene (127-18-4)	1.9×10^{-1}			
phenol (108-95-2)			0.95	
phosgene (75-44-5)		0.0025		
phosphine (7803-51-2)				0.13
polychlorinated biphenyls (1336-36-3)	8.3×10^{-5}			
soluble chromate compounds, as chromium (VI) equivalent		6.2×10^{-4}		
styrene (100-42-5)			10.6	
sulfuric acid (7664-93-9)		0.012	0.1	
tetrachlorodibenzo-p-dioxin (1746-01-6)	3.0×10^{-9}			
1,1,1,2-tetrachloro-2,2- difluoroethane (76-11-9)		52		
1,1,2,2-tetrachloro-1,2- difluoroethane (76-12-0)		52		
1,1,2,2-tetrachloroethane (79-34-5)	6.3×10^{-3}			
toluene (108-88-3)		4.7		56
toluene diisocyanate, 2,4- (584-84-9) and 2,6- (91-08-7) isomers		0.0002		
trichloroethylene (79-01-6)	5.9×10^{-2}			
trichlorofluoromethane (75-69-4)			560	
1,1,2-trichloro-1,2,2- trifluoroethane (76-13-1)				950
vinyl chloride (75-01-4)	3.8×10^{-4}			
vinylidene chloride (75-35-4)		0.12		
xylene (1330-20-7)		2.7		65

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(4),(5); 143B-282; S.L. 1989, c. 168, s. 45; Eff. May 1, 1990;

Amended Eff. September 1, 1992; March 1, 1992;

Temporary Amendment Eff. July 20, 1997;

Amended Eff. March 1, 2010; June 1, 2008; April 1, 2005; April 1, 2001; July 1, 1998.

15A NCAC 07H .0209 COASTAL SHORELINES

(a) Description. The Coastal Shorelines category includes estuarine shorelines and public trust shorelines. Estuarine shorelines AEC are those non-ocean shorelines extending from the normal high water level or normal water level along the estuarine waters, estuaries, sounds, bays, fresh and brackish

waters, and public trust areas as set forth in an agreement adopted by the Wildlife Resources Commission and the Department of Environment and Natural Resources [described in Rule .0206(a) of this Section] for a distance of 75 feet landward. For those estuarine shorelines immediately contiguous to waters classified as Outstanding Resource Waters by the Environmental Management Commission, the estuarine shoreline AEC shall extend to 575 feet landward from the normal high water level or

normal water level, unless the Coastal Resources Commission establishes the boundary at a greater or lesser extent following required public hearing(s) within the affected county or counties. Public trust shorelines AEC are those non-ocean shorelines immediately contiguous to public trust areas, as defined in Rule 07H .0207(a) of this Section, located inland of the dividing line between coastal fishing waters and inland fishing waters as set forth in that agreement and extending 30 feet landward of the normal high water level or normal water level.

(b) **Significance.** Development within coastal shorelines influences the quality of estuarine and ocean life and is subject to the damaging processes of shore front erosion and flooding. The coastal shorelines and wetlands contained within them serve as barriers against flood damage and control erosion between the estuary and the uplands. Coastal shorelines are the intersection of the upland and aquatic elements of the estuarine and ocean system, often integrating influences from both the land and the sea in wetland areas. Some of these wetlands are among the most productive natural environments of North Carolina and they support the functions of and habitat for many valuable commercial and sport fisheries of the coastal area. Many land-based activities influence the quality and productivity of estuarine waters. Some important features of the coastal shoreline include wetlands, flood plains, bluff shorelines, mud and sand flats, forested shorelines and other important habitat areas for fish and wildlife.

(c) **Management Objective.** The management objective is to ensure that shoreline development is compatible with the dynamic nature of coastal shorelines as well as the values and the management objectives of the estuarine and ocean system. Other objectives are to conserve and manage the important natural features of the estuarine and ocean system so as to safeguard and perpetuate their biological, social, aesthetic, and economic values; to coordinate and establish a management system capable of conserving and utilizing these shorelines so as to maximize their benefits to the estuarine and ocean system and the people of North Carolina.

(d) **Use Standards.** Acceptable uses shall be those consistent with the management objectives in Paragraph (c) of this Rule. These uses shall be limited to those types of development activities that will not be detrimental to the public trust rights and the biological and physical functions of the estuarine and ocean system. Every effort shall be made by the permit applicant to avoid, mitigate or reduce adverse impacts of development to estuarine and coastal systems through the planning and design of the development project. In every instance, the particular location, use, and design characteristics shall comply with the general use and specific use standards for coastal shorelines, and where applicable, the general use and specific use standards for coastal wetlands, estuarine waters, and public trust areas described in Rule .0208 of this Section. Development shall be compatible with the following standards:

- (1) All development projects, proposals, and designs shall preserve and not weaken or eliminate natural barriers to erosion including peat marshland, resistant clay shorelines, and cypress-gum protective fringe areas adjacent to vulnerable shorelines.

- (2) All development projects, proposals, and designs shall limit the construction of impervious surfaces and areas not allowing natural drainage to only so much as is necessary to adequately service the major purpose or use for which the lot is to be developed. Impervious surfaces shall not exceed 30 percent of the AEC area of the lot, unless the applicant can effectively demonstrate, through innovative design, that the protection provided by the design would be equal to or exceed the protection by the 30 percent limitation. Redevelopment of areas exceeding the 30 percent impervious surface limitation may be permitted if impervious areas are not increased and the applicant designs the project to comply with the intent of the rule to the maximum extent feasible.
- (3) All development projects, proposals, and designs shall comply with the following mandatory standards of the North Carolina Sedimentation Pollution Control Act of 1973:
 - (A) All development projects, proposals, and designs shall provide for a buffer zone along the margin of the estuarine water which is sufficient to confine visible siltation within 25 percent of the buffer zone nearest the land disturbing development.
 - (B) No development project proposal or design shall permit an angle for graded slopes or fill which is greater than an angle which can be retained by vegetative cover or other erosion-control devices or structures.
 - (C) All development projects, proposals, and designs which involve uncovering more than one acre of land shall plant a ground cover sufficient to restrain erosion within 30 working days of completion of the grading; provided that this shall not apply to clearing land for the purpose of forming a reservoir later to be inundated.
- (4) Development shall not have a significant adverse impact on estuarine and ocean resources. Significant adverse impacts include development that would directly or indirectly impair water quality standards, increase shoreline erosion, alter coastal wetlands or Submerged Aquatic Vegetation (SAV), deposit spoils waterward of normal water level or normal high water, or cause degradation of shellfish beds.
- (5) Development shall not interfere with existing public rights of access to, or use of, navigable waters or public resources.

- (6) No public facility shall be permitted if such a facility is likely to require public expenditures for maintenance and continued use, unless it can be shown that the public purpose served by the facility outweighs the required public expenditures for construction, maintenance, and continued use. For the purpose of this standard, "public facility" means a project that is paid for in any part by public funds.
- (7) Development shall not cause irreversible damage to valuable, historic architectural or archaeological resources as documented by the local historic commission or the North Carolina Department of Cultural Resources.
- (8) Established common-law and statutory public rights of access to the public trust lands and waters in estuarine areas shall not be eliminated or restricted. Development shall not encroach upon public accessways nor shall it limit the intended use of the accessways.
- (9) Within the AECs for shorelines contiguous to waters classified as Outstanding Resource Waters by the EMC, no CAMA permit shall be approved for any project which would be inconsistent with applicable use standards adopted by the CRC, EMC or MFC for estuarine waters, public trust areas, or coastal wetlands. For development activities not covered by specific use standards, no permit shall be issued if the activity would, based on site-specific information, degrade the water quality or outstanding resource values.
- (10) Within the Coastal Shorelines category (estuarine and public trust shoreline AECs), new development shall be located a distance of 30 feet landward of the normal water level or normal high water level, with the exception of the following:
 - (A) Water-dependent uses as described in Rule 07H .0208(a)(1) of this Section;
 - (B) Pile-supported signs (in accordance with local regulations);
 - (C) Post- or pile-supported fences;
 - (D) Elevated, slatted, wooden boardwalks exclusively for pedestrian use and six feet in width or less. The boardwalk may be greater than six feet in width if it is to serve a public use or need;
 - (E) Crab Shedders, if uncovered with elevated trays and no associated impervious surfaces except those necessary to protect the pump;
 - (F) Decks/Observation Decks limited to slatted, wooden, elevated and unroofed decks that shall not singularly or collectively exceed 200 square feet;
 - (G) Grading, excavation and landscaping with no wetland fill except when required by a permitted shoreline stabilization project. Projects shall not increase stormwater runoff to adjacent estuarine and public trust waters;
- (H) Development over existing impervious surfaces, provided that the existing impervious surface is not increased and the applicant designs the project to comply with the intent of the rules to the maximum extent feasible;
- (I) Where application of the buffer requirement would preclude placement of a residential structure with a footprint of 1,200 square feet or less on lots, parcels and tracts platted prior to June 1, 1999, development may be permitted within the buffer as required in Subparagraph (d)(10) of this Rule, providing the following criteria are met:
 - (i) Development shall minimize the impacts to the buffer and reduce runoff by limiting land disturbance to only so much as is necessary to construct and provide access to the residence and to allow installation or connection of utilities such as water and sewer; and
 - (ii) The residential structure development shall be located a distance landward of the normal high water or normal water level equal to 20 percent of the greatest depth of the lot. Existing structures that encroach into the applicable buffer area may be replaced or repaired consistent with the criteria set out in Rules .0201 and .0211 in Subchapter 07J of this Chapter; and
- (J) Where application of the buffer requirement set out in 15A NCAC 07H .0209(d)(10) would preclude placement of a residential structure on an undeveloped lot platted prior to June 1, 1999 that are 5,000 square feet or less that does not require an on-site septic system, or on an undeveloped lot that is 7,500 square feet or less that requires an on-site septic system, development may be

permitted within the buffer if all the following criteria are met:

- (i) The lot on which the proposed residential structure is to be located, is located between:
 - (I) Two existing waterfront residential structures, both of which are within 100 feet of the center of the lot and at least one of which encroaches into the buffer; or
 - (II) An existing waterfront residential structure that encroaches into the buffer and a road, canal, or other open body of water, both of which are within 100 feet of the center of the lot;
- (ii) Development of the lot shall minimize the impacts to the buffer and reduce runoff by limiting land disturbance to only so much as is necessary to construct and provide access to the residence and to allow installation or connection of utilities;
- (iii) Placement of the residential structure and pervious decking may be aligned no further into the buffer than the existing residential structures and existing pervious decking on adjoining lots;
- (iv) The first one and one-half inches of rainfall from all impervious surfaces on the lot shall be collected and contained on-site in accordance with the design standards for stormwater management for coastal counties as specified in 15A NCAC 02H .1005. The stormwater management system shall be designed by an individual who meets applicable State occupational licensing requirements for the type of

system proposed and approved during the permit application process. If the residential structure encroaches into the buffer, then no other impervious surfaces will be allowed within the buffer; and

- (v) The lots must not be adjacent to waters designated as approved or conditionally approved shellfish waters by the Shellfish Sanitation Section of the Division of Environmental Health of the Department of Environment and Natural Resources.
- (e) The buffer requirements in Paragraph (d) of this Rule shall not apply to Coastal Shorelines where the Environmental Management Commission (EMC) has adopted rules that contain buffer standards, or to Coastal Shorelines where the EMC adopts such rules, upon the effective date of those rules.
- (f) Specific Use Standards for Outstanding Resource Waters (ORW) Coastal Shorelines.
 - (1) Within the AEC for estuarine and public trust shorelines contiguous to waters classified as ORW by the EMC, all development projects, proposals, and designs shall limit the built upon area in the AEC to no more than 25 percent or any lower site specific percentage as adopted by the EMC as necessary to protect the exceptional water quality and outstanding resource values of the ORW, and shall:
 - (A) have no stormwater collection system;
 - (B) provide a buffer zone of at least 30 feet from the normal high water line or normal water line;
 - (C) otherwise be consistent with the use standards set out in Paragraph (d) of this Rule.
 - (2) Development (other than single-family residential lots) more than 75 feet from the normal high water line or normal water line but within the AEC as of June 1, 1989 shall be permitted in accordance with rules and standards in effect as of June 1, 1989 if:
 - (A) the development has a CAMA permit application in process, or
 - (B) the development has received preliminary subdivision plat approval or preliminary site plan approval under applicable local ordinances, and in which financial resources have been invested in design or improvement.
 - (3) Single-family residential lots that would not be buildable under the low-density standards

defined in Paragraph (f)(1) of this Rule may be developed for single-family residential purposes so long as the development complies with those standards to the maximum extent possible.

- (4) For an ORW nominated subsequent to June 1, 1989, the effective date in Paragraph (f)(2) of this Rule shall be the dates of nomination by the EMC.

(g) Urban Waterfronts.

- (1) Description. Urban Waterfronts are waterfront areas, not adjacent to Outstanding Resource Waters, in the Coastal Shorelines category that lie within the corporate limits of any municipality duly chartered within the 20 coastal counties of the state. In determining whether an area is an urban waterfront, the following criteria shall be met as of the effective date of this Rule:

(A) The area lies wholly within the corporate limits of a municipality; and

(B) the area has a central business district or similar commercial zoning classification where there is minimal undeveloped land, mixed land uses, and urban level services such as water, sewer, streets, solid waste management, roads, police and fire protection, or in an area with an industrial or similar zoning classification adjacent to a central business district.

- (2) Significance. Urban waterfronts are recognized as having cultural, historical and economic significance for many coastal municipalities. Maritime traditions and longstanding development patterns make these areas suitable for maintaining or promoting dense development along the shore. With proper planning and stormwater management, these areas may continue to preserve local historical and aesthetic values while enhancing the economy.

- (3) Management Objectives. To provide for the continued cultural, historical, aesthetic and economic benefits of urban waterfronts. Activities such as in-fill development, reuse and redevelopment facilitate efficient use of already urbanized areas and reduce development pressure on surrounding areas, in an effort to minimize the adverse cumulative environmental effects on estuarine and ocean systems. While recognizing that opportunities to preserve buffers are limited in highly developed urban areas, they are encouraged where practical.

- (4) Use Standards:

- (A) The buffer requirement pursuant to Subparagraph (d)(10) of this Rule is not required for development within Urban Waterfronts that meets the following standards:

- (i) The development must be consistent with the locally adopted land use plan;
- (ii) Impervious surfaces shall not exceed 30 percent of the AEC area of the lot. Impervious surfaces may exceed 30 percent if the applicant can effectively demonstrate, through a stormwater management system design, that the protection provided by the design would be equal to or exceed the protection by the 30 percent limitation. The stormwater management system shall be designed by an individual who meets any North Carolina occupational licensing requirements for the type of system proposed and approved during the permit application process. Redevelopment of areas exceeding the 30 percent impervious surface limitation may be permitted if impervious areas are not increased and the applicant designs the project to comply with the intent of the rule to the maximum extent feasible; and

- (iii) The development shall meet all state stormwater management requirements as required by the NC Environmental Management Commission;

- (B) Non-water dependent uses over estuarine waters, public trust waters and coastal wetlands may be allowed only within Urban Waterfronts as set out below.

- (i) Existing structures over coastal wetlands, estuarine waters or public trust areas may be used for commercial non-water dependent purposes provided that the structure promotes, fosters, enhances or accommodates public benefit. Commercial,

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| | non-water dependent uses shall be limited to restaurants and retail services. Residential uses, lodging and new parking areas shall be prohibited. | | |
| (ii) | For the purposes of this Rule, existing enclosed structures may be replaced and or expanded vertically provided that vertical expansion does not exceed the original footprint of the structure, is limited to one additional story over the life of the structure and is consistent with local requirements or limitations. | (VI) | bottom of the decking; Structures shall have no more than six feet of any dimension extending over coastal wetlands; |
| (iii) | New structures built for non-water dependent purposes are limited to pile-supported, single-story, unenclosed decks and boardwalks, and shall meet the following criteria: | (VII) | Structures shall not interfere with access to any riparian property and shall have a minimum setback of 15 feet between any part of the structure and the adjacent property owners' areas of riparian access. The line of division of areas of riparian access shall be established by drawing a line along the channel or deep water in front of the properties, then drawing a line perpendicular to the line of the channel so that it intersects with the shore at the point the upland property line meets the water's edge. The minimum setback provided in the rule may be waived by the written agreement of the adjacent riparian owner(s) or when two adjoining riparian owners are co-applicants. Should the adjacent property be sold before construction of the structure commences, the applicant shall obtain a written agreement with the new owner waiving the minimum setback and submit it to the permitting |
| | (I) The proposed development shall provide for enhanced public access to the shoreline; | | |
| | (II) Structures may be roofed but shall not be enclosed by partitions, plastic sheeting, screening, netting, lattice or solid walls of any kind and shall be limited to a single story; | | |
| | (III) Structures shall be pile supported and require no filling of coastal wetlands, estuarine waters or public trust areas; | | |
| | (IV) Structures shall not extend more than 20 feet waterward of the normal high water level or normal water level; | | |
| | (V) Structures shall be elevated at least three feet over the wetland substrate as measured from the | | |

- (VIII) agency prior to initiating any development; Structures shall be consistent with the US Army Corps of Engineers setbacks along federally authorized waterways;
- (IX) Structures shall have no significant adverse impacts on fishery resources, water quality or adjacent wetlands and there must be no reasonable alternative that would avoid wetlands. Significant adverse impacts include the development that would directly or indirectly impair water quality standards, increase shoreline erosion, alter coastal wetlands or Submerged Aquatic Vegetation (SAV), deposit spoils waterward of normal water level or normal high water level, or cause degradation of shellfish beds;
- (X) Structures shall not degrade waters classified as SA or High Quality Waters or Outstanding Resource Waters as defined by the NC Environmental Management Commission;
- (XI) Structures shall not degrade Critical Habitat Areas or Primary Nursery Areas as defined by the NC Marine Fisheries Commission; and
- (XII) Structures shall not pose a threat to navigation.
- History Note: Authority G.S. 113A-107(b); 113A-108; 113A-113(b); 113A-124; Eff. September 1, 1977; Amended Eff. April 1, 2001; August 1, 2000; August 3, 1992; December 1, 1991; May 1, 1990; October 1, 1989; Temporary Amendment Eff. October 15, 2001 (exempt from 270 day requirement-S.L. 2000-142); Temporary Amendment Eff. February 15, 2002 (exempt from 270 day requirement-S.L. 2001-494); Amended Eff. March 1, 2010; April 1, 2008; August 1, 2002.*
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- TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS**
- CHAPTER 06 - BOARD OF BARBER EXAMINERS**
- 21 NCAC 06F .0102 MANAGER**
- (a) Each barber school shall have at least one manager who is responsible for the overall operation of the school and who holds a current instructor's certificate.
- (b) A barber school manager shall not also be a manager of a barber shop.
- (c) A barber school manager shall devote full time to the barber school by being present on the premises the majority of the time instruction to students is being provided. The barber school manager is accountable for activities at the school whether present on the premises or not.
- History Note: Authority G.S. 86A-22; Eff. February 1, 1976; Readopted Eff. February 8, 1978; Amended Eff. April 1, 2010; May 1, 1989; March 1, 1983.*
- 21 NCAC 06F .0110 ROSTER AND STUDENT RECORDS**
- Each barber school shall:
- (1) maintain an up-to-date written roster system which shall be used to ensure that each student serves substantially equal numbers of patrons;
 - (2) maintain a complete record of each student including a weekly record of the number of days and hours the student attended classes in practical work and theory;
 - (3) maintain a separate daily record of the number of patrons the student served for haircuts, shaves and other clinical services;
 - (4) maintain a weekly record of the subject matter taught the student in theory classes;
 - (5) provide the list of students required by G.S. 86A-22(5) by the 15th day of each month; and
 - (6) maintain the signed acknowledgment regarding notification of the Board's rules regarding criminal convictions and sex offenders required by 21 NCAC 06F .0116.

History Note: Authority G.S. 86A-22;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. April 1, 2010; June 1, 2008; May 1, 1989; March 1, 1983.

21 NCAC 06F .0116 STUDENTS WITH CRIMINAL RECORDS

- (a) Prior to enrollment and the acceptance of any enrollment fee or tuition, the barber school shall notify the applicant of the Board's statutes and rules regarding criminal convictions and registered sex offenders and have the applicant sign and date the notice indicating that the applicant has been so informed.
- (b) Persons making application for student permits who have been convicted of a felony shall furnish to the Board a certified copy of their criminal history.
- (c) Failure to include any information regarding felony convictions on applications for student permits may result in revocation of a student permit after a hearing.

History Note: Authority G.S. 86A-18; 86A-22;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. March 1, 1983;
Legislative Objection Lodged Eff. March 7, 1983;
Amended Eff. April 1, 2010; May 1, 1989.

21 NCAC 06J .0103 RENEWAL AS REGISTERED APPRENTICE; WAIVER

- (a) Any applicant for renewal of an apprentice certificate whose three-year period expires within the current calendar year must make application for examination to receive a certificate of registration as a registered barber before the apprentice certificate is renewed or restored and mailed.
- (b) The time period in this Rule shall be waived for a member of the armed forces of the United States granted an extension of time to file a tax return by G.S. 105-249.2.

History Note: Authority G.S. 86A-24; 93B-15;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. April 1, 2010; May 1, 1989.

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

- (a) When a building or room is used for both a barber shop and for some other business and the building or room has limited air conditioning, ventilation, or heat outlets, or air circulation, the required partition between the shop and the other business may be completed from the floor up to a minimum of six feet with some open-like material from six feet to the ceiling to permit good air circulation.
- (b) Notwithstanding Paragraph (a) of this Rule and 21 NCAC 06L .0102 and where a barber shop is located within a shop licensed by the North Carolina Board of Cosmetic Art Examiners and which is permitted on or after January 1, 1995, or which undergoes modifications or structural renovations after that date, the area where the barber chair or chairs are located

must comply with all sanitary rules and laws not inconsistent with this Rule.

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

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

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

History Note: Authority G.S. 86A-1; 86A-15;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. April 1, 2010; June 1, 2008; January 1, 1995; May 1, 1989; March 1, 1983.

21 NCAC 06L .0115 INSPECTIONS OF SHOPS

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

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

(c) The Board's Executive Director and its inspectors may determine and assign numerical and letter sanitary grades to a shop following inspections as set forth in 21 NCAC 06L .0118 and 21 NCAC 06L .0119. The grade shall be displayed on the sanitary rules required to be posted by G.S. 86A-15(b).

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

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

History Note: Authority G.S. 86A-5(a)(1); 86A-15;
Eff. June 1, 2008;
Amended Eff. April 1, 2010.

21 NCAC 06O .0117 BARBER FAILING TO MAINTAIN OR PRODUCE EXEMPTION LOG

(a) The presumptive civil penalty for a barber failing to maintain the exemption log as required by 21 NCAC 06L .0111:

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

(b) The presumptive civil penalty for a barber failing to produce the exemption log required by 21 NCAC 06L .0111:

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

History Note: Authority G.S. 86A-15(c); 86A-27;
Eff. April, 1, 2010.

21 NCAC 06Q .0103 REGISTERED SEX OFFENDER

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

- (1) Crime committed for which registration was required;
- (2) Length of time the applicant, licensee or permittee is to register as a sex offender;
- (3) Whether the applicant, licensee or permittee is allowed to have contact with the victim or others;
- (4) Length of time licensed as a barber or shop owner in this or another state;
- (5) Enrollment in a treatment program relevant to the crime committed;
- (6) Whether the registered sex offender is a student applicant;
- (7) Additional criminal convictions; and
- (8) Letters of recommendation from members of the community where the crime was committed and where the applicant, licensee or permittee currently resides stating whether or not the person considers the applicant, licensee or permittee a threat to the community.

History Note: Authority G.S. 86A-17; 86A-18;
Eff. June 1, 2008;
Amended Eff. April 1, 2010.

RULES REVIEW COMMISSION

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

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

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

Appointed by House

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

COMMISSION COUNSEL

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

RULES REVIEW COMMISSION MEETING DATES

April 15, 2010 May 20, 2010
June 17, 2010 July 15, 2010

AGENDA

RULES REVIEW COMMISSION

Thursday, April 15, 2010 9:00 A.M.

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-Up Matters:
 - A. DHHS-Division of Medical Assistance – 10A NCAC 22O .0118 (Bryan)
 - B. Private Protective Services Board – 12 NCAC 07D .0405, .0702 (DeLuca)
 - C. Coastal Resources Commission – 15A NCAC 07H .0208, .0309, .1704, .1705 (DeLuca)
 - D. Department of Environment and Natural Resources – 15A NCAC 12A .0105 (Bryan)
 - E. Department of Environment and Natural Resources – 15A NCAC 12B .0104, .0203, .0204, .0501, .0502, .0601, .0602, .0701, .0802, .1001, .1003, .1004, .1101, .1105, .1201, .1205, .1206 (Bryan)
 - F. Department of Environment and Natural Resources – 15A NCAC 28 .0301, .0502, .0503, .0504, .0602, .0603, .0604, .0605, .0701 (Bryan)
 - G. Licensing Board for General Contractors – 21 NCAC 12 .0208 (Bryan)
 - H. Board of Dietetics/Nutrition – 21 NCAC 17 .0401 (Bryan)
- IV. Review of Log of Filings (Permanent Rules) for rules filed between February 23, 2010 and March 22, 2010
- V. Review of Log of Filings (Temporary Rules)
- VI. Commission Business
 - Next meeting: May 20, 2010

Commission Review
Log of Permanent Rule Filings
February 23, 2010 through March 22, 2010

PESTICIDE BOARD

The rules in Chapter 9 are from the Food and Drug Protection Division of the Department of Agriculture and Consumer Services.

The rules in Subchapter 9L are from the N.C. Pesticide Board and include organizational rules (.0100); registration (.0300); samples and submissions (.0400); pesticide licenses (.0500); pesticide and pesticide container disposal (.0600); declaration of pests and restrictions on their control (.0700); bulk distribution of pesticides (.0800); aerial application of pesticides (.1000); private pesticide applicator certification (.1100); arsenic trioxide (.1200); availability of restricted use pesticides (.1300); ground application of pesticides (.1400); worker protection standards for agricultural pesticides (.1800); pesticide storage (.1900); chemigation (any process whereby pesticides are applied to land, crops, or plants using an irrigation system) (.2000); hearing rules of the North Carolina pesticide board (.2100); and interim protection measures for the Carolina heelsplitter mussel (.2200).

<u>Certification/Recertification Fee</u>	02	NCAC 09L .1111
Amend/*		

BANKS, OFFICE OF THE COMMISSIONER OF

The rules in Chapter 3 are from the Banking Commission or the Commissioner of Banks.

The rules in Subchapter 3M concern mortgage lending including general mortgage lending (.0100); licensing (.0200); education and examinations (.0300); reporting and notification requirements (.0400); record and bookkeeping requirements (.0500), origination practices (.0600); and servicing (.0700).

<u>Definitions</u>	04	NCAC 03M .0101
Amend/*		
<u>Notices</u>	04	NCAC 03M .0102
Amend/*		
<u>Application</u>	04	NCAC 03M .0201
Amend/*		
<u>Nontransferability</u>	04	NCAC 03M .0202
Amend/*		
<u>Experience</u>	04	NCAC 03M .0204
Amend/*		
<u>Financial Responsibility</u>	04	NCAC 03M .0205
Amend/*		
<u>Surety Bond</u>	04	NCAC 03M .0206
Amend/*		
<u>Approval of Providers and Programs and Course of Study; P...</u>	04	NCAC 03M .0301
Amend/*		
<u>Mortgage Loan Originator Qualified Written Test</u>	04	NCAC 03M .0302
Repeal/*		
<u>Requirements for Providers</u>	04	NCAC 03M .0303
Repeal/*		
<u>Annual Reporting Requirements</u>	04	NCAC 03M .0401
Amend/*		
<u>Amendments to Information on File With the Commissioner</u>	04	NCAC 03M .0402
Amend/*		
<u>Termination of Operations</u>	04	NCAC 03M .0403
Amend/*		
<u>Records to be Maintained</u>	04	NCAC 03M .0501
Amend/*		

<u>Form and Location of Records</u> Amend/*	04	NCAC 03M .0502
<u>Deceptive Solicitation for Refinance</u> Adopt/*	04	NCAC 03M .0604
<u>Transfer of Servicing Rights</u> Adopt/*	04	NCAC 03M .0701
<u>Requirements for Mortgage Services to Communicate Effecti...</u> Adopt/*	04	NCAC 03M .0702
<u>Cessation of Foreclosure Activity During Pendency of Loss...</u> Adopt/*	04	NCAC 03M .0703

SOCIAL SERVICES COMMISSION

The rules in Chapter 70 concern children's services.

The rules in Subchapter 70F concern maternity homes and children's camps including general provisions (.0100); and organization and administration (.0200).

<u>Responsibilities of the Governing Body</u> Amend/*	10A	NCAC 70F .0202
<u>Finances, Fees and Insurance</u> Amend/*	10A	NCAC 70F .0203
<u>Staff</u> Amend/*	10A	NCAC 70F .0207

The rules in Subchapter 70G concern foster care agencies and placements including general provisions (.0400); minimum licensing standards (.0500); and best practice standards (.0300).

<u>Personnel</u> Amend/*	10A	NCAC 70G .0501
<u>Client Records</u> Amend/*	10A	NCAC 70G .0506

The rules in Subchapter 70H concern adoption agencies including scope (.0200); applicability (.0300); and minimum licensing standards (.0400).

<u>Personnel</u> Amend/*	10A	NCAC 70H .0401
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The rules in Subchapter 70I concern the minimum licensing standards for residential child-care including general licensing requirements (.0100); minimum licensure standards (.0200); organization and administration (.0300); personnel (.0400); service planning (.0500); service delivery (.0600); buildings, grounds and equipment (.0700); best practice standards (.0800); and physical plant (.0900).

<u>Responsibilities of the Governing Body</u> Amend/*	10A	NCAC 70I .0302
<u>Personnel Qualifications</u> Amend/*	10A	NCAC 70I .0404
<u>Personnel Positions</u> Amend/*	10A	NCAC 70I .0405

ALARM SYSTEMS LICENSING BOARD

The rules in Chapter 11 are from the N.C. Alarm Systems Licensing Board and cover the organization and general provisions

(.0100); license applications and requirements (.0200); registration of employees of licensees (.0300); the recovery fund (.0400); and continuing education for licensees (.0500).

Fees for Registration
Amend/*

12 NCAC 11 .0302

ENVIRONMENTAL MANAGEMENT COMMISSION

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

The rules in Subchapter 2B pertain to surface water standards and monitoring including procedures for assignment of water quality standards (.0100); the standards used to classify the waters of the state (.0200); stream classifications (.0300); effluent limitations (.0400); monitoring and reporting requirements (.0500); and water quality management plans (.0600).

Randleman Lake Water Supply Watershed: Nutrient Managemen...
Amend/*

15A NCAC 02B .0248

Randleman Lake Water Supply Watershed: Protection and Mai...
Amend/*

15A NCAC 02B .0250

Randleman Lake Water Supply Watershed: Mitigation Program...
Adopt/*

15A NCAC 02B .0252

SEDIMENTATION CONTROL COMMISSION

The rules in Chapter 4 concern sedimentation control.

The rules in Subchapter 4B concern erosion and sediment control.

Self-Inspections
Adopt/*

15A NCAC 04B .0131

COASTAL RESOURCES COMMISSION

The rules in Chapter 7 are coastal management rules.

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

Approval Procedures
Amend/*

15A NCAC 07H .2302

Permit Fee

15A NCAC 07H .2303

Amend/*

General Conditions 15A NCAC 07H .2304

Amend/*

Specific Conditions 15A NCAC 07H .2305

Amend/*

WILDLIFE RESOURCES COMMISSION

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

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

Importation of Wild Animals and Birds 15A NCAC 10B .0101

Amend/*

Importation of Wild Animals and Birds 15A NCAC 10B .0101

Amend/*

Wildlife Taken for Depredations or Accidentally 15A NCAC 10B .0106

Adopt/*

Big Game Kill Reports 15A NCAC 10B .0113

Amend/*

Wild Birds Defined 15A NCAC 10B .0121

Amend/*

State Hunting License Exemptions 15A NCAC 10B .0126

Adopt/**

Bear 15A NCAC 10B .0202

Amend/*

Squirrels 15A NCAC 10B .0206

Amend/*

Armadillo 15A NCAC 10B .0222

Adopt/**

Open Seasons 15A NCAC 10B .0302

Amend/**

Tagging Furs 15A NCAC 10B .0402

Amend/*

Trappers and Hunters 15A NCAC 10B .0404

Amend/*

Fur Dealers 15A NCAC 10B .0405

Amend/*

Misuse of Tags 15A NCAC 10B .0406

Amend/*

The rules in Subchapter 10C cover inland fishing including jurisdictional issues involving the Marine Fisheries Commission (.0100); general rules (.0200); game fish (.0300); non-game fish (.0400); primary nursery areas (.0500); and anadromous fish spawning areas (.0600).

Public Mountain Trout Waters 15A NCAC 10C .0205

Amend/*

Open Seasons: Creel and Size Limits 15A NCAC 10C .0305

Amend/*

Manner of Taking Non-game Fishes: Purchase and Sale 15A NCAC 10C .0401

Amend/*

Taking Non-game Fishes for Bait or Personal Consumption 15A NCAC 10C .0402

Amend/*

The rules in Subchapter 10D are game lands rules.

<u>General Regulations Regarding Use</u>	15A NCAC 10D .0102
Amend/*	
<u>Hunting On Game Lands</u>	15A NCAC 10D .0103
Amend/*	
<u>Fishing on Game Lands</u>	15A NCAC 10D .0104
Amend/*	

The rules in Subchapter 10E concern fishing and boating access areas.

<u>Definition</u>	15A NCAC 10E .0101
Amend/*	
<u>Regulations Posted</u>	15A NCAC 10E .0102
Amend/*	
<u>Use of Areas Regulated</u>	15A NCAC 10E .0104
Amend/*	

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

<u>Alexander County</u>	15A NCAC 10F .0332
Amend/*	
<u>McDowell County</u>	15A NCAC 10F .0339
Amend/*	

The rules in Subchapter 10H concern activities regulated by the Commission including controlled hunting preserves for domestically raised game birds (.0100), holding wildlife in captivity (.0300), commercial trout ponds (.0400), fish propagation (.0700), falconry (.0800), game bird propagators (.0900), taxidermy (.1000), furbearer propagation (.1100), controlled fox hunting preserves (.1200), and reptiles and amphibians (.1300).

<u>License to Operate</u>	15A NCAC 10H .0101
Amend/*	
<u>Quality of Birds Released</u>	15A NCAC 10H .0104
Amend/*	
<u>General Requirements</u>	15A NCAC 10H .0301
Amend/*	
<u>Minimum Standards</u>	15A NCAC 10H .0302
Amend/*	
<u>Captive Cervid Herd Certification Program</u>	15A NCAC 10H .0304
Adopt/**	
<u>Disposition of Birds or Eggs</u>	15A NCAC 10H .0904
Amend/*	

The rules in Subchapter 10J cover wildlife conservation areas.

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

PUBLIC HEALTH, COMMISSION FOR

The rules in Chapter 18 cover environmental aspects of health such as sanitation (18A), mosquito control (18B), water supplies

(18C), and water treatment facility operators (18D).

The rules in Subchapter 18A deal with sanitation and include handling, packing and shipping of crustacean meat (.0100) and shellfish (.0300 and .0400); operation of shellstock plants and reshippers (.0500); shucking and packing plants (.0600); depuration mechanical purification facilities (.0700); wet storage of shellstock (.0800); shellfish growing waters (.0900); summer camps (.1000); grade A milk (.1200); hospitals, nursing homes, rest homes, etc. (.1300); mass gatherings (.1400); local confinement facilities (.1500); residential care facilities (.1600); protection of water supplies (.1700); lodging places (.1800); sewage treatment and disposal systems (.1900); migrant housing (.2100); bed and breakfast homes (.2200); delegation of authority to enforce rules (.2300); public, private and religious schools (.2400); public swimming pools (.2500); restaurants, meat markets, and other food handling establishments (.2600); child day care facilities (.2800); restaurant and lodging fee collection program (.2900); bed and breakfast inns (.3000); lead poisoning prevention (.3100); tattooing (.3200); adult day service facilities (.3300); primitive camps (.3500); rules governing the sanitation of resident camps (.3600); and private drinking water well sampling (.3800).

<u>Definitions</u>	15A NCAC 18A .2508
Amend/*	
<u>Plan Review and Approval</u>	15A NCAC 18A .2509
Amend/*	
<u>Public Swimming Pool Operation Permits</u>	15A NCAC 18A .2510
Amend/*	
<u>Inspections</u>	15A NCAC 18A .2511
Amend/*	
<u>Materials of Construction</u>	15A NCAC 18A .2514
Amend/*	
<u>Design Details</u>	15A NCAC 18A .2515
Amend/*	
<u>Pool Profile</u>	15A NCAC 18A .2516
Amend/*	
<u>Circulation System</u>	15A NCAC 18A .2518
Amend/*	
<u>Ladders, Recessed Steps, and Stairs</u>	15A NCAC 18A .2521
Amend/*	
<u>Depth Markings and Safety Ropes</u>	15A NCAC 18A .2523
Amend/*	
<u>Lighting and Ventilation</u>	15A NCAC 18A .2524
Amend/*	
<u>Fences</u>	15A NCAC 18A .2528
Amend/*	
<u>Wading Pools</u>	15A NCAC 18A .2531
Amend/*	
<u>Spas and Hot Tubs</u>	15A NCAC 18A .2532
Amend/*	
<u>Water Quality Standards</u>	15A NCAC 18A .2535
Amend/*	
<u>Suction Hazard Reduction</u>	15A NCAC 18A .2539
Amend/*	

OCCUPATIONAL THERAPY, BOARD OF

The rules in Chapter 38 cover organization and general provisions (.0100); application for license (.0200); licensing (.0300); business conduct (.0400); provisions concerning rulemaking (.0500); administrative hearing procedures (.0600); professional corporations (.0700); continuing competence activity (.0800); supervision, supervisory roles, and clinical responsibilities of occupational therapists and occupational therapy assistants (.0900); supervision of limited permittees (.1000); and supervision of unlicensed personnel (.1100).

<u>License Renewal</u>	21	NCAC 38	.0302
Amend/*			

COMMUNITY COLLEGES, BOARD OF

The rules in Chapter 2 concern Community Colleges.

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

<u>Admission to Colleges</u>	23	NCAC 02C	.0301
Amend/*			

<u>Noncertified Source Purchases</u>	23	NCAC 02C	.0505
Amend/*			

STATE PERSONNEL COMMISSION

The rules in Chapter 1 are from the State Personnel Commission.

The rules in Subchapter 1E cover employee benefits including general leave provisions (.0100); vacation leave (.0200); sick leave (.0300); workers compensation leave (.0700); military leave (.0800); holidays (.0900); miscellaneous leave (.1000); other types of leave without pay (.1100); community involvement (.1200); the voluntary shared leave program (.1300); family and medical leave (.1400); child involvement leave (.1500); community services leave (.1600); and administrative leave (.1700).

<u>Other Management Approved Leave</u>	25	NCAC 01E	.1009
Adopt/*			

<u>Non-Discretionary Types of Other Management Approved Leave</u>	25	NCAC 01E	.1010
Adopt/*			

<u>Discretionary Types</u>	25	NCAC 01E	.1011
Adopt/*			

<u>Smallpox Vaccination</u>	25	NCAC 01E	.1701
Repeal/*			

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
Selina Brooks
Melissa Owens Lassiter
Don Overby

Randall May
A. B. Elkins II
Joe Webster

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<u>ALCOHOL BEVERAGE CONTROL COMMISSION</u>				
NC Alcoholic Beverage Control Commission v. Ciro Maya Maya, T/A Carolina Sports Arena	08 ABC 2411	Overby	06/29/09	
NC Alcoholic Beverage Control Commission v. Abdu Suleh Ali d/b/a Harlam Mini Mart	08 ABC 2980	Overby	01/07/10	
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	
N.C. Alcoholic Beverage Control Commission v. Mobashar Hassan Chaudhary	09 ABC 3579	Gray	09/30/09	
N.C. Alcoholic Beverage Control Commission v. Partnership T/A El Paraíso II	09 ABC 4171	May	02/16/10	
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. Jose Elias Bautista T/A Bar Mexico Lindo	09 ABC 4680	May	12/30/09	
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	
N.C. Alcoholic Beverage Control Commission v. Bee Nui Carson, T/A Big Boys Market	09 ABC 5209	Brooks	12/11/09	
NC Alcoholic Beverage Control Commission v. Rimal Enterprise, Inc., T/A R B FoodMarket	09 ABC 5213	Brooks	12/11/09	
NC Alcoholic Beverage Control Commission v. Alhobishi Convenience Stores & Rentals, Inc T/A Happy Mart 4	09 ABC 5293	Lassiter	01/19/10	
NC Alcoholic Beverage Control Commission v. Mike's Private Club, Inc., T/A EL Rincon Caliente	09 ABC 5423	Brooks	12/10/09	
NC Alcoholic Beverage Control Commission v. Xuan Huong Thi Le T/A Billiards and Grill	09 ABC 5424	Brooks	12/10/09	
NC Alcoholic Beverage Control Commission v. Yong Cha Kim, T/A Asian Odyssey	09 ABC 6412	Overby	02/12/10	
<u>BOARD OF COSMETIC ARTS EXAMINERS</u>				
Douglas Van Essen v. NC State Board of Cosmetic Arts Examiners	09 BCA 2773	Webster	01/20/10	24:18 NCR 1638
<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	
Tony Ray Ross v. North Carolina State Highway Patrol	08 CPS 2546	Overby	10/06/09	
Ricky F. Smith v. Crime Control and Public Safety	08 CPS 2582	May	08/06/09	
Robert Melvin v. Janice Carmichael, NC Crime Victim Compensation	08 CPS 2634	Elkins	06/01/09	
B-Red Enterprises, Inc., Linda Parrish v. Secretary of Crime Control and Public Safety	08 CPS 3043	Webster	06/23/09	
Spencer's Incorporated of Mount Airy, NC d/b/a Ararat Rock Products Company and Jim Crossingham, III v. North Carolina Highway Patrol	08 CPS 3399	May	08/25/09	24:11 NCR 908
Apex PTO & Trailer, Inc. Morris F. Purdy v. NC Dept. of Crime Control & Public Safety, Division of State Highway Patrol, Carrier Enforcement Section	09 CPS 0010	Lassiter	08/17/09	
Peggy Gulley, Gulley's Backhoe Service v. Crime Control and Public Safety	09 CPS 0085	Overby	06/04/09	
Peter Thomas, Southeast Forest Works, LLC v. NC State Highway Patrol	09 CPS 1257	Gray	05/19/09	
Allen Bender, AB's Gravel Driveways, LLC v. North Carolina State Highway Patrol, Motor Carrier	09 CPS 1259	Gray	06/29/09	

CONTESTED CASE DECISIONS

Enforcement Section			
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
Ramdog Enterprises, LLC v. NC Highway Patrol, Troop G, District V and Captain F.T. Stout	09 CPS 1531	Brooks	01/13/10
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
Clifton Artis v. Secretary of Crime Control and Public Safety	09 CPS 1732	Gray	10/26/09
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
Wanda K. McNeill v. Crime Victims Compensation Commission	09 CPS 3873	Gray	02/05/10
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
James Christian Laubach and the Auto Barn, Inc. v. NC State Highway Patrol	09 CPS 2385	Mann	07/28/09
Joseph Moseley v. NC State Highway Patrol	09 CPS 2390	Gray	12/22/09
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
Robert C. Bacon v. NC State Highway Patrol	09 CPS 2426	Gray	12/18/09
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
Rachel Strickland v. NC Crime Victims Compensation Commission	09 CPS 3650	Brooks	10/06/09
D&D Auto Transport, Jimmy Donald v. NC State Highway Patrol	09 CPS 3690	Cella	10/30/09
Goodfellas Auto Transport v. NC State Highway Patrol	09 CPS 3757	Gray	01/15/10
Jennifer Elizabeth Bollinger v. NC Dept. of Crime Control & Public Safety, Division of Victims Compensation Commission	09 CPS 3765	Gray	10/07/09
CL Hill Hauling, LLC, Christopher Hill v. NC Dept. of Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	09 CPS 3784	Gray	09/08/09
KJ Logistics, LLC v. NC State Highway Patrol	09 CPS 3876	Gray	09/08/09
Jorge Rodriguez v. Secretary of Crime Control & Public Safety	09 CPS 3921	Gray	09/10/09
TMC Transportation Inc. v. NC State Highway Patrol, Motor Carrier Enforcement Section	09 CPS 3996	Lassiter	09/17/09
Douglas Harris v. NC Dept. of Crime Control and Public Safety	09 CPS 4023	Brooks	11/23/09
Antonio LeGrande v. Victim Compensation Service Division	09 CPS 4065	Lassiter	10/07/09
Andrew S. McJunkin v. NC Victim and Justice Services	09 CPS 4206	Brooks	10/07/09
Larry Williams NOLA Bus Tours Inc. v. Crime Control and Public Safety	09 CPS 4209	Elkins	03/01/10
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
Robert D. Cooper v. NC State Highway Patrol, Motor Carrier Enforcement Section	09 CPS 4434	Overby	03/01/10
Linda S. Johnson	09 CPS 4450	May	12/28/09
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
Larry George Willoughby v. NC Department of Crime Control and Public Safety	09 CPS 4569	Gray	12/16/09
Michelle Kyong Woods v. Victim Compensation	09 CPS 4622	Overby	01/27/10
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
NOLA Bus Tours Inc, NC State Highway Patrol	09 CPS 4739	Elkins	03/01/10
Crst Malone v. NC State Highway Patrol	09 CPS 4741	Overby	01/27/10
Yurry Demyanchuk v. RR Sheets, NC State Highway Patrol	09 CPS 4799	Lassiter	09/29/09
Piedmont Cheerwine Bottling Co. v. NC Dept. of Crime Control and Public Safety	09 CPS 4852	Brooks	11/09/09
Phillip J. Evans v. Highway Motor Carrier	09 CPS 4953	Overby	10/28/09
Jesse M Staton v. NC State Highway Patrol, Motor Carrier Enforcement Section	09 CPS 4997	Overby	01/21/10
Poplar Ridge Lumber Company, Blaine J. Snyder, II v. NC State Highway Patrol	09 CPS 5089	Gray	02/16/10
Atlantic Construction Services, Inc., Frederick George Lempe II v. NC Dept. of Crime Control and Public Safety	09 CPS 5161	Lassiter	12/01/09
Juan Pablo Rivera Salinas Sealy Agents Waterproofing v. NC State Highway Patrol	09 CPS 5385	Brooks	02/03/10
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
Palmetto Sealing Inc v. NC Secretary Crime Control and Public Safety	09 CPS 6169	Overby	01/27/10
Michael Davis v. NC Department of Crime Control and Public Safety, State Highway Patrol	09 CPS 6190	Gray	01/27/10
Gilberto Santiago v. NC Department of Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	09 CPS 6191	Gray	01/27/10
William Terry Ivey v. NC Hwy Patrol, Division of Motor Vehicles	09 CPS 6250	Elkins	02/26/10

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Mack Padgett v. Crime Control and Public Safety

10 CPS 0107

Brooks

03/01/10

A LIST OF CHILD SUPPORT DECISIONS MAY BE OBTAINED BY ACCESSING THE OAH WEBSITE: [HTTP://WWW.NCOAH.COM/HEARINGS/DECISIONS/](http://www.ncoah.com/hearings/decisions/)

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Henry Neese and Patricia Neese v. NC Department of Agriculture and Consumer Services

09 DAG 2899

Mann

11/25/09

24:18 NCR 1662

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

Martha's Group Home, Inc. v. NCDHHS, Ms. Emery Milliken, General Counsel

07 DHR 1714

Gray

02/24/10

Teresa S. Reid, Reid's Health Care v. DHHS, Division of Medical Assistance

08 DHR 0596

Elkins

01/21/10

Ely Enterprises, Inc., D/B/A A Home Away from Home v. DHHS

08 DHR 0906

Gray

02/22/10

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

Lilieth P. Brown v. Office of Administrative Hearings

08 DHR 1807

Morrison

08/13/09

Blue Ridge Healthcare Surgery Center-Morganton, LLC & Grace Hospital, Inc. v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Certificate of Need Section & Carolina Digestive Care, PLLC and HMB Properties, LLC

08 DHR 2216

Brooks

06/19/09

24:11 NCR 913

Bethlehem Center of Charlotte v. Child and Adult Care Food Program, Division of Public Health, NC Dept. of Health and Human Services

08 DHR 2284

Brooks

05/26/09

Edward A. Patterson v. Division of Child Development

08 DHR 2364

Webster

06/02/09

Choices Group Home Inc., Victor Vega v. N.C. Department of Health and Human Services

08 DHR 2404

Gray

07/16/09

MJKM, LLC d/b/a Pueblo Supermarket v. NC Dept. of Health and Human Services, Division of Public Health, Women and Children's Health Section

08 DHR 2443

Gray

09/03/09

Jasper Tyson v. Dept. of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry

08 DHR 2444

May

05/21/09

Choices Group Home Inc, Victor Vega v. Office of Administrative Hearings, Department of Health and Human Services

08 DHR 2512

Gray

07/16/09

Pepper Dawn Kirk-McLendon Peppermint Daycare v. N.C Department of Health and Human Services, Division of Child Development

08 DHR 2571

Mann

07/07/09

24:07 NCR 416

Edward Royal, Dept. of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry

08 DHR 2698

Overby

05/27/09

C. Vann Pierce, Executive Officer, Heritage Care of Rocky Mount, Licensee, License No. Hal-033-005 v. N.C DHHS, Division of Health Service Regulation, Adult Care Licensure Section

08 DHR 2732

Lassiter

11/03/09

24:16 NCR 1435

Abundant Life Child Care Center, Tiffany D. Monroe v. Division of Child Development, June Locklear, Brenda Faircloth

08 DHR 2954

Elkins

06/03/09

Outreach Home v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Mental Health Licensure and Certification Section

08 DHR 2981

Gray

09/17/09

L&J Group Homes, Inc. v. NC DHHS/Div. of Health Service Regulation, Mental Health

08 DHR 3108

Lassiter

10/06/09

Amy G. Poteat v. Health Care Personnel Registry

08 DHR 3489

May

06/03/09

Freedom House Recovery Center, Inc. v. NC Division of Health Service Regulation

08 DHR 3674

Gray

10/13/09

Kathy Dunning Bright v. Health Care Personnel Registry

09 DHR 0057

Overby

08/04/09

Gaynelle Smith v. DHHS

09 DHR 0223

May

02/24/09

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 DHR MHLHC

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

Regina T. Jones v. N.C. Department of Health and Human Services

09 DHR 1859

Webster

06/23/09

Sharay C. Vinson v. North Carolina Department of Health and Human Services, Division of Health Service Regulation

09 DHR 1884

Brooks

07/10/09

Rae'gan Smith v. NC Dept. of Health and Human Services

09 DHR 1974

Brooks

09/14/09

Chreatha Alston v. NC Dept. of Health and Human Services

09 DHR 1980

Elkins

08/06/09

Vickie Hovis Abernethy v. Third Party Recovery

09 DHR 1984

Brooks

08/24/09

Jason M. Paris (petitioner, Christine O. Jacobs (representing petitioner) v. N.C. Department of Health

09 DHR 2296

May

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and Human Services (DHHS)			
Bernice Taylor v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry	09 DHR 2297	May	08/07/09
Gerald A. Harper v. NC Dept. of Health and Human Services	09 DHR 2349	Gray	10/07/09
Contour Service, Inc., (MHL #090-101) v. Department of Health Services, Division of Health Service Regulation	09 DHR 2350	May	07/21/09
Community Alternative Resources, Inc. Wayne L. Burch and Michelle M. Dolphus v. Dept. of Health and Human Services	09 DHR 2456	May	08/28/09
Charlene M. Hatfield v. NC Dept. of Health and Human Services, Division of Health Service Regulation	09 DHR 2503	Gray	08/31/09
Helen Webb v. Department of Health and Human Dept. of Child Dept	09 DHR 2589	Webster	07/17/09
Lanika Ortega v. North Carolina Department of Health and Human Services	09 DHR 2637	Lassiter	07/27/09
Ndeye Ngone Diene v. DHHS-Health Care Registry	09 DHR 2640	Webster	08/27/09
Brenda V. Patterson v. State Department of Social Services	09 DHR 2654	Webster	07/17/09
Brenda V. Patterson v. State Department of Social Services	09 DHR 2655	Webster	07/17/09
Rose Boyd v. NC Dept. of Health and Human Services	09 DHR 2706	Brooks	08/17/09
John Okoroma v. Mecklenburg County Dept. of Social Services	09 DHR 2710	May	07/24/09
Angela Conner Tawes, Conner's Cape Hatteras Supermarket, Inc v. North Carolina Department of Health and Human Services	09 DHR 2717	Gray	06/15/09
Melonie L. Keith, John David Keith v. Central Billing DHHS Controllers Office	09 DHR 2779	Webster	10/22/09
Sharon M. Hill v. NC Department of Health and Human Services	09 DHR 2809	Lassiter	07/27/09
Cipriano Mendez Chiquito v. NC Dept. of Health and Human Services, Division of Public Health	09 DHR 2824	May	08/12/09
Trinia E. McCorkle v. North Carolina Department of Health and Human Services	09 DHR 2829	Brooks	07/10/09
Kashina L. Davis v. North Carolina Department of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry Section	09 DHR 2832	Gray	07/01/09
Brenda V. Patterson v. N.C. State Department of Social Services	09 DHR 2836	Webster	07/17/09
Brenda Patterson v. Division of Child Development	09 DHR 2837	Webster	07/17/09
Edward A. Patterson v. Division of Child Development	09 DHR 2838	Webster	07/17/09
Brenda V. Patterson v. Division of Child Development	09 DHR 2839	Webster	07/17/09
Edward A. Patterson v. Division of Child Development	09 DHR 2841	Webster	07/17/09
John and Candice Danner v. NC Dept. of Health and Human Services	09 DHR 2936	Brooks	08/28/09
Rickie Annas v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry	09 DHR 2962	Brooks	08/10/09
Berta Spencer v. NC Dept. of Health and Human Services	09 DHR 3000	Cella	10/07/09
Brenda V. Patterson v. State Department of Social Services	09 DHR 3002	Webster	07/17/09
Brenda V. Patterson v. State Department of Social Services	09 DHR 3003	Webster	07/17/09
Brenda V. Patterson v. State Department of Social Services	09 DHR 3004	Webster	07/17/09
Mary's House, Inc., MHL #041-288, Craig Thomas, Executive Director v. Ms. Emery Milliken, General Counsel, Department of Health and Human Services, Office of Legal Affairs	09 DHR 3008	Mann	07/22/09
Keshea Montgomery v. Randolph County Dept. of Health and Human Services	09 DHR 3012	Mann	08/27/09
Shawanda Ann Barnes V. Cherry Hospital	09 DHR 3076	Lassiter	09/28/09
St. Francis of Charlotte, Inc. Francis Ford Provider #83022329B and 83022329H v. NC Dept. of Health and Human Services, Div. of Medical Assistance	09 DHR 3101	Brooks	09/23/09
Edward A. Patterson v. Division of Child Development	09 DHR 3113	Webster	07/17/09
Brenda V. Patterson v. Division of Child Development	09 DHR 3114	Webster	07/17/09
Matta Inc. Peaceful Dominion, Issac Matta, v. Div of Health Service Regulation, MH Licensure & Certification	09 DHR 3761	Brooks	02/26/10
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,	09 DHR 4107	Brooks	10/29/09

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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
Labrishia Keller v. Health Care Personnel Registry	09 DHR 4336	Lassiter	02/04/10
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
Estate of Hattie Mae Johnson v. DHHS, Div of Medical Assistance	09 DHR 4689	May	12/08/09
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
Healthquest Pharmacy, Darin Cunningham v. DHHS	09 DHR 5226	Elkins	02/26/10
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
Cherokee Indian Hospital Pharmacy v. DMA Pharmacy Division	09 DHR 5644	Brooks	01/28/10
Devon J. Artis v. NC Dept. of Health and Human Services, Health Care Personnel Registry Section	09 DHR 5667	May	11/16/09
Steven N. Leviner v. Health Care Personnel Register	09 DHR 5864	May	02/22/10
People Achieving Living Skill v. Div. of Health Service Regulation	09 DHR 6090	Elkins	02/26/10
Pastor Carolyn J. Fernandez and Pastor Jesse Fernandez v. Alexis d. Underwood and The Guilford Center	09 DHR 6106	Brooks	12/07/09
AbleCare Corporation MHL#041-8855 v. Division of Health Service Regulation	09 DHR 6349	Brooks	02/16/10
Gemika Steele, First Steps Child Dev Center, DHHS, Division of Public Health Child and Adult Care Food Program	09 DHR 6694	Brooks	01/28/10

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 Commission of Indian Affairs	09 DOA 2367	Morrison	06/15/09
Battlecat Productions, Inc., D/B/A Battlecat Marine v. East Carolina University and State of NC Dept. of Purchase and Contract	09 DOA 4788	Gray	10/08/09
NC Indian Cultural Center, Inc. v. NC State Commission of Indian Affairs	09 DOA 4809	Overby	11/19/09

DEPARTMENT OF CORRECTION

Rufus Thomas Blackwell, III, v. (N.C. Department of Correction) Department of Payroll & Overpayment Manager	09 DOC 1296	Overby	07/08/09
Robert Allen Sartori v. K Dufault, C. Bray WCI Mail Staff, Department of Correction	09 DOC 3121	Gray	07/01/09
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
Gary L. Johnson v. DH Officer Alston, BOB Lewis, Division of Prisons	09 DOC 5624	Elkins	02/26/10

DEPARTMENT OF JUSTICE

Danny Earl Keel v. NC Criminal Justice Education and Training Standards Commission	07 DOJ 1711	Cella	07/30/09	24:07 NCR 437
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Bruce A. White v. NC Sheriffs' Education and Training Standards Commission	08 DOJ 2490	Brooks	08/14/09	
Weston Samuels v. NC Dept. of Justice, Campus Police Program	08 DOJ 3312	Elkins	08/24/09	
Jackie Marie Daniels v. N.C. Criminal Justice Education and Training Standards Commission	09 DOJ 0218	Elkins	07/24/09	
Andrew Quincy Brown v. Sheriffs' Education and Training Standards Commission	09 DOJ 0463	Gray	12/21/09	
Darlene Fure v. NC Criminal Justice Education and Training Standards Commission	09 DOJ 0466	Lassiter	07/22/09	
Tyrone Scott v. North Carolina Private Protective Services Board	09 DOJ 0658	Gray	05/28/09	
Ronald Wynn v. NC Criminal Justice Education and Training Standards Commission	09 DOJ 0949	Overby	07/15/09	
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Peggy Sue Shipp v. NC Criminal Justice Education and Training Standards Commission	09 DOJ 1782	Webster	08/28/09
Jaime Patrick Clayborne v. Department of Justice Company Police Program	09 DOJ 1949	Webster	05/27/09
Ross Patton Gilmore v. NC Alarm Systems Licensing Board	09 DOJ 2452	Morrison	06/04/09
William Marquis Davis v. North Carolina Private Protective Services Board	09 DOJ 2506	Morrison	06/04/09
Ross Patton Gilmore v. North Carolina Alarm Licensing Board	09 DOJ 2452	Morrison	06/04/09
William Marquis Davis v. NC Private Protective Services Board	09 DOJ 2506	Morrison	06/04/09
John D. Dykes v. NC Dept. of Justice Company Police Program	09 DOJ 2639	May	06/18/09
Jimmie Ray Edmondson, Jr. v. NC Criminal Justice Education and Training Standards Commission	09 DOJ 2823	Lassiter	08/04/09
Edward A. Patterson v. Attorney General Office	09 DOJ 2840	Webster	07/17/09
Shonda Lavette Higgins v. NC Private Protective Services Board	09 DOJ 3009	Overby	08/13/09
Bobby Brown v. NC Private Protective Services Board	09 DOJ 3028	Webster	11/19/09
Timothy Mark Masters v. NC Alarm Systems Licensing Board	09 DOJ 3037	Morrison	09/14/09
Nighee Von Superville v. NC Criminal Justice Education and Training Standards Commission	09 DOJ 3073	Gray	08/10/09
Elizabeth Marie Lancaster v. NC Private Protective Services Board	09 DOJ 3189	Webster	11/13/09
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Heath Dwayne Kinney v. NC Alarm Systems Licensing Board	09 DOJ 3301	Webster	11/12/09
Richard Lee Powers, Sr. and Richard Lee Powers, Jr. v. Private Protective Services Board	09 DOJ 3488	Morrison	12/15/09
Richard Lee Powers, Sr. and Richard Lee Powers, Jr. v. Private Protective Services Board	09 DOJ 3489	Morrison	12/15/09
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
Edward A. Patterson v. Attorney General Office	09 DOJ 4025	Webster	08/28/09
Edward A. Patterson v. Attorney General Office	09 DOJ 4108	Webster	08/28/09
Jeffrey David Elkie v. Sheriffs' Education and Training Standards Commission	09 DOJ 4125	Elkins	01/14/10
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

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

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
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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	
Frederick Moore v. State Board of Education, Department of Public Instruction	08 EDC 3035	May	09/30/09	24:16 NCR 1448
Michelle Sara Rodriguez v. National Board Certification Appeals Panel/Division of Talent Management and Development	08 EDC 3219	Brooks	08/21/09	
Courtney M. Sears, Petitioner v. Department of Public Instruction Licensure Section	08 EDC 3644	Morrison	06/08/09	
Jennifer Satinsky v. North Carolina State Board of Education	08 EDC 3650	Morrison	06/05/09	
Kenneth H. Leftwich v. June Atkinson, Superintendent of Public Instruction	08 EDC 3690	May	06/29/09	
Lindsey Forde-Smith v. North Carolina State Board of Education	09 EDC 1848	Gray	07/09/09	
Provisions Community Development Corporation dba Provisions Academy v. State Board of Education	09 EDC 2081	Elkins	07/27/09	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	
Friends of the RockyRiver, Inc v. N.C. DENR, Div. of Water Quality and Town of Siler City	08 EHR 2474	Gray	09/28/09	24:16 NCR 1453
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	

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Olde Beau General Partnership v. NC Dept. of Environment and Natural Resources, Division of Land Resources	09 EHR 0122	Gray	08/18/09	24:11 NCR 983
Saint Gobain Containers, Inc. v. NC Dept. of Environment and Natural Resources, Division of Air Quality	09 EHR 1616	Overby	10/23/09	
John C Campbell Folk School, John M Clarke, Bldgs & Ground Mgr v. NCDENR Public Water Supply Section	09 EHR 1852	Overby	06/03/09	
Doug Jernigan v. NC Dept. of Environment and Natural Resources, Division of Air Quality	09 EHR 3118	Elkins	10/16/09	
Appalachian Stove Fab, Inc., James Rice v. Western North Carolina Regional Air Quality Agency	09 EHR 3785	Gray	08/06/09	
Woodfield Gardens Apartments, Loretta Sims, v. NC Dept. of Environment and Natural Resources, Division of Envir Health	09 EHR 4330	May	10/09/09	
Kyle D. Page v. NC Dept. of Environment and Natural Resources	09 EHR 4623	Gray	10/07/09	
Town of Lilesville v. NCDENR/Public Water Supply Section	09 EHR 5286	May	12/05/09	
Sidney Bruton, III v. NC Dept. of Environment and Natural Resources, Division of Air Quality	09 EHR 5351	Gray	11/05/09	

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

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Gary L. Childers v. NC Teachers' and State Employees' Comprehensive Major Medical Plan	08 INS 2251	Brooks	06/18/09	
John Randolph Ingram v. NC Teachers' and State Employees' Comprehensive Major Medical Plan	08 INS 2952	Gray	09/08/09	
Elizabeth M. Bailey v. NC Teachers' and State Employees' Comprehensive Major Medical Plan	09 INS 0661	Lassiter	08/03/09	
Erin Tapley v. Blue Cross Blue Shield	09 INS 2393	Gray	10/07/09	
Lucy J. Lagnese v. NC State Health Plan	09 INS 2812	Brooks	08/14/09	
David M. Jordan v. NC Teachers' and State Employees' Comprehensive Major Medical Plan	09 INS 3005	Cella	09/14/09	
Barbara A Evans v. State Health Plan	09 INS 3067	Lassiter	07/27/09	
Sandra Hunter v. BCBS of North Carolina	09 INS 3183	Lassiter	09/14/09	
Patricia Sharp v. NC State Health Plan Blue Cross/Blue Shield	09 INS 3192	Gray	08/31/09	
Sandra Ann Warren v. State Health Plan	09 INS 5641	Brooks	02/23/10	

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

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C.W. McAdams v. NC Dept. of Transportation	05 OSP 0626	Morrison	08/14/09	
Wade Bryan Bulloch v. N.C. Department of Crime Control and Public Safety, N.C. Highway Patrol	05 OSP 1178	Gray	01/15/10	24:16 NCR 1394
Alvita C. Byers v. Elizabeth Cox, The office of Human Resources and The North Carolina School of the Arts	07 OSP 1514	Brooks	05/20/09	24:07 NCR 396
Edward Alan Roper v. Broughton Hospital, Dept. of Health and Human Services	07 OSP 2186	Brooks	05/18/09	
Fatima Akhtar v. NC Dept of Commerce	08 OSP 0171	Gray	08/05/09	
Julie Norris Watson v. NC DPI	08 OSP 0541	Brooks	05/22/09	
Kathleen Hardiman v. NC Aquarium at Pine Knoll Shores, Jay Barnes, Director, James Lewis and Lonnie Burke	08 OSP 0868	Gray	11/10/09	
Simon Camara v. NC Central University	08 OSP 1345	Lassiter	10/07/09	
Janice F. Stokes v. NC Dept. of Correction, Division of Community Corrections	08 OSP 2150	Gray	11/16/09	
Isaac T. Perkins v. NC Dept. of Corrections	08 OSP 2242	Overby	09/16/09	24:11 NCR 939
Sharon Annette Mercer v. N.C. Division of Motor Vehicles	08 OSP 2293	Webster	08/14/09	24:07 NCR 447
Jacqueline H. Davis v. NC Dept. of Correction	08 OSP 2342	Overby	08/19/09	
Jody Lynn Hinson v. N.C. Department of Crime Control and Public Safety, N.C. Highway Patrol	08 OSP 2409	Overby	06/03/09	
Tonya M. Jones v. NC Dept. of Health and Human Services	08 OSP 2418	Webster	06/12/09	24:11 NCR 955
Richard C. Foy v. NC Dept. of Insurance	08 OSP 2581	Gray	05/21/09	
Denise Vee v. Cumberland County Department of Public Health	08 OSP 2955	Elkins	07/22/09	24:07 NCR 465
Darryll Williams v. NC Dept. of Health and Human Services, Murdoch Developmental Center	08 OSP 3661	Cella	09/18/09	
Jerry Lewis Monroe, Sr. v. Fayetteville State University	09 OSP 0098	Gray	09/03/09	
Annie L. Gadson v. NC A&T University	09 OSP 0261	May	09/11/09	
David S. Nateman v. N.C. Department of Cultural Resources	09 OSP 1903	Webster	12/07/09	24:16 NCR 1477
Timothy Strong v. Central Regional Hospital, NC DHHS	09 OSP 2401	Elkins	05/27/09	
Benjamin Hicks v. Central Regional Hospital, NC DHHS	09 OSP 2399	Elkins	05/27/09	
Felicia D. McClain v. DENR/Soil & Water Conservation	09 OSP 2550	Webster	08/12/09	
Ronald Gene Ezzell, Jr. v. NC State Highway Patrol	09 OSP 2588	Morrison	08/05/09	24:11 NCR 998
Thomas E. Freeman, Jr. v. NC DHHS/Central Regional Hospital And Whitaker School	09 OSP 2826	Webster	07/17/09	
Cecil L. Glaze v. UNC Charlotte	09 OSP 2884	Mann	07/29/09	
Vickye Williams Herring, NC Employment Security Commission	09 OSP 3501	Elkins	07/30/09	
Hope C. Freeman v. Bladen County Department of, Social Services	09 OSP 3504	Elkins	07/24/09	
Tiajuana Evans v. O'Berry Neuro-Medical Treatment Center	09 OSP 3530	Lassiter	08/31/09	
Francisa Okafor v. NC Dept. of Health and Human Services	09 OSP 3533	Gray	09/30/09	
Charles Nathan v. Robeson Co. DSS Foster Care Unit	09 OSP 3543	Elkins	10/08/09	
Wilbert Riffin v. Scotland County Public Schools	09 OSP 3653	Elkins	10/05/09	
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Cynthia Bizzell v. Durham Public Schools	09 OSP 4070	Lassiter	08/24/09
Glenn Hodge v. NC Dept. of Transportation	09 OSP 4094	Lassiter	08/18/09
Randall S. Smith v. Carolina Copy c/o UNC at Chapel Hill	09 OSP 4109	Lassiter	08/31/09
Clifton Cox v. Caswell Center	09 OSP 4241	Overby	10/29/09
David T. McPhun v. State Health Plan	09 OSP 4457	Lassiter	01/26/10
Virginia (Gin) Ivey Leggett v. Pathways LME	09 OSP 4498	Lassiter	08/31/09
Tina McMillian v. Employment Security Commission of NC	09 OSP 4568	Gray	11/20/09
Ruby H. Cox v. Tim Davis, Employment Security Commission	09 OSP 4774	Overby	10/05/09
Argy R. Crowe v. Charlotte Mecklenburg Schools/UI	09 OSP 4786	Lassiter	10/20/09
Thomas E. Freeman, Jr. v. The people associated with NC Dept. of Health and Human Services and Whitaker School	09 OSP 4795	Overby	09/18/09
Harriette E. Smith v. UNC General Administration	09 OSP 5189	Elkins	10/30/09

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Sarah D. Larson v. N.C. Department of the Secretary of State	08 SOS 1200	Overby	06/04/09	24:07 NCR 478
Robert Lee Evans v. NC Office of Administrative Hearings	09 SOS 2300	Lassiter	06/03/09	
Asali J. Howard v. North Carolina Department of The Secretary Of State	09 SOS 2707	May	07/16/09	
Pamela Nickles v. Dept. of Secretary of NC State	09 SOS 3120	Brooks	10/16/09	
Stanley Young v. The Notary Public Section	09 SOS 4001	Brooks	09/18/09	
Jeremy Glen Blow v. NC Office of the Secretary of State	09 SOS 4245	Overby	09/14/09	
Martha C. Graybeal v. NC Dept. of the Secretary of State Certification Filing Division	09 SOS 4273	Brooks	10/07/09	
Brandi Alexis Meeker v. Dept. of the Secretary of State	09 SOS 4580	Overby	10/29/09	
Diana King Barnes v. NC Dept. of the Secretary of State	09 SOS 4906	Gray	12/02/09	

UNC HOSPITALS

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