

NORTH CAROLINA REGISTER

VOLUME 25 • ISSUE 19 • Pages 2197 - 2259

April 1, 2011

I. EXECUTIVE ORDERS	
Executive Order No. 83	2197 – 2199
II. IN ADDITION	
DENR-Division of Water Quality - Public Notice	2200
DHHS – Notice of Extension of Comment Period	2201
Decision Letters on "Changes Affecting Voting" from US Attorney General	2202
III. PROPOSED RULES	
Environment and Natural Resources, Department of	
Environmental Management Commission	2221 – 2225
Health and Human Services, Department of	
Social Services Commission	2203 – 2216
Justice	
Sheriffs' Education and Training Standards Commission	2216 – 2221
IV. APPROVED RULES	2226 – 2248
Environment and Natural Resources, Department of	
Coastal Resources Commission	
Environmental Management Commission	
Wildlife Resources Commission	
Insurance, Department of	
Department	
Occupational Licensing Boards and Commissions	
Medical Board	
Optometry, Board of Examiners in	
V. RULES REVIEW COMMISSION	2249 – 2252
VI. CONTESTED CASE DECISIONS	
Index to ALJ Decisions	2253 – 2259

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

contact: Molly Masich, Codifier of Rules molly.masich@oah.nc.gov (919) 431-3071
Dana Vojtko, Publications Coordinator dana.vojtko@oah.nc.gov (919) 431-3075
Julie Edwards, Editorial Assistant julie.edwards@oah.nc.gov (919) 431-3073
Tammara Chalmers, Editorial Assistant tammara.chalmers@oah.nc.gov (919) 431-3083

Rule Review and Legal Issues

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

contact: Joe DeLuca Jr., Commission Counsel joe.deluca@oah.nc.gov (919) 431-3081
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
Jeffrey Hudson, Staff Attorney Jeffrey.hudson@ncleg.net

NORTH CAROLINA REGISTER
 Publication Schedule for January 2011 – December 2011

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

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. 83

GOVERNOR'S TASK FORCE TO DETERMINE THE METHOD OF COMPENSATION
FOR VICTIMS OF NORTH CAROLINA'S EUGENICS BOARD

WHEREAS, an estimated 7,600 North Carolinians - women and men - many of whom were poor, undereducated, sick or disabled, were sterilized by force or coercion under the authorization of the North Carolina Eugenics Board between 1929 and 1974; and

WHEREAS, the North Carolina Eugenics Board was finally dissolved in 1974; and

WHEREAS, the State of North Carolina on December 12, 2002, formally apologized to persons who were sterilized under the North Carolina Eugenics Board program; and

WHEREAS, the North Carolina General Assembly in 2003 repealed the law that allowed for involuntary sterilization; and

WHEREAS, the North Carolina General Assembly established panels to explore and make recommendations for compensating and counseling persons who were sterilized under the North Carolina Eugenics Board program; and

WHEREAS, it is now appropriate to identify persons who were sterilized by force or coercion and to explore and determine the possible methods and forms of compensation to those persons.

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

Section 1. Establishment

The Governor's Task Force to Determine the Method of Compensation for Victims of North Carolina's Eugenics Board (hereinafter the "Task Force") is hereby established.

Section 2. Membership

- a. Task Force members shall be appointed by the Governor and shall serve at the pleasure of the Governor. The Task Force shall consist of five members. The Governor shall appoint a Chair of the Task Force.
- b. The membership shall be composed of the following:
 - 1. A former judge.
 - 2. A physician.
 - 3. A former journalist.
 - 4. A historian.
 - 5. An attorney with Health Insurance Portability and Accountability Act ("HIPAA") experience and/or a medical ethics background.

Section 3. Duties

The Task Force shall have the following duties:

- a. Recommend possible methods or forms of compensation to those persons forcibly sterilized under the North Carolina Eugenics Board program.
- b. Evaluate recommendations from previous commissions regarding the North Carolina Eugenics Board program and sterilization victims.
- c. Perform such other duties as may be assigned by the Governor.

The Task Force shall provide preliminary recommendations to the Governor by August 1, 2011, and a final report by February 1, 2012.

Section 4. Meetings

- a. The Task Force shall meet monthly or upon the call of the Governor or the Chair.
- b. A majority of the Task Force shall constitute a quorum for the transaction of business.

Section 5. Administration

- a. The North Carolina Department of Health and Human Services and the North Carolina Department of Cultural Resources shall, to the extent permitted by law, provide to the Task Force such information as may be required by the Task Force in carrying out the purposes of this Order.
- b. The North Carolina Department of Administration and the North Carolina Justice for Sterilization Victims Foundation, a Division of the North Carolina Department of Administration, shall provide necessary professional, administrative, and staff support

services to the Task Force. The staff shall establish a clearinghouse where inquiries may be submitted and records can be verified to identify persons who were forcibly sterilized under the North Carolina Eugenics Board program between 1929 and 1974.


- c. No per diem allowance shall be paid to members of the Task Force. Members of the Task Force may receive necessary travel and subsistence expenses in accordance with State law.

Section 6. Implementation and Duration


This Executive Order is effective immediately. It supersedes and replaces all other executive orders on this subject. It shall expire July 1, 2012, unless earlier 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 8th day of March in the year of our Lord two thousand and eleven, and of the Independence of the United States of America the two hundred and thirty-fifth.




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

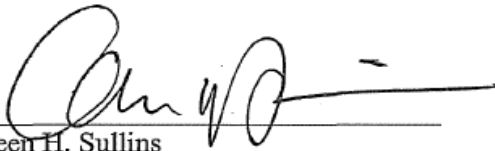
**PUBLIC NOTICE
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
DIVISION OF WATER QUALITY**

The Division of Water Quality has received a petition to establish interim maximum allowable concentrations in groundwater for Acetophenone, Benzaldehyde, Carbazole, Diphenyl Ether, 2,4-Dinitrotoluene, Endosulfan Sulfate, Ethanol, Ethyl tert-Butyl Ether, alpha-Hexachlorocyclohexane, beta-Hexachlorocyclohexane, 2-Hexanone, 4-Isopropyl- toluene, 1-Methylnaphthalene, 2-Methyl Phenol and tert-Amyl Methyl Ether.

These interim concentrations will aid DENR programs in assessing conditions and setting health protective groundwater levels at regulated sites. In accordance with 15A NCAC 02L .0202(c), the data supporting the request has been reviewed, as have staff recommendations from the Division of Water Quality and the Division of Public Health. Therefore, the following interim maximum allowable concentrations are hereby established for Class GA and GSA groundwaters effective April 1, 2011.

<u>Substance</u>	<u>Established IMAC</u>
Acetophenone	700 ug/L
Benzaldehyde	700 ug/L
Carbazole	2 ug/L
Diphenyl ether	100 ug/L
2,4-Dinitrotoluene	0.1 ug/L
Endosulfan sulfate	40 ug/L
Ethanol	4,000 ug/L
Ethyl tert-butyl ether	47 ug/L
alpha-Hexachlorocyclohexane	0.006 ug/L
beta-Hexachlorocyclohexane	0.02 ug/L
2-Hexanone	40 ug/L
4-Isopropyltoluene	25 ug/L
1-Methylnaphthalene	1 ug/L
2-Methyl phenol	400 ug/L
tert-Amyl methyl ether	128 ug/L

Action to adopt permanent standards for these substances will be initiated during the 2010-2012 Groundwater Standards Triennial Review. For more information or questions, please contact Sandra Moore at Sandra.moore@ncdenr.gov or 919-807-6417 or visit our web site at <http://portal.ncdenr.org/web/wq/ps/csu>.



Coleen H. Sullins
Director, Division of Water Quality

**Department of Health and Human Services
Medical Care Commission
Notice of Extension of Comment Period**

The Department of Health and Human Services is extending the comment period on the Report "An Economic Analysis of the Certificate of Public Advantage (COPA) Agreement between the State of North Carolina and Mission Health February 10, 2011," as published in the March 1, 2011 issue of the North Carolina Register. The comment period is being extended to 5:00 P.M. Eastern Daylight Savings Time on May 2, 2011.

Comments should be addressed to the following:

Christopher B. Taylor, CPA Assistant Secretary
North Carolina Medical Care Commission
2701 Mail Services Center
Raleigh, North Carolina 27699-2701
Chris.Taylor@dhhs.nc.gov

With a copy to:

Kip Sturgis, Esquire, Assistant Attorney General
North Carolina Department of Justice
9001 Mail Service Center
Raleigh, NC 27699-9001
ksturgis@ncdoj.gov



U.S. Department of Justice
Civil Rights Division

TCH:RSB:JR:LJM:cv
DJ 166-012-3
2011-0004

Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530

February 14, 2011

Richard J. Rose, Esq.
Poyner Spruill
130 South Franklin Street
Rocky Mount, North Carolina 27804

Dear Mr. Rose:

This refers to four annexations (Ordinance Nos. O-2008-137 through O-2008-140) and their designation to wards of the City of Rocky Mount in Edgecombe and Nash Counties, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. We received your submission on January 3, 2011.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41 and 51.43.

Sincerely,

A handwritten signature in cursive script, appearing to read "T. Christian Herren, Jr.", written over a large, stylized initial "C".

T. Christian Herren, Jr.
Chief, Voting Section

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

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

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Social Services Commission intends to adopt the rules cited as 10A NCAC 70G .0403; 70H .0114, amend the rules cited as 10A NCAC 70E .0703, .0704, .0802, .1115; 70F .0207; 70G .0503; 70H .0405; 70I .0101, .0404; 70J .0106; 70K .0103, .0201; and repeal the rule cited as 10A NCAC 70F .0102.

Proposed Effective Date: August 1, 2011

Public Hearing:

Date: June 1, 2011

Time: 10:00 a.m.

Location: Albemarle Building, Room 819C, 325 N. Salisbury Street, Raleigh, NC 27601

Reason for Proposed Action: The proposed changes in these rules will ensure that consistent standards are enforced in the various agencies licensed by the Division of Social Services. The rules were revised to meet federal requirements and to become more consistent with national standards.

Procedure by which a person can object to the agency on a proposed rule: By submitting your objection in writing to Belivia Aponte, Division of Social Services, 2401 Mail Service Center, Raleigh, NC 27699-2401 or email belivia.aponte@dhhs.nc.gov and by telephone at (919) 334-1007.

Comments may be submitted to: Belivia Aponte, 325 N Salisbury Street, Raleigh, NC 27601; phone (919) 334-1007; fax (919) 334-1018; email belivia.aponte@dhhs.nc.gov

Comment period ends: June 1, 2011

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 70 - CHILDREN'S SERVICES

SUBCHAPTER 70E - LICENSING OF FAMILY FOSTER HOMES

SECTION .0700 - LICENSING REGULATIONS AND PROCEDURES

10A NCAC 70E .0703 NEW LICENSES

(a) The supervising agency shall submit all licensing materials to the licensing authority dated within 180 days prior to submitting an application for a new license. The supervising agency shall submit medical examinations of the members of the foster home to the licensing authority dated within 12 months prior to submitting an application for a new license. ~~Fire inspections shall be current as determined by the local fire inspector.~~

(b) The supervising agency shall submit all licensing application materials required for a license to the licensing authority at one time. The licensing authority shall return incomplete licensing applications to the supervising agency.

(c) The licensing authority shall issue a new license, if approved according to the rules in this Section, effective the date the application and all required materials are received by the licensing authority.

Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153.

10A NCAC 70E .0704 RELICENSURE AND RENEWAL

(a) Materials for renewing a license are due to the licensing authority prior to the date the license expires.

(b) All relicensing materials shall be completed and dated within 180 days prior to the date the supervising agency submits materials for licensure to the licensing authority. Medical examinations of the members of the foster home shall be completed and dated within 12 months prior to submitting materials for relicensure. ~~Fire inspections shall be current as determined by the local fire inspector.~~

(c) All relicensing materials shall be submitted at one time to the licensing authority. The licensing authority returns incomplete relicensure applications shall be returned to the supervising agency.

(d) If materials are submitted after the foster home license expires, a license, if approved, shall be issued effective the date the licensing materials are received by the licensing authority.

(e) When a foster home license is terminated for failure to submit relicensure materials, the home shall be relicensed if the relicensure materials are submitted to the licensing authority within one year of the date the license was terminated and all requirements are met. After one year, the supervising agency shall submit a new licensure application to the licensing authority.

(f) When a foster home license has been terminated in good standing and the foster family wishes to be licensed again, the license shall be renewed if there are no changes or the changes meet the requirements of the Rules of this Section. The period of time for this renewed license is from the date the request is received by the licensing authority to the end date of the license period in effect when the license was terminated.

(g) Unless previously licensed foster parents who have not been licensed within the last 24 consecutive months demonstrate mastery of the parenting skills listed in 10A NCAC 70E .1117(1) to the satisfaction of the supervising agency and documented to the licensing authority, the foster parents shall complete the 30 hours of pre-service training specified in 10A NCAC 70E .1117(1).

(h) Unless previously licensed therapeutic foster parents who have not been licensed within the last 24 consecutive months demonstrate mastery of the therapeutic skills listed in 10A NCAC 70E .1117(2) to the satisfaction of the supervising agency and documented to the licensing authority, the therapeutic foster parents shall complete the 10 hours of pre-service training specified in 10A NCAC 70E .1117(2).

(i) The supervising agency shall provide documentation to the licensing authority that trainings for first aid, CPR, and universal precautions are updated.

Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153.

SECTION .0800 - MUTUAL HOME ASSESSMENT

10A NCAC 70E .0802 METHOD OF MUTUAL HOME ASSESSMENT

(a) The mutual home assessment shall be carried out in a series of planned discussions between the licensing worker of the supervising agency staff, agency, the prospective foster parent applicants and other members of the household. The family shall be seen by the licensing social worker in the family's home and in the supervising agency's office. For two parent homes, separate as well as joint discussions with both parents shall be arranged. For foster homes with more than two parents, separate as well as joint discussions with all parents shall be arranged.

(b) In an application involving a single applicant, there shall be two separate face-to-face interviews occurring on two different dates. In an application involving joint applicants, there shall be a separate face-to-face interview with each applicant and an additional two face-to-face interviews with both applicants. The

two face-to-face interviews shall occur on two different dates. There shall be separate face-to-face interviews with each member of the household 10 years of age or older. Training and group sessions do not count as face-to-face interviews. The assessment process shall be a joint effort of the supervising agency and the applicants to determine the applicants' suitability for providing foster care and the kind of child the applicants can best parent.

Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153.

SECTION .1100 - STANDARDS FOR LICENSING

10A NCAC 70E .1115 RESPONSIBLE INDIVIDUALS LIST

(a) An applicant is not eligible for licensure if the applicant has within the last five years been substantiated for abuse or serious neglect and is placed on the Responsible Individuals List as defined in North Carolina General Statute 7B-311.

(b) After five years, an applicant who is on the Responsible Individuals List may be considered for licensure based on the following factors:

- (1) nature of the substantiation;
- (2) length of time since the substantiation;
- (3) circumstances surrounding the substantiation;
- (4) evidence of rehabilitation;
- (5) history of convictions and violations; and
- (6) letter of support for licensure from the executive director of the agency.

(c) The supervising agency shall provide documentation to the Division of Social Services of the results of Child Abuse and Neglect Central Registry Checks of states if the applicant has not resided in North Carolina for the past five years.

Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153.

SUBCHAPTER 70F - CHILD PLACING AGENCIES AND RESIDENTIAL MATERNITY HOMES

SECTION .0100 - GENERAL

10A NCAC 70F .0102 LICENSURE

(a) ~~Licensure is required in accordance with G.S. 131D-10.3.~~
(b) ~~Licenses shall be in effect for two years unless suspended or revoked. Appeal procedures specified in 10A NCAC 70L .0301 shall apply for persons seeking an appeal of the licensing authority's decision to deny, suspend, or revoke a license.~~

(c) ~~Applicants shall inform the licensing authority of any current licenses or licenses held in the past five years for child placing agencies, maternity homes, or residential child care facilities in other states. Applicants shall provide written documentation from the licensing authority in other states regarding violations, penalties, or probationary status imposed in other states.~~

Authority G.S. 131D-1; 131D-10.3; 131D-10.5; 131D-10.10; 143B-153.

SECTION .0200 - ORGANIZATION AND ADMINISTRATION

10A NCAC 70F .0207 STAFF

(a) The agency shall verify prior to employment the personal qualifications of employees through at least three references.

(b) The agency shall require that each applicant provide a signed statement that the applicant has no criminal, social or medical history which would adversely affect the applicant's capacity to work with children and adults. Prior to employment, the agency shall submit authorization to the licensing authority to search the Responsible Individuals List as defined in 10A NCAC 70A .0102 to determine if the applicant has had child protective services involvement resulting in a substantiation of child abuse or serious neglect. The agency shall require that each applicant provide a signed statement that the applicant has not abused or neglected a child or has been a respondent in a juvenile court proceeding that resulted in the removal of a child or has had child protective services involvement that resulted in the removal of a child. Prior to employment, a certified criminal record check for the applicant shall be obtained, and a search conducted of the North Carolina Sex Offender and Public Protection Registry and North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-256) are completed. The agency shall require that each applicant provide a signed statement that the applicant has not abused, neglected, or exploited a disabled adult, and has not been a domestic violence perpetrator.

(c) Employees are not eligible for employment if they have been convicted of a felony involving:

- (1) child abuse or neglect;
- (2) spouse abuse;
- (3) a crime against a child or children (including child pornography); or
- (4) a crime of rape, sexual assault, or homicide.

(d) The employee is not eligible for employment if within the last five years he or she has been convicted of a felony involving:

- (1) assault;
- (2) battery; or
- (3) a drug-related offense.

(e) The agency shall employ staff qualified to perform administrative, supervisory, direct care, social work, therapeutic, and placement services.

(f) The agency shall have staff to keep correspondence, records, bookkeeping and files current and in good order. The staff shall maintain strict confidentiality concerning contents of the case records.

(g) The agency shall maintain a roster of members of the staff listing position, title, and qualifications and a current organizational chart showing administrative structure and staffing, including lines of authority. The organizational chart shall be submitted prior to initial licensure and biennially thereafter.

(h) An agency which uses volunteers and interns as unpaid staff to work directly with clients shall:

- (1) have written job descriptions and select only those persons qualified to meet the requirements of those jobs;
- (2) require three references relevant to the role and responsibilities to be assumed;

(3) designate a staff member to supervise and evaluate volunteers and interns;

(4) develop and implement a plan for the orientation and training of volunteers and interns in the philosophy of the agency and the needs of the clients and their families; and

(5) require that each volunteer and intern provide a signed statement that they have no criminal, social or medical history that would adversely affect their capacity to work with children and adults. The agency shall submit authorization to the licensing authority to search the Responsible Individuals List as defined in 10A NCAC 70A .0102 to determine if the intern or volunteer has had child protective services involvement resulting in a substantiation of child abuse or serious neglect. Prior to beginning volunteer or intern duties, a certified criminal record check shall be obtained and a search conducted of the North Carolina Sex Offender and Public Protection Registry and North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-256). The agency shall require that each volunteer or intern provide a signed statement that the volunteer or intern has not abused or neglected a child, been a respondent in a juvenile court proceeding that resulted in the removal of a child, or had child protective services involvement that resulted in the removal of a child. The agency shall require that each volunteer or intern provide a signed statement that the volunteer or intern has not abused, neglected, or exploited a disabled adult and has not been a domestic violence perpetrator.

(i) Volunteers or interns are not eligible to serve as volunteers or interns if they have been convicted of a felony involving:

- (1) child abuse or neglect;
- (2) spouse abuse;
- (3) a crime against a child or children (including child pornography); or
- (4) a crime of rape, sexual assault, or homicide.

(j) Volunteers or interns are not eligible to serve as volunteers or interns, if within the last five years they have been convicted of a felony involving:

- (1) assault;
- (2) battery; or
- (3) a drug-related offense.

(k) The agency shall require that each employee provide a signed statement that the employee has no criminal, social or medical history that will adversely affect the employee's capacity to work with children and adults every two years as long as the employee is employed. Every two years as long as the employee is employed, the agency shall submit authorization to the Division of Social Services to search the Responsible Individuals List as defined in 10A NCAC 70A .0102 to determine if the employee has had child protective services involvement resulting in a substantiation of child abuse or serious neglect. Every two years as long as the employee is

employed the agency shall require that each employee provide a signed statement that the employee has not abused or neglected a child or has been a respondent in a juvenile court proceeding that resulted in the removal of a child or has had child protective services involvement that resulted in the removal of a child. Every two years as long as the employee is employed, a certified criminal record check for each employee shall be obtained, and a search conducted of the North Carolina Sex Offender and Public Protection Registry and North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-256) are completed. The agency shall require that every two years as long as the employee is employed each employee provide a signed statement that the employee has not abused, neglected, or exploited a disabled adult, and has not been a domestic violence perpetrator.

~~(k)(l)~~ The employing agency shall make all determinations concerning the individual's fitness for employment, volunteering and internship based on the requirements of this Rule.

Authority G.S. 131D-10.5; 131D-10.6; 131D-10.10; 143B-153.

**SUBCHAPTER 70G - CHILD PLACING AGENCIES:
FOSTER CARE**

SECTION .0400 - GENERAL

10A NCAC 70G .0403 LICENSURE

(a) License.

- (1) Licensure is required in accordance with G.S. 131D-10.1 and with rules in Subchapters 70F and 70G of this Chapter.
- (2) Licenses shall be in effect for two years unless suspended or revoked. Appeal procedures specified in 10A NCAC 70L .0301 apply for persons seeking an appeal of the licensing authority's decision to deny, suspend, or revoke a license.
- (3) Child-placing agencies for foster care licensed after July 1, 2011 shall have a three year or longer accreditation from either the Council on Accreditation (COA), The Joint Commission, formerly known as the Joint Commission on Accreditation of Healthcare Organizations (TJC), The Commission on Accreditation and Rehabilitation Facilities (CARF) or The Council on Quality and Leadership (CQL).
- (4) Applicants shall inform the licensing authority of any current licenses or licenses held in the past five years for child-placing agencies, maternity homes, or residential child-care facilities in other states. Applicants shall provide written documentation from the licensing authority in other states regarding violations, penalties, or probationary status imposed in other states.

(b) Changes in any information on the license.

- (1) The licensing authority shall change a license during the period of time it is in effect if the

change is in compliance with rules in Subchapters 70F and 70G of this Chapter.

- (2) A child-placing agency for foster care shall notify the licensing authority in writing of its request for a change in license, including information that is necessary to assure the change is in compliance with the rules in Subchapters 70F and 70G of this Chapter.

(c) Termination.

- (1) When a child-placing agency for foster care voluntarily discontinues operations, either temporarily or permanently, the child-placing agency for foster care shall notify the licensing authority in writing of the date, reason and anticipated length of closing.
- (2) If a license is not renewed by the end of the licensure period, the licensing authority shall automatically terminate the license.
- (3) When the license of a child-placing agency for foster care is terminated, the agency shall meet all requirements of a new agency prior to being licensed.

(d) Adverse licensure action.

- (1) The licensing authority shall deny, suspend or revoke a license when a child-placing agency for foster care is not in compliance with the rules in Subchapters 70F and 70G of this Chapter unless the agency within 10 working days from the date the agency received the deficiency report from the licensing authority submits a plan of correction. The plan of correction shall specify the following:
 - (A) the measures that will be put in place to correct the deficiency;
 - (B) the systems that will be put in place to prevent a re-occurrence of the deficiency;
 - (C) the individual or individuals who will monitor the corrective action; and
 - (D) the date the deficiency will be corrected which are no later than 60 days from the date the routine monitoring was concluded.
- (2) The licensing authority shall notify a child-placing agency for foster care in writing of the decision to deny, suspend or revoke a license.
- (3) Appeal procedures specified in 10A NCAC 70L .0301 are applicable for persons seeking an appeal to the licensing authority's decision to deny, suspend or revoke a license.

(e) Licensure shall be denied when any of the following conditions apply:

- (1) the applicant owns a facility or agency licensed under G.S. 122C and that facility or agency incurred a penalty for a Type A or B violation under Article 3 of G.S. 122C;
- (2) the Department of Health and Human Services has initiated revocation or summary suspension proceedings against any facility

- licensed pursuant to G.S. 122C, Article 2; G.S. 131D, Articles 1 or 1A; or G.S. 110, Article 7 that was previously held by the applicant and the applicant voluntarily relinquished the license;
- (3) there is a pending appeal of a denial, revocation or summary suspension of any facility licensed pursuant to G.S. 122C, Article 2; G.S. 131D, Articles 1 or 1A; or G.S. 110, Article 7 that is owned by the applicant;
- (4) the applicant has an individual as part of their governing body or management who previously held a license that was revoked or summarily suspended under G.S. 122C, Article 2; G.S. 131D, Articles 1 or 1A; and G.S. 110, Article 7 and the rules adopted under these laws;
- (5) the applicant is an individual who has a finding or pending investigation by the Health Care Personnel Registry in accordance with G.S. 131E-256; or
- (6) the applicant is an individual who has a finding on the Responsible Individual's List as described in 10A NCAC 70A .0102.

Authority G.S. 131D-1; 131D-10.3; 131D-10.5; 143B-153.

SECTION .0500 - MINIMUM LICENSING STANDARDS

10A NCAC 70G .0503 PLACEMENT SERVICES

- (a) The agency shall assist the parents or guardian to assume or resume their parental roles and responsibilities as specified in the out-of-home family services agreement or person-centered plan.
- (b) The agency shall assist the parents or guardian to gain access to the services necessary to accomplish the goals and objectives specified in the out-of-home family services agreement or person-centered plan.
- (c) The agency shall encourage contacts between parents or guardian and children after placement, in accordance with the visitation and contact plan.
- (d) The agency shall have a signed agreement with the parents, guardian or legal custodian of the child in care which includes the expectations and responsibilities of the agency and the parents, guardian or legal custodian for carrying out the steps to meet the out-of-home family services agreement or person-centered plan goals, the financial arrangements for the child in care, and visitation and contact plans.
- (e) The agency shall select the most appropriate form of care for the child consistent with the needs of the child, parents and guardian for family foster care or therapeutic foster care. The agency shall provide for any services the child may need and shall make every effort when placing the child to select the least restrictive and most appropriate setting closest to the child's home.
- (f) The agency shall document any need to place a child in a family foster home or therapeutic foster home that is beyond a radius of 150 miles from the child placing agency and the child's parents or guardian.

- (g) The agency, when selecting care, shall take into consideration a child's racial, cultural, ethnic, and religious heritage and preserve them to the extent possible without jeopardizing the child's right to care.
- (h) The agency shall involve the parents or guardian in the selection of the placement.
- (i) The family foster home or the therapeutic foster home shall be licensed by the Division of Social Services.
- (j) The agency social worker for the child shall become acquainted with the child and family prior to placement, except when a child is placed on an emergency basis or in the case of an infant.
- (k) The agency social worker shall help the child understand the reasons for placement and prepare him or her for the new environment. The social worker shall, except when placing under emergency conditions, arrange at least one preplacement visit for the child and shall be available to the child, the parents or guardian, and foster parents for supportive services.
- (l) No child shall be accepted into a foster home without having had a current medical examination by a licensed medical provider (physician, physician's assistant or nurse practitioner). Medical examinations completed by a licensed medical provider within 12 months prior to the admission of the child in foster care are considered current. If a child has not had a medical examination by a licensed medical provider within 12 months prior to admission, the agency shall arrange a medical examination for the child within two weeks after admission or sooner if indicated by the child's health condition. The medical examination report shall include a signed statement by a licensed medical provider specifying the child's medical condition and medications prescribed and indicating the presence of any communicable disease which may pose a risk of transmission in the foster home. If a child is in the custody of a county department of social services, is already scheduled to have and is having a medical examination completed annually, and is entering a foster home, the schedule of annual medical examinations do not have to be changed. A copy of the most recent medical examination report shall be obtained from the responsible county department of social services by the agency.
- (m) The agency shall obtain and record a developmental history for each child.
- (n) The agency shall supervise the care of the child and shall coordinate the planning and services for the child and family as stated in the out-of-home family services agreement or person-centered plan.
- (o) Children in family foster homes and therapeutic foster homes shall have a monthly face-to-face contact by the social worker or case manager or more if specified in the out-of-home family services agreement or person-centered plan. The parents or guardian of children in family foster care and therapeutic foster care shall have a monthly face-to-face contact by the social worker or case manager unless the out-of-home family services agreement or person-centered plan indicates a different schedule of face-to-face contacts.
- (p) The agency social worker or case manager shall meet with the children and the parents, guardian or legal custodian, either separately or together based on the out-of-home family services agreement or person-centered plan to assess and work on the following:

- (1) progress in resolving problems which precipitated placement;
- (2) parent and child relationship difficulties;
- (3) adjustment to separation;
- (4) adjustment to placement; and
- (5) achievement of out-of-home family services agreement goals or person-centered plan goals.

(q) The agency shall refer the child's parents or guardian to other agencies in the community if they require services the agency does not provide and it is specified in the out-of-home family services agreement or person-centered plan. The agency shall receive reports from the agency providing services regarding the parents' or guardian's progress or lack of progress.

(r) The agency shall make provisions for social work, mental health and health care services as stated in the out-of-home family services agreement or person-centered plan.

(s) The agency shall give foster parents assistance, training, consultation, and emotional support in caring for children and in resolving problems related to their role as foster parents. Foster parents shall have one face-to-face contact per month by the social worker or case manager unless the out-of-home family services agreement or person-centered plan indicates a different schedule of face-to-face contacts for each foster child placed in the home. Phone support and 24-hour on-call support shall be provided to foster parents. Therapeutic foster care parents shall have at least 60 minutes of supervision by a qualified professional as defined in 10A NCAC 27G .0104 on a weekly basis for each therapeutic foster child placed in the foster home. Therapeutic Foster Parents providing treatment to children/youth with substance abuse treatment needs shall receive supervision from a qualified substance abuse ~~prevention~~ professional (QSAPP) as defined in 10A NCAC 27G .0104. The agency shall provide each foster parent with a Foster Parent Handbook that outlines agency procedures, requirements and expectations.

Authority G.S. 131D-10.5; 143B-153.

**SUBCHAPTER 70H - CHILD-PLACING AGENCIES:
ADOPTION**

SECTION .0100 - APPLICABILITY

10A NCAC 70H .0114 LICENSURE

(a) License.

- (1) Licensure is required in accordance with G.S. 131D-10.1 and with rules in Subchapters 70F and 70H of this Chapter.
- (2) Licenses shall be in effect for two years unless suspended or revoked. Appeal procedures specified in 10A NCAC 70L .0301 apply for persons seeking an appeal of the licensing authority's decision to deny, suspend, or revoke a license.
- (3) Child-placing agencies for foster care licensed after July 1, 2011 shall have a three year or longer accreditation from either the Council on Accreditation (COA), The Joint Commission, formerly known as the Joint Commission on Accreditation of Healthcare Organizations

(TJC), The Commission on Accreditation and Rehabilitation Facilities (CARF) or The Council on Quality and Leadership (CQL).

- (4) Applicants shall inform the licensing authority of any current licenses or licenses held in the past five years for child-placing agencies, maternity homes, or residential child-care facilities in other states. Applicants shall provide written documentation from the licensing authority in other states regarding violations, penalties, or probationary status imposed in other states.

(b) Changes in any information on the license.

- (1) The licensing authority shall change a license during the period of time it is in effect if the change is in compliance with rules in Subchapters 70F and 70H of this Chapter.
- (2) A child-placing agency for adoption shall notify the licensing authority in writing of its request for a change in license, including information that is necessary to assure the change is in compliance with the rules in Subchapters 70F and 70H of this Chapter.

(c) Termination.

- (1) When a child-placing agency for adoption voluntarily discontinues operations, either temporarily or permanently, the child-placing agency for adoption shall notify the licensing authority in writing of the date, reason and anticipated length of closing.
- (2) If a license is not renewed by the end of the licensure period, the licensing authority shall automatically terminate the license.
- (3) When the license of a child-placing agency for adoption is terminated, the agency shall meet all requirements of a new agency prior to being licensed.

(d) Adverse licensure action.

- (1) The licensing authority shall deny, suspend or revoke a license when a child-placing agency for adoption is not in compliance with the rules in Subchapters 70F and 70H of this Chapter unless the agency within 10 working days from the date the agency received the deficiency report from the licensing authority submits a plan of correction. The plan of correction shall specify the following:
 - (A) the measures that will be put in place to correct the deficiency;
 - (B) the systems that will be put in place to prevent a re-occurrence of the deficiency;
 - (C) the individual or individuals who will monitor the corrective action; and
 - (D) the date the deficiency will be corrected which are no later than 60 days from the date the routine monitoring was concluded.

- (2) The licensing authority shall notify a child-placing agency for adoption in writing of the decision to deny, suspend or revoke a license.
- (3) Appeal procedures specified in 10A NCAC 70L .0301 are applicable for persons seeking an appeal to the licensing authority's decision to deny, suspend or revoke a license.

(e) Licensure shall be denied when any of the following conditions apply:

- (1) the applicant owns a facility or agency licensed under G.S. 122C and that facility or agency incurred a penalty for a Type A or B violation under Article 3 of G.S. 122C;
- (2) the Department of Health and Human Services has initiated revocation or summary suspension proceedings against any facility licensed pursuant to G.S. 122C, Article 2; G.S. 131D, Articles 1 or 1A; or G.S. 110, Article 7 that was previously held by the applicant and the applicant voluntarily relinquished the license;
- (3) there is a pending appeal of a denial, revocation or summary suspension of any facility licensed pursuant to G.S. 122C, Article 2; G.S. 131D, Articles 1 or 1A; or G.S. 110, Article 7 that is owned by the applicant;
- (4) the applicant has an individual as part of their governing body or management who previously held a license that was revoked or summarily suspended under G.S. 122C, Article 2; G.S. 131D, Articles 1 or 1A; and G.S. 110, Article 7 and the rules adopted under these laws;
- (5) the applicant is an individual who has a finding or pending investigation by the Health Care Personnel Registry in accordance with G.S. 131E-256; or
- (6) the applicant is an individual who has a finding on the Responsible Individual's List as described in 10A NCAC 70A .0102.

Authority G.S. 131D-1; 131D-10.3; 131D-10.5; 143B-153.

SECTION .0400 - MINIMUM LICENSING STANDARDS

10A NCAC 70H .0405 PREPLACEMENT ASSESSMENT

(a) The agency shall complete a preplacement assessment within 90 days after the application for adoption has been approved and the request for the assessment has been received. In a case involving a single adoptive applicant, there shall be two separate face-to-face interviews occurring on two different dates. In a case involving joint applicants, there shall be a separate face-to-face interview with each applicant and an additional two face-to-face interviews with both applicants. At least one interview shall be conducted in the applicants' home. There shall be separate face-to-face interviews with each member of the household ten years of age or older. The assessment process shall be a joint effort of the adoption agency and the applicants to determine the kind of child the applicants

can best parent. Any assessment that was completed 18 months or more before placement of a child occurs shall be updated to include current information about the family. Any agency updating a preplacement assessment not originally completed by that agency assumes responsibility for the entire assessment, and the new assessment shall reflect that it is the responsibility of the agency conducting the update. Physical examinations of family members shall be current to within 18 months of the assessment.

(b) The agency shall assess the following areas and shall record the information in the adoptive applicants' record:

- (1) the applicants' reasons for wanting to adopt;
- (2) the strengths and needs of each member of the household;
- (3) the attitudes and feelings of the family, extended family, and other individuals involved with the family toward accepting adoptive children, and parenting children not born to them;
- (4) the attitudes of the applicants toward the birth parents and in regard to the reasons the child is in need of adoption;
- (5) the applicants' attitudes toward child behavior and discipline;
- (6) the applicants' plan for discussing adoption with the child;
- (7) the emotional stability and maturity of applicants;
- (8) the applicants' ability to cope with problems, stress, frustrations, crises, and loss;
- (9) the applicants' ability to give and receive affection;
- (10) the applicants' child-caring skills and willingness to acquire additional skills needed for the child's development;
- (11) the applicants' ability to provide for the child's physical and emotional needs;
- (12) whether the applicant has ever been convicted of a crime other than a minor traffic violation;
- (13) the strengths and needs of birth children or previously adopted children,
- (14) the applicant's physical and mental health, including any addiction to alcohol or drugs;
- (15) financial information provided by the applicant, including property and income;
- (16) the applicants' personal character references;
- (17) the applicant's religious orientation, if any;
- (18) the location and physical environment of the home;
- (19) the plan for child care if parents work;
- (20) recommendations for adoption in regard to the number, age, sex, characteristics, and special needs of children who could be best served by the family;
- (21) any previous request for an assessment or involvement in an adoptive placement and the outcome of the assessment or placement;
- (22) whether the individual has ever been a respondent in a domestic violence proceeding or a proceeding concerning a minor who was

allegedly abused, neglected, dependent, undisciplined or delinquent, and the outcome of the proceeding or whether the individual has been found to have abused or neglected a child or has been a respondent in a juvenile court proceeding that resulted in the removal of a child or has had child protective services involvement that resulted in the removal of a child;

- (23) documentation of the results of the search of the Responsible Individual's List as defined in 10A NCAC 70A .0102 for all adult members of the household that indicates they have not had child protective services involvement resulting in a substantiation of child abuse or serious neglect;
- (24) documentation of the results of Child Abuse and Neglect Central Registry Checks of states where the applicant has resided the past five years;
- ~~(24)~~(25) whether the applicant has located a parent interested in placing a child for adoption with the applicant, and a brief, non identifying description of the parent and the child;
- ~~(25)~~(26) the applicants' age, date of birth, nationality, race or ethnicity;
- ~~(26)~~(27) the applicant's marital and family status and history, including the presence of any children born to or adopted by the applicant, and any other children in the household;
- ~~(27)~~(28) the applicant's educational and employment history and any special skills; and
- ~~(28)~~(29) any additional fact or circumstance that may be relevant to a determination of the applicant's suitability to be an adoptive parent, including the quality of the home environment and the level of functioning of any children in the household.

When any of the information listed in this Paragraph is not reasonably available, the preplacement assessment shall state why the information is unavailable.

- (c) The assessment ~~is~~ shall be prepared and typed by the agency and shall be reviewed by the agency's adoption review committee, signed and dated by an authorized agency representative when complete and final, and ~~it~~ shall become part of the applicants' permanent record. The agency's adoption review committee shall be composed of a minimum of three members, including an agency representative in a management position in children's services, the child's social worker(s) responsible for the placement and adoption functions of the child's case, and an at-large member selected by the agency.
- (d) Once the agency has made a decision regarding the suitability of the applicant as an adoptive placement, the preplacement assessment shall include specific documentation of the factors which support that determination. If the agency determines that the applicant is not suitable to be an adoptive parent, the assessment shall state the specific ~~facts~~ concerns that support the determination. A specific concern is one that reasonably indicates the placement of any minor, or a particular

minor, in the home of the applicant would pose a significant risk of harm to the well-being of the minor.

- (e) The agency preparing the preplacement assessment may redact from the assessment provided to the placing parent or guardian information reflecting the prospective adoptive parent's financial account balances and information about the prospective adoptive parent's extended family members, including surnames, names of employers, names of schools attended, social security numbers, telephone numbers and addresses.

Authority G.S. 48-2-502; 48-3-303; 131D-10.5; 143B-153.

SUBCHAPTER 70I - MINIMUM LICENSING STANDARDS FOR RESIDENTIAL CHILD-CARE

SECTION .0100 - GENERAL LICENSING REQUIREMENTS

10A NCAC 70I .0101 LICENSING ACTIONS

- (a) All rules in 10A NCAC 70I apply to residential child-care facilities.
- (b) License.
 - (1) The Department of Health and Human Services, Division of Social Services (licensing authority) shall issue a license when it determines that a residential child-care facility is in compliance with rules in Subchapters 70I and 70J of this Chapter.
 - (2) A license shall be issued for a ~~maximum~~ period of two years.
 - (3) A residential child-care facility shall not be licensed under both G.S. 131D and G.S. 122C.
 - ~~(4)~~ Effective July 1, 2011, residential child-care facilities shall have a three year or longer accreditation from either the Council on Accreditation (COA), The Joint Commission, formerly known as the Joint Commission on Accreditation of Healthcare Organizations (TJC), The Commission on Accreditation and Rehabilitation Facilities (CARF) or The Council on Quality and Leadership (CQL).
- (c) Changes in any information on the license.
 - (1) The licensing authority shall change a license during the period of time it is in effect if the change is in compliance with rules in Subchapters 70I and 70J.
 - (2) A residential child-care facility shall notify the licensing authority in writing of its request for a change in license, including information that is necessary to assure the change is in compliance with the rules in Subchapters 70I and 70J of this Chapter.
- (d) Termination.
 - (1) When a residential child-care facility voluntarily discontinues child-caring operations, either temporarily or permanently, the residential child-care facility shall notify the licensing authority in writing of the date, reason and anticipated length of closing.

- (2) If a license is not renewed by the end of the licensure period, the licensing authority shall automatically terminate the license.
- (3) If a license issued pursuant to this Subchapter is terminated for more than 60 days, the facility shall meet all requirements for a new facility before being relicensed.
- (4) Any existing licensed residential child-care facility that is closed or vacant for more than one year shall meet all requirements of a new facility prior to being relicensed.

(e) Adverse Licensure Action.

- (1) The licensing authority shall deny, suspend or revoke a license when a residential child-care facility is not in compliance with the rules in Subchapters 70I and 70J unless the residential child-care facility, within 10 working days from the date the residential child-care facility initially received the deficiency report from the licensing authority, submits a plan of correction. The plan of correction shall specify the following:
 - (A) the measures that will be put in place to correct the deficiency;
 - (B) the systems that will be put in place to prevent a re-occurrence of the deficiency;
 - (C) the individual or individuals who will monitor the corrective action; and
 - (D) the date the deficiency will be corrected which shall be no later than 60 days from the date the routine monitoring was concluded.
- (2) The licensing authority shall notify a residential child-care facility in writing of the decision to deny, suspend or revoke a license.
- (3) Appeal procedures specified in 10A NCAC 70L .0301 are applicable for persons seeking an appeal to the licensing authority's decision to deny, suspend or revoke a license.

(f) Licensure Restriction.

- (1) An applicant who meets any of the following conditions shall have his/her licensure denied:
 - (A) owns a facility or agency licensed under G.S. 122C and that facility or agency incurred a penalty for a Type A or B violation under Article 3 of G.S. 122C;
 - (B) the Department of Health and Human Services has initiated revocation or summary suspension proceedings against any facility licensed pursuant to G.S. 122C, Article 2, G.S. 131D, Articles 1 or 1A, or G.S. 110, Article 7 that was previously held by the applicant and the applicant voluntarily relinquished the license;
 - (C) there is a pending appeal of a denial, revocation or summary suspension of

any facility licensed pursuant to G.S. 122C, Article 2, G.S. 131D, Articles 1 or 1A, or G.S. 110, Article 7 that is owned by the applicant;

- (D) the applicant has an individual as part of their governing body or management who previously held a license that was revoked or summarily suspended under G.S. 122C, Article 2, G.S. 131D, Articles 1 or 1A, and G.S. 110, Article 7 and the rules adopted under these laws;
- (E) the applicant is an individual who has a finding or pending investigation by the Health Care Personnel Registry in accordance with G.S. 131E 256; or
- (F) the applicant is an individual who has been placed on the Responsible Individuals List as defined in 10A NCAC 70A .0102.

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

(3) The facility or agency shall inform the licensing authority of any current licenses or licenses held in the past five years for residential child-care facilities, child-placing agencies or maternity homes in other states. The agency shall provide written notification from the licensing authority in other states regarding violations, penalties or probationary status imposed in that state. The licensing authority shall take this information into consideration when granting a North Carolina license.

Authority G.S. 131D-10.3; 131D-10.5; 143B-153.

SECTION .0400 - PERSONNEL

10A NCAC 70I .0404 PERSONNEL QUALIFICATIONS

(a) Applicants, employees, volunteers or interns who have a history of criminal convictions that would adversely affect their capacity and ability to provide care, safety and security for the children in residence shall not be employed or utilized as volunteers or interns. A signed statement shall be obtained attesting that the applicant, employee, volunteer or intern does not have such a record prior to beginning employment, volunteer duties or internships. Prior to employment or before beginning volunteer duties or internships, a certified criminal record check for the applicant, volunteer or intern shall be obtained, and a search conducted of the North Carolina Sex Offender and Public Protection Registry and the North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-256), and based on these searches, a decision shall be made concerning the individual's fitness to serve as an employee, volunteer or intern.

The agency shall submit authorization to the licensing authority to search the Responsible Individuals List, as defined in 10A NCAC 70A .0102, to determine if the applicant, employee, volunteer or intern has had child protective services involvement resulting in a substantiation of child abuse or serious neglect, and based on this search, a determination shall be made concerning the individual's fitness to serve as an employee, volunteer or intern. The agency shall require that each applicant, employee, volunteer or intern provide a signed statement that the applicant, employee, volunteer or intern has not abused or neglected a child or has been a respondent in a juvenile court proceeding that resulted in the removal of a child or has had child protective services involvement that resulted in the removal of a child. A signed statement shall be obtained attesting that the applicant, employee, volunteer or intern has not abused, neglected or exploited a disabled adult and has not been a domestic violence perpetrator.

(b) Applicants, employees, volunteers and interns are not eligible for employment, volunteer or intern positions if they have been convicted of a felony involving:

- (1) child abuse or neglect;
- (2) spouse abuse;
- (3) a crime against a child or children (including child pornography); or
- (4) a crime of rape, sexual assault, or homicide.

(c) Applicants, employees, volunteers and interns are not eligible for employment, volunteer or intern positions if within the last five years they have been convicted of a felony involving:

- (1) assault;
- (2) battery; or
- (3) a drug-related offense.

(d) Employees, volunteers or interns driving a residential child-care facility vehicle shall possess a valid North Carolina driver's license appropriate for the type of vehicle used.

(e) The agency shall require that each employee provide a signed statement that the employee has no criminal, social or medical history that will adversely affect the employee's capacity to work with children and adults every two years as long as the employee is employed. Every two years as long as the employee is employed, the agency shall submit authorization to the Division of Social Services to search the Responsible Individuals List as defined in 10A NCAC 70A .0102 to determine if the employee has had child protective services involvement resulting in a substantiation of child abuse or serious neglect. Every two years as long as the employee is employed the agency shall require that each employee provide a signed statement that the employee has not abused or neglected a child or has been a respondent in a juvenile court proceeding that resulted in the removal of a child or has had child protective services involvement that resulted in the removal of a child. Every two years as long as the employee is employed, a certified criminal record check for each employee shall be obtained, and a search conducted of the North Carolina Sex Offender and Public Protection Registry and North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-256) are completed. The agency shall require that every two years as long as the employee is employed each employee provide a signed statement that the employee has not abused, neglected, or

exploited a disabled adult, and has not been a domestic violence perpetrator.

Authority G.S. 131D-10.5; 131D-10.6; 143B-153.

SUBCHAPTER 70J - MINIMUM LICENSING STANDARDS FOR SPECIALIZED RESIDENTIAL CHILD CARE PROGRAMS

SECTION .0100 - CHILDREN'S FOSTER CARE CAMPS

10A NCAC 70J .0106 BUILDINGS AND GROUND EQUIPMENT

(a) Facilities.

- (1) All sleeping units must provide at least the following space:
 - (A) 50 square feet per person;
 - (B) Three feet between the head, feet and sides of beds and sleepers; and
 - (C) 30 inches between sides of beds.
- (2) All camper sleeping facilities shall be limited to one level structures.
- (3) Any structure, sleeping or otherwise, with an occupancy of more than 12 persons, including staff, shall have at least two separate and independent means of exit.
- (4) Open flame lighting shall not be used in sleeping shelters for lighting and heating.

(b) Grounds:

- (1) There shall be potable water available at each camp site.
- (2) At each children's camp there shall be provided a minimum of:
 - (A) one shower head for each 20 children;
 - (B) one flush toilet for each 20 children;
 - (C) one urinal for each 30 male children (urinals may not be substituted for flush toilets);
 - (D) one handwashing facility, adjacent to toilet facilities, for each 20 children; and
 - (E) a wilderness latrine facility approved pursuant to the rules of the Commission for Health Services.
- (3) The hot water temperature at all fixtures used by residents shall be maintained at a minimum of 100 degrees F (38 degrees C) and shall not exceed 116 degrees F (46.7 degrees C).

(c) Equipment:

- (1) Laundry facilities or equipment shall be available at each camp for all staff and children.
- (2) Gasoline, kerosene, and other flammable materials shall be stored in covered safe containers, plainly labeled for contents.
- (3) Power tools:
 - (A) All power tools, including mowers and trimmers, must have safety devices and be used according to

- (B) manufacturer's instruction, maintained in good repair, and used only by those persons trained and experienced in their safety.
- (C) Campers shall receive safety instructions before using such equipment.
- (D) When campers are using such equipment, a trained and responsible adult must be present.
- (E) When not in use, all power tools shall be stored in a locked place not occupied by children.
- (4) Fire extinguishers shall be available in all areas so designated by fire safety officials, shall be properly charged and shall have current inspection labels.

Authority G.S. 131D-10.5; 143B-153.

SUBCHAPTER 70K - RESIDENTIAL MATERNITY HOMES

SECTION .0100 - GENERAL

10A NCAC 70K .0103 LICENSING ACTIONS

(a) License. ~~The Department of Health and Human Services, Division of Social Services, as licensing authority shall issue a license when it determines that the residential maternity home is in compliance with rules in Subchapters 70F and 70K of this Chapter.~~

- (1) Licensure is required in accordance with G.S. 131D-10.3 and with rules in Subchapters 70F and 70K of this Chapter.
- (2) Licenses shall be in effect for two years unless suspended or revoked. Appeal procedures specified in 10A NCAC 70L .0301 apply for persons seeking an appeal of the licensing authority's decision to deny, suspend, or revoke a license.
- (3) Residential maternity homes licensed after July 1, 2011 shall have a three year or longer accreditation from either the Council on Accreditation (COA), The Joint Commission, formerly known as the Joint Commission on Accreditation of Healthcare Organizations (TJC), The Commission on Accreditation and Rehabilitation Facilities (CARF) or The Council on Quality and Leadership (CQL).
- (4) Applicants shall inform the licensing authority of any current licenses or licenses held in the past five years for child-placing agencies, maternity homes, or residential child-care facilities in other states. Applicants shall provide written documentation from the licensing authority in other states regarding violations, penalties, or probationary status imposed in other states.

(b) Changes in any information on the license.

- (1) The licensing authority shall change a license during the period of time it is in effect if the change is in compliance with rules in Subchapters 70F and 70K of this Chapter.
- (2) A residential maternity home shall notify the licensing authority in writing of its request for a change in license, including information that is necessary to assure the change is in compliance with the rules in Subchapters 70F and 70K of this Chapter.
- (c) Termination.
 - (1) When a residential maternity home voluntarily discontinues operations, either temporarily or permanently, the residential maternity home shall notify the licensing authority in writing of the date, reason and anticipated length of closing.
 - (2) If a license is not renewed by the end of the licensure period, the licensing authority shall automatically terminate the license.
 - (3) When the license of any existing residential maternity home is terminated for more than 60 days, the home shall meet all requirements of a new facility prior to being relicensed.
 - (4) Any existing licensed residential maternity home that is closed or vacant for more than one year shall meet all requirements of a new facility prior to being relicensed.
- (d) Adverse licensure action.
 - (1) The licensing authority shall deny, suspend or revoke a license when a residential maternity home is not in compliance with the rules in Subchapters 70F and 70K of this Chapter unless the residential maternity home within 10 working days from the date the maternity home initially received the deficiency report from the licensing authority submits a plan of correction. The plan of correction shall specify the following:
 - (A) the measures that will be put in place to correct the deficiency;
 - (B) the systems that will be put in place to prevent a re-occurrence of the deficiency;
 - (C) the individual or individuals who will monitor the corrective action; and
 - (D) the date the deficiency will be corrected which shall be no later than 60 days from the date the routine monitoring was concluded.
 - (2) The licensing authority shall notify a residential maternity home in writing of the decision to deny, suspend or revoke a license.
 - (3) Appeal procedures specified in 10A NCAC 70L .0301 shall be applicable for persons seeking an appeal to the licensing authority's decision to deny, suspend or revoke a license.
- (e) Licensure shall be denied when it is determined that ~~an applicant meets any of the following conditions:~~ apply:

- (1) the applicant owns a facility or agency licensed under G.S. 122C and that facility or agency incurred a penalty for a Type A or B violation under Article 3 of G.S. 122C; ~~or~~
- (2) the Department of Health and Human Services has initiated revocation or summary suspension proceedings against any facility licensed pursuant to G.S. 122C, Article 2; G.S. 131D, Articles 1 or 1A; or G.S. 110, Article 7 that was previously held by the applicant and the applicant voluntarily relinquished the license;
- (3) there is a pending appeal of a denial, revocation or summary suspension of any facility licensed pursuant to G.S. 122C, Article 2; G.S. 131D, Articles 1 or 1A; or G.S. 110, Article 7 that is owned by the applicant;
- (4) the applicant has an individual as part of their governing body or management who previously held a license that was revoked or summarily suspended under G.S. 122C, Article 2; G.S. 131D, Articles 1 or 1A; and G.S. 110, Article 7 and the rules adopted under these laws;
- (5) the applicant is an individual who has a finding or pending investigation by the Health Care Personnel Registry in accordance with G.S. 131E-256; or
- (6) the applicant is an individual who has a finding on the Responsible Individual's List as described in 10A NCAC 70A .0102.

- (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 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 at the time of the degree in 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 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:

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

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 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 at the time of the degree in the Higher Education Directory. This information can be obtained by calling Higher Education Publications, Inc. at 1-888-349-7715.
The executive director shall:

(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 at the time of the degree in 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 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 in 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.
- (3) A residential maternity home shall ensure that a staff member trained in cardiopulmonary resuscitation (CPR) and first aid, such as those provided by the American Red Cross, the American Heart Association or equivalent organizations, is always available to the clients in care; and that direct care service personnel shall receive training in first aid and CPR within the first 30 days of employment. Training in CPR shall be appropriate for the ages of clients in care. First aid and CPR training shall be updated as required by the American Red Cross, the American Heart Association or equivalent organizations.

Proposed Effective Date: August 1, 2011

Public Hearing:

Date: June 1, 2011

Time: 10:00 a.m.

Location: 114 W. Edenton Street, RM G22, Raleigh, NC 27602

Reason for Proposed Action:

12 NCAC 10B .0502 – Description: Revision adds a two-hour block of instruction to the Basic Law Enforcement Training Course for Deputies on the subject of Human Trafficking. Purpose: To familiarize Deputies with warning signs of human trafficking.

12 NCAC 10B .0601 – Description: The revision re-organizes the existing Detention Officer Certification Course (DOCC) into four units. In addition, some hours for certain blocks of instruction within those units have been adjusted. The total hours for the course will change from 162 to 168 hours. Purpose: Changes in hours for certain blocks of instruction are the result of the DOCC recommendations to better deliver the relevant material. A new block of instruction on Note Taking and Report Writing has also been added. Unit format is being implemented in conjunction with rule change to 12 NCAC 10B .0606.

12 NCAC 10B .0603 – Description: Proposed revisions are being made to Item (7) which sets out the training requirements for Correctional Officers who have had training specific to state prison and who later transfer to a Detention Officer position in a county jail. Purpose: Adjustments in the hourly increments are the result of corresponding rule change in 12 NCAC 10B .0601.

12 NCAC 10B .0606 – Description: Proposed revisions change the format of the Detention Officer Certification Course state examination from a single 70 % passing requirement to a unit format requiring a 70 % score in each unit as set out in 12 NCAC 10B .0601. Purpose: The reason for this proposed revision is to ensure that the trainees are competent in all areas of the DOCC curriculum. Under the exiting single-score testing format, trainees could achieve an overall passing grade of 70 %, while not being proficient in one or more areas (such as in the legal or medical units). With the unit testing format, it will be clear which areas students were unable to gain proficiency.

12 NCAC 10B .1305 – Description: Proposed revision increases the allowable absences in the Telecommunicator Certification Course to two days. Purpose: Adjustments in the permissible absenteeism hours are the result of legislation which required the State Board of Community Colleges to direct each community college to adopt a policy that authorizes a minimum of two excused absences each academic year for religious observances.

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 shall be sent to Julia Lohman, Sheriffs' Standards Division, NC Department of Justice, P. O. Box 629, Raleigh, NC 27602.

Authority G.S. 131D-10.10; 143B-153.

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Sheriffs' Education and Training Standards Commission intends to amend the rules cited as 12 NCAC 10B .0502, .0601, .0603, .0606 and .1305.

Comments may be submitted to: *Julia Lohman, 114 W. Edenton Street, Raleigh, NC 27602; phone (919) 716-6460; email jlohman@ncdoj.gov*

Comment period ends: *June 1, 2011*

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

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

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

Fiscal Note posted at

http://www.osbm.state.nc.us/files/pdf_files/DOJ03092011.pdf

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

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

SECTION .0500 - MINIMUM STANDARDS OF TRAINING FOR DEPUTY SHERIFFS

12 NCAC 10B .0502 BASIC LAW ENFORCEMENT TRAINING COURSE FOR DEPUTIES

(a) The basic training course for deputy sheriffs consists of instruction designed to provide the trainee with the skills and knowledge to perform those tasks essential to function in law enforcement.

(b) The course entitled "Basic Law Enforcement Training" shall consist of a minimum of ~~618~~ 620 hours of instruction and shall include the following identified topical areas and minimum instructional hours for each:

- (1) LEGAL UNIT
 - (A) Motor Vehicle Laws 20 hours
 - (B) Preparing for Court and Testifying in Court 12 hours
 - (C) Elements of Criminal Law 24 hours

- (D) Juvenile Laws and Procedures 10 hours
- (E) Arrest, Search and Seizure/Constitutional Law 28 hours
- (F) ABC Laws and Procedures 4 hours
- UNIT TOTAL 98 hours

- (2) PATROL DUTIES UNIT
 - (A) Techniques of Traffic Law Enforcement 24 hours
 - (B) Explosives and Hazardous Materials Emergencies 12 hours
 - (C) Traffic Accident Investigation 20 hours
 - (D) In-Custody Transportation 8 hours
 - (E) Crowd Management 12 hours
 - (F) Patrol Techniques 26 hours
 - (G) Law Enforcement Communication and Information Systems 8 hours
 - (H) Anti-Terrorism 4 hours
 - (I) Rapid Deployment 8 hours
 - UNIT TOTAL 122 hours

- (3) LAW ENFORCEMENT COMMUNICATION UNIT
 - (A) Dealing with Victims and the Public 10 hours
 - (B) Domestic Violence Response 12 hours
 - (C) Ethics for Professional Law Enforcement 4 hours
 - (D) Individuals with Mental Illness and Mental Retardation 8 hours
 - (E) Crime Prevention Techniques 6 hours
 - (F) Communication Skills for Law Enforcement Officers 8 hours
 - UNIT TOTAL 48 hours

- (4) INVESTIGATION UNIT
 - (A) Fingerprinting and Photographing Arrestee 6 hours
 - (B) Field Note-taking and Report Writing 12 hours
 - (C) Criminal Investigation 34 hours
 - (D) Interviews: Field and In-Custody 16 hours
 - (E) Controlled Substances 12 hours
 - (F) Human Trafficking 2 hours
 - UNIT TOTAL ~~80~~ 82 hours

- (5) PRACTICAL APPLICATION UNIT
 - (A) First Responder 32 hours
 - (B) Firearms 48 hours
 - (C) Law Enforcement Driver Training 40 hours
 - (D) Physical Fitness 8 hours

PROPOSED RULES

	(i)	Fitness Assessment and Testing	12 hours
	(ii)	1 hour - 3 days a week	34 hours
	(E)	Subject Control Arrest Techniques	40 hours
		UNIT TOTAL	216 hours
(6)		SHERIFF-SPECIFIC UNIT	
	(A)	Civil Process	24 hours
	(B)	Sheriffs' Responsibilities: Detention Duties	4 hours
	(C)	Sheriffs' Responsibilities: Court Duties	6 hours
		UNIT TOTAL	34 hours
(7)		COURSE ORIENTATION	2 hours
(8)		TESTING	20 hours
		TOTAL COURSE HOURS	648 <u>620</u> HOURS

(c) The "Basic Law Enforcement Training Manual" as published by the North Carolina Justice Academy shall be used as the as basic curriculum for this Basic Law Enforcement Training Course. Copies of this manual may be obtained at cost by contacting the North Carolina Justice Academy, Post Office Box 99, Salemburg, North Carolina 28385-0099.

(d) The Commission shall designate the developer of the Basic Law Enforcement Training Course curricula and such designation shall be deemed by the Commission as approval for the developer to conduct pilot Basic Law Enforcement Training Courses. Individuals who successfully complete such a pilot Basic Law Enforcement Training Course offering shall be deemed to have successfully complied with and satisfied the minimum training requirement.

(e) The rules governing Minimum Standards for Completion of Training, codified as Title 12, Subchapter 09B, Section .0400 of the North Carolina Administrative Code, and previously adopted by the North Carolina Criminal Justice Education and Training Standards Commission, are hereby incorporated by reference, and shall, automatically include any later amendments and editions of the incorporated matter to apply to actions of the North Carolina Sheriffs' Education and Training Standards Commission. Copies of the incorporated materials may be obtained at no cost from the Criminal Justice Standards Division, North Carolina Department of Justice, 114 West Edenton Street, Post Office Drawer 149, Raleigh, North Carolina 27602.

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

SECTION .0600 - 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 ~~462~~ 168 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)	<u>LEGAL UNIT</u>	
	(A)	Orientation 3 hours
	(B)	Criminal Justice Systems 2 hours
	(C)	Legal Aspects of Management and Supervision 14 hours
	(D)	Introduction to Rules and Regulations 2 hours
	(E)	Ethics 3 hours
		UNIT TOTAL 24 Hours
(2)	<u>PHYSICAL UNIT</u>	
	(A)	Contraband/Searches 6 hours
	(B)	Patrol and Security Function of the Jail 5 hours
	(C)	Key and Tool Control 2 hours
	(D)	Investigative Process in the Jail 8 hours
	(E)	Transportation of Inmates 7 hours
		UNIT TOTAL 28 Hours
(3)	<u>PRACTICAL APPLICATION UNIT</u>	
	(A)	Processing Inmates 7 hours
	(B)	Supervision and Management of Inmates 5 hours
	(C)	Suicides and Crisis Management 5 hours
	(D)	Aspects of Mental Illness 6 hours
	(E)	Fire Emergencies 4 hours
	(F)	Notetaking and Report Writing 5 hours
	(G)	Communication Skills 5 hours
		UNIT TOTAL 36 Hours
(4)	<u>MEDICAL UNIT</u>	
	(A)	First Aid and CPR 10 hours
	(B)	Medical Care in the Jail 6 hours
	(C)	Stress 3 hours
	(D)	Subject Control Techniques 28 hours
	(E)	Physical Fitness for Detention Officers 22 hours
		UNIT TOTAL 69 hours
(5)	<u>REVIEW AND TESTING</u>	7 hours
(6)	<u>STATE EXAM</u>	3 hours
	<u>TOTAL HOURS</u>	<u>168 HOURS</u>
(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 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) — Review/Testing	7 hours
(23) — 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).

12 NCAC 10B .0603 EVALUATION FOR TRAINING WAIVER

Applicants for certification with prior detention or correctional officer experience shall have been employed and certified as a detention or correctional officer in order to be considered for a training evaluation under this Rule. The following rules shall be used by division staff in evaluating a detention officer's training and experience to determine eligibility for a waiver of training:

- (1) Persons who have separated from a detention officer position during the probationary period

after having completed a commission-certified detention officer training course and who have been separated from a detention officer position for more than one year shall complete a subsequent commission-certified detention officer training course in its entirety and pass the State Comprehensive Examination within the 12 month probationary period as described in 12 NCAC 10B .0602(a).

- (2) Persons who separated from a detention officer position during their probationary period after having completed a commission-certified detention officer training course and who have been separated from a detention officer position for one year or less shall serve the remainder of the initial probationary period in accordance with G.S. 17E-7(b), but need not complete an additional training program.
- (3) Persons who separated from a detention officer position during the probationary period without having completed a detention officer training course or whose certification was suspended pursuant to 12 NCAC 10B .0204(b)(1) and who have remained separated or suspended for over one year shall complete a commission-certified detention officer training course in its entirety and pass the State Comprehensive Examination, and shall be allowed a 12 month probationary period as prescribed in 12 NCAC 10B .0602(a).
- (4) Persons holding General Detention Officer Certification who have completed a commission-certified detention officer training course and who have separated from a detention officer position for more than one year shall complete a subsequent commission-certified detention officer training course in its entirety and pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0602(a).
- (5) Persons holding Grandfather Detention Officer Certification who separate from a detention officer position and remain separated from a detention officer position for more than one year shall complete a commission-certified detention officer training program in its entirety and pass the State Comprehensive Examination within the 12 month probationary period as prescribed in 12 NCAC 10B .0602(a).
- (6) Persons transferring to a sheriff's office from another law enforcement agency who hold a detention officer certification issued by the North Carolina Criminal Justice Education and Training Standards Commission shall be subject to evaluation of their prior training and experience on an individual basis. The Division staff shall determine the amount of

training, which is comparable to that received by detention officers pursuant to 12 NCAC 10B .0601(b), required of these applicants.

- (7) Persons holding general certification as a correctional officer issued by the North Carolina Criminal Justice Education and Training Standards Commission and who:
- (a) completed training as a correctional officer between January 1, 1981 and August 1, 2002; and
 - (b) transfer to a sheriff's office or a district confinement facility in a detention officer position; and
 - (c) have had less than a one year break in service, or no break in service, shall serve a 12-month probationary period as prescribed in 12 NCAC 10B .0602(a) and shall complete the following topic areas in a commission-certified detention officer certification course and take the state examination in its entirety during that probationary period:
 - (i) Orientation ~~2~~ 3 hours
 - (ii) Legal Aspects of Management & Supervision ~~19~~ 14 hours
 - (iii) Medical Care in the Jail ~~6~~ 6 hours
 - (iv) Investigative Process in the Jail ~~9~~ 8 hours
 - (v) Criminal Justice System ~~3~~ 2 hours
 - (vi) Introduction to Rules and Regulations Governing Jails ~~2~~ 2 hours
 - (vii) Subject Control Techniques ~~24~~ 28 hours

TOTAL HOURS ~~(65)~~ (63) hours
- (8) Persons holding general certification as a correctional officer issued by the North Carolina Criminal Justice Education and Training Standards Commission and who:

- (a) completed training as a correctional officer after August 1, 2002; and
- (b) transfer to a sheriff's office or a district confinement facility in a detention officer position; and
- (c) have had less than a one year break in service, or no break in service, shall serve a 12-month probationary period as prescribed in 12 NCAC 10B .0602(a); may apply for a waiver to the Division by submitting documentation of the training completed as a correctional officer. Division staff shall compare the completed correctional officer training to the existing Detention

Officer Certification Course and determine whether any of the Detention Officer Certification Course blocks of instruction can be waived. The Division shall notify the employing agency of the resulting training requirements. The detention officer and shall complete the required training in a commission-certified Detention Officer Certification Course and take the state examination in its entirety during the probationary period.

Authority G.S. 17E-4; 17E-7.

12 NCAC 10B .0606 COMP WRITTEN EXAM – DETENTION OFFICER CERTIFICATION COURSE

(a) At the conclusion of a school's offering of the "Detention Officer Certification Course", an authorized representative of the Commission shall administer a comprehensive written examination to each trainee who has satisfactorily completed all of the course work. A trainee shall not be administered the comprehensive written examination until such time as all course work is successfully completed.

(b) The examination shall be comprised of four units as specified ~~an objective test covering the topic areas as described in 12 NCAC 10B .0601(b). Each unit is designed to test the trainees' proficiency in that unit.~~

(c) The Commission's representative shall submit to the school director within 10 days of the administration of the examination a report of the results of the test for each trainee examined.

(d) A trainee shall successfully complete the comprehensive written examination ~~if he/she achieves~~ upon achieving a minimum of 70 percent correct ~~answers on each of the four units as prescribed in 12 NCAC 10B .0601(b).~~ answers.

(e) A trainee who has fully participated in a scheduled delivery of an accredited training course and has demonstrated satisfactory competence in each motor-skill or performance area of the course curriculum but has failed to achieve the minimum score of 70 percent on any or two of the four units of the Commission's comprehensive written examination may request the Director to authorize a re-examination of the trainee in those units for which he/she has failed to make a passing score of 70 percent. ~~trainee.~~

- (1) A trainee's Request for Re-examination shall be made in writing on the Commission's form within 30 days after the original examination and shall be received by the Division before the expiration of the trainee's probationary certification as a detention officer.
- (2) The trainee's request for re-examination shall include the favorable recommendation of the school director who administered the trainee's "Detention Officer Certification Course".
- (3) A trainee shall have only one opportunity for re-examination and shall satisfactorily complete the subsequent unit examination in

its entirety within 90 days after the original examination.

- (4) A trainee shall be assigned in writing by the Division a place, time, and date for re-examination.
- (5) Should the trainee on re-examination not achieve the prescribed minimum score of 70 on the unit re-examination, examination, the trainee shall not be given successful course completion may not be recommended for certification and must enroll and successfully complete the unit(s) he/she failed upon re-examination in a subsequent course offering within 180 days of the second failure in its entirety before further examination may be permitted.

Authority G.S. 17E-4; 17E-7.

SECTION .1300 - MINIMUM STANDARDS OF TRAINING FOR TELECOMMUNICATORS

12 NCAC 10B .1305 TRAINEE ATTENDANCE

- (a) Each trainee enrolled in an accredited "Telecommunicator Certification Course" shall attend all class sessions. The sheriff or agency head shall be responsible for the trainee's regular attendance at all sessions of the telecommunicator training course.
- (b) The school director may recognize valid reasons for class absences and may excuse a trainee from attendance at specific class sessions. However, ~~in no case may~~ excused absences shall not exceed ten percent of the total class hours for the course offering, except where the absence is due to religious observance as provided for in the community college policy, in which case the absence excused can be for an additional 11.3 hours. offering.
- (c) If the school director grants an excused absence from a class session, he shall schedule appropriate make-up work and ensure the satisfactory completion of such work during the current course presentation or in a subsequent course delivery as is permissible under 12 NCAC 10B .1306.
- (d) A trainee shall not be eligible for administration of the State Comprehensive Examination nor certification for successful course completion if the cumulative total of class absences, with accepted make-up work, exceeds 10 percent of the total class hours of the accredited course offering and shall be expediently terminated from further course participation by the school director at the time of such occurrence.
- (e) The school director may terminate a trainee from course participation or may deny certification of successful course completion where the trainee is habitually tardy to, or regularly departs early from, class meetings or field exercises.
- (f) Where a trainee is enrolled in a program as required in this Section, attendance shall be 100 percent in order to receive a successful course completion.

Authority G.S. 17E-4; 17E-7.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to amend the rule cited as 15A NCAC 02B .0304.

Proposed Effective Date: December 1, 2011

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): Any person requesting that the Environmental Management Commission conduct a public hearing on any portion of this proposed rule must submit a written request to Jamie McNeese, Division of Water Quality, 1617 Mail Service Center, Raleigh, NC 27699-1617 by April 16, 2011. The request must specify which rule the hearing is being requested on. Mailed written requests must be postmarked no later than April 16, 2011.*

Reason for Proposed Action: *The City of Hendersonville has requested that a portion of the French Broad River in Henderson County (French Broad River Basin) be reclassified from Class B to Class Water Supply-IV & B Critical Area (CA). The purpose for this rule change is to allow a new intake structure to be placed in the river, which will provide the City of Hendersonville with an emergency potable water supply source. The waters to be reclassified meet water supply water quality standards according to Division of Water Quality (DWQ) studies.*

The river segment requested for reclassification is currently Class B. The portion of the river proposed to be reclassified to WS-IV&B CA extends along the river from its confluence with the Mills River to a point 0.2 miles downstream of the confluence of the Mills River to the proposed raw water intake. Typically, a new riverine WS-IV CA is the area measured 0.5 miles from the proposed intake, but in this case, the French Broad River WS-IV CA and the Mills River WS-III CA are located 0.20 miles upstream of the proposed CA. Also, the Protected Area is already in place due to the presence of the two upstream water supply watersheds. There are no named tributaries to the French Broad River in the proposed CA, and 22.5 acres of land will be included in the new CA.

If reclassified, development and discharge restrictions will apply. However, there are no wastewater discharges, and no known proposed discharges or development that would be impacted by the proposal. Forestry and farming practices will not be affected. Henderson County is the only local government with jurisdiction in the proposed CA, and they understand they will need to modify their water supply watershed protection ordinances within 270 days after the reclassification effective date.

Since a public hearing is not required and no comments against this proposed reclassification have been received a public hearing is not going to be scheduled for this proposed reclassification. However, if a hearing is requested, a hearing will be scheduled, but as a result, the process for this proposed reclassification would be delayed.

Procedure by which a person can object to the agency on a proposed rule: *The public may submit written comments, data or other relevant information by May 31, 2011. The EMC is very interested in all comments pertaining to the proposed reclassification. All persons interested and potentially affected by the proposal are strongly encouraged to read this entire notice and make comments on the proposed reclassification. The EMC may not adopt a rule that differs substantially from the text of the proposed rule published in this notice unless the EMC publishes the text of the proposed different rule and accepts comments on the new text (see G.S. 150B-21.2(g)). Written comments on the proposed reclassification may be submitted to Jamie McNees of the Water Quality Planning Section at the postal address DENR/Division of Water Quality, Planning Section, 1617 Mail Service Center, Raleigh, NC 27699-1617, the email address jamie.mcnees@ncdenr.gov, or the fax number (919) 807-6497.*

Comments may be submitted to: *Jamie McNees, DENR/Division of Water Quality, Planning Section, 1617 Mail Service Center, Raleigh, NC 27699-1617; phone (919) 807-6421; fax (919) 807-6497*

Comment period ends: *May 31, 2011*

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

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

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

Fiscal Note posted at
http://www.osbm.state.nc.us/files/pdf_files/DENR03072011.pdf

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02B - SURFACE WATER AND WETLAND STANDARDS

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

NOTE: Bold text is pending legislative review pursuant to HB62.

15A NCAC 02B .0304 FRENCH BROAD RIVER BASIN

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

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

(b) Unnamed Streams. Such streams entering Tennessee are classified "B."

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

- (1) September 22, 1976;
- (2) March 1, 1977;
- (3) August 12, 1979;
- (4) April 1, 1983;
- (5) August 1, 1984;
- (6) August 1, 1985;
- (7) February 1, 1986;
- (8) May 1, 1987;
- (9) March 1, 1989;
- (10) October 1, 1989;
- (11) January 1, 1990;
- (12) August 1, 1990;
- (13) August 3, 1992;
- (14) October 1, 1993;
- (15) July 1, 1995;
- (16) November 1, 1995;
- (17) January 1, 1996;
- (18) April 1, 1996;
- (19) August 1, 1998;
- (20) August 1 2000;
- (21) August 1, 2002;
- (22) September 1, 2004;
- (23) November 1, 2007;
- (24) September 1, 2009;
- (25) July 1, 2011;**
- (26) December 1, 2011.**

(d) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective March 1, 1989 as follows:

- (1) Cataloochee Creek (Index No. 5-41) and all tributary waters were reclassified from Class C-trout and Class C to Class C-trout ORW and Class C ORW.
- (2) South Fork Mills River (Index No. 6-54-3) down to Queen Creek and all tributaries were reclassified from Class WS-I and Class WS-

III-trout to Class WS-I ORW and Class WS-III-trout ORW.

(e) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective October 1, 1989 as follows: Cane River (Index No. 7-3) from source to Bowlens Creek and all tributaries were reclassified from Class C trout and Class C to Class WS-III trout and Class WS-III.

(f) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective January 1, 1990 as follows: North Toe River (Index No. 7-2) from source to Cathis Creek (Christ Branch) and all tributaries were reclassified from Class C trout and Class C to Class WS-III trout and Class WS-III.

(g) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 2B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(h) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective October 1, 1993 as follows: Reasonover Creek [Index No. 6-38-14-(1)] from source to Reasonover Lake Dam and all tributaries were reclassified from Class B Trout to Class WS-V and B Trout, and Reasonover Creek [Index No. 6-38-14-(4)] from Reasonover Lake Dam to Lake Julia Dam and all tributaries were reclassified from Class C Trout to Class WS-V Trout.

(i) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective July 1, 1995 with the reclassification of Cane Creek [Index Nos. 6-57-(1) and 6-57-(9)] from its source to the French Broad River from Classes WS-IV and WS-IV Tr to Classes WS-V, WS-V Tr and WS-IV.

(j) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective November 1, 1995 as follows: North Toe River [Index Numbers 7-2-(0.5) and 7-2-(37.5)] from source to a point 0.2 miles downstream of Banjo Branch, including tributaries, has been reclassified from Class WS-III, WS-III Trout and WS-III Trout CA (critical area) to Class WS-IV Trout, WS-IV, WS-IV Trout CA, and C Trout.

(k) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective January 1, 1996 as follows: Stokely Hollow [Index Numbers 6-121.5-(1) and 6-121.5-(2)] from source to mouth of French Broad River has been reclassified from Class WS-II and Class WS-II CA to Class C.

(l) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended April 1, 1996 with the reclassification of the French Broad River [Index No. 6-(1)] from a point 0.5 miles downstream of Little River to Mill Pond Creek to Class WS-IV; French Broad River [Index No. 6-(51.5)] from a point 0.6 miles upstream of Mills River to Mills River to Class WS-IV CA (Critical Area), from Mills River to a point 0.1 miles upstream of Boring Mill Branch to Class C; and the Mills River [Index No. 6-54-(5)] was reclassified from City of Hendersonville water supply intake to a point 0.7 miles upstream of mouth of Mills River to Class WS-III, and from a point 0.7 miles upstream of mouth of Mills River to French Broad River to Class WS- III CA (Critical Area).

(m) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 1998 with the revision to the primary classification for portions of the French Broad River [Index No. 6-(38.5)] and the North Toe River 7-2-(10.5) from Class IV to Class C.

(n) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 1998 with the reclassification of Clear Creek [Index No. 6-55-(1)] from its source to Lewis Creek from Class C Tr to Class B Tr.

(o) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 2000 with the reclassification of Rough Creek [Index No. 5-8-4-(1)], including all tributaries, from its source to the Canton Reservoir from Class WS-I to Class WS-I Tr ORW.

(p) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 2002 with the revision to the primary classification for the French Broad River [Index No. 6-(1), 6-(27), 6-(47.5), 6-(52.5), and 6-(54.5)] including its four headwater forks' mainstems, watershed of tributary Davidson River, and watershed of tributary Bent Creek below Powhatan Dam, and the Nolichucky River [Index No. 7] including a lower portion of the North Toe River from Class C and Class WS-IV to Class B.

(q) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 2002 with the reclassification of the North Toe River [Index No. 7-2-(0.5)], including all tributaries, from source to a point 0.2 mile upstream of Pyatt Creek, from Class C Tr to Class WS-V Tr.

(r) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended September 1, 2004 with the reclassification of a portion of Richland Creek [Index No. 5-16(1)], from source to a point approximately 11.2 miles from source (Boyd Avenue), from Class B to Class B Tr, and all tributaries to the portion of the creek referenced in this Paragraph from C, C HQW, and WS-I HQW, and WS-I HQW to C Tr, C HQW Tr, and WS-I HQW Tr, respectively, except Hyatt Creek [Index No. 5-16-6], Farmer Branch [Index No. 5-16-11], and tributaries already classified as Tr.

(s) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective November 1, 2007 with the reclassification of McClure's Bog near Gash Creek [Index No. 6-47] to Class WL UWL as defined in 15A NCAC 02B .0101. The North Carolina Division of Water

Quality maintains a Geographic Information Systems data layer of the UWL.

(t) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective September 1, 2009 with the reclassification of the entire watershed of Big Laurel Creek (Index No. 6-112) from source to the French Broad River from Class C Tr to Class C ORW Tr.

(u) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective September 1, 2009 with the reclassification of the entire watershed of Spring Creek [Index No. 6-118-(1) and 6-118-(27)] from source to the French Broad River from Class C Tr and Class C to Class C ORW Tr and Class C ORW.

(v) **The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended July 1, 2011 with the reclassification of Boylston Creek [Index No. 6-52-(0.5)], from source to a point 0.3 mile upstream of Murray Branch and all tributaries to this portion of the Creek, from Class C to Class C Tr.**

(w) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended December 1, 2011 with the reclassification of a portion of the French Broad River [Index No. 6-(54.5)] from the confluence of the Mills River to a point 0.2 miles downstream of the confluence of the Mills River from Class B to Class WS-IV&B CA.

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

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to amend the rules cited as 15A NCAC 02D .0402 and .0407.

Proposed Effective Date: September 1, 2011

Public Hearing:

Date: May 4, 2011

Time: 6:30 p.m.

Location: 2728 Capital Blvd, Air Quality Annex Training Room AQ-526, Raleigh, NC 27604

Reason for Proposed Action: Rules 15A NCAC 02D .0402 and .0407 are proposed for amendment to incorporate the revised primary National Ambient Air Quality Standard (NAAQS) for sulfur dioxide (SO2) and nitrogen dioxide (NO2) promulgated by the United States Environmental Protection Agency into the state ambient air quality standards rules.

Procedure by which a person can object to the agency on a proposed rule: If you have any objections to the proposed rule, please mail a letter including your specific reasons to: Ms. Joelle Burlison, Division of Air Quality, 1641 Mail Service Center, Raleigh, NC 27699-1641.

Comments may be submitted to: Joelle Burlison, Division of Air Quality, 1641 Mail Service Center, Raleigh, NC 27699-

1641; phone (919) 733-1474; fax (919) 715-7476; email joelle.burlison@ncdenr.gov

Comment period ends: May 31, 2011

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

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

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

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02D - AIR POLLUTION CONTROL REQUIREMENTS

SECTION .0400 - AMBIENT AIR QUALITY STANDARDS

15A NCAC 02D .0402 SULFUR OXIDES

(a) The ambient air quality standards for sulfur oxides measured as sulfur dioxide are:

- (1) 80 micrograms per cubic meter (0.03 ~~p.p.m.~~ ppm) annual arithmetic mean,
- (2) 365 micrograms per cubic meter (0.14 ~~p.p.m.~~ ppm) maximum 24-hour concentration not to be exceeded more than once per year,
- (3) 1300 micrograms per cubic meter (0.5 ~~p.p.m.~~ ppm) maximum three-hour concentration not to be exceeded more than once per year.

(b) Sampling and analysis shall be in accordance with procedures in Appendix A or A-1 40 CFR Part 50 or ~~equivalent methods established under by a Federal Equivalent Method (FEM) designated in accordance with~~ 40 CFR Part 53.

(c) Applicability of the standards listed in Subparagraph (a)(1) and (2) of this Rule is in effect until one year after the effective date of initial designations under Section 107(d) of the Clean Air Act for the sulfur dioxide standard in Paragraph (d) of this Rule.

(d) The primary one-hour annual ambient air quality standard for oxides of sulfur is 75 parts per billion (ppb, which is 1 part in 1,000,000,000), measured in the ambient air as sulfur dioxide.

~~(e) The one-hour primary standard is met at an ambient air quality monitoring site when the three-year average of the annual (99th percentile) of the daily maximum one-hour average concentrations is less than or equal to 75 ppb, as determined in accordance with Appendix T of 40 CFR Part 50.~~

~~Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3).~~

15A NCAC 02D .0407 NITROGEN DIOXIDE

~~(a) The primary annual ambient air quality standard for nitrogen dioxide oxides of nitrogen is 0.053 parts per million 53 parts per billion (100 micrograms per cubic meter) annual arithmetic mean—average concentration measured in the ambient air as nitrogen dioxide.~~

~~(b) Sampling and analysis shall be in accordance with procedures in Appendix F 40 CFR Part 50 or equivalent methods established under 40 CFR Part 53.~~

~~(b) The primary one-hour ambient air quality standard for oxides of nitrogen is 100 parts per billion one hour annual average concentration measured in the ambient air as nitrogen dioxide.~~

~~(c) The standards are attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 parts per million, rounded to three decimal places (fractional parts equal to or greater than 0.0005 parts per million are rounded up). To demonstrate attainment, an annual mean must be based on hourly data that are at least 75 percent complete or on data derived from manual methods that are at least 75 percent complete for the scheduled sampling days in each calendar quarter.~~

(c) The secondary ambient air quality standard for nitrogen dioxide is 0.053 parts per million (100 micrograms per cubic meter) annual arithmetic mean concentration.

(d) Sampling and analysis shall be in accordance with:

- (1) procedures in Appendix F 40 CFR Part 50; or
- (2) by a Federal Equivalent Method (FEM) designated in accordance with 40 CFR, Part 53.

(e) The annual primary standard is attained when the annual average concentration in a calendar year is less than or equal to 53 parts per billion, as determined in accordance with Appendix S of 40 CFR, Part 50 for the annual standard.

(f) The one hour primary standard is attained when the three-year average of the annual 98th percentile of the daily maximum one-hour average concentration is less than or equal to 100 ppb, as determined in accordance with Appendix S of 40 CFR, Part 50 for one hour standard.

(g) The secondary standard is attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 parts per million, rounded to three decimal places (fractional parts equal to or greater than 0.0005 parts per million are rounded up). To demonstrate attainment, an annual mean must be based on hourly data that are at least 75 percent complete or on data derived from manual methods that are at least 75 percent complete for the scheduled sampling days in each calendar quarter.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3).

APPROVED RULES

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

Rules approved by the Rules Review Commission at its meeting on February 17, 2011.

**REGISTER CITATION TO THE
NOTICE OF TEXT**

INSURANCE, DEPARTMENT OF

<u>Declaratory Rulings: General Information</u>	11	NCAC 01	.0301*	25:09 NCR
<u>Definitions</u>	11	NCAC 06A	.0801*	25:10 NCR
<u>Approval of Courses</u>	11	NCAC 06A	.0809	25:10 NCR
<u>Agent Education on LTCP Policies: Company Responsibility</u>	11	NCAC 06A	.0814*	25:10 NCR
<u>Limited Use of Anticipated Withdrawal Rates</u>	11	NCAC 11F	.0406*	25:10 NCR
<u>Collateral Security Required by Bondsmen</u>	11	NCAC 13	.0512*	25:10 NCR

ENVIRONMENTAL MANAGEMENT COMMISSION

<u>White Oak River Basin</u>	15A	NCAC 02B	.0312*	25:05 NCR
<u>Purpose</u>	15A	NCAC 02H	.0901*	24:23 NCR
<u>Scope</u>	15A	NCAC 02H	.0902*	24:23 NCR
<u>Required Pretreatment Programs</u>	15A	NCAC 02H	.0904*	24:23 NCR
<u>POTW Pretreatment Program Implementation Requirements</u>	15A	NCAC 02H	.0905*	24:23 NCR
<u>Submission for Program Approval</u>	15A	NCAC 02H	.0906*	24:23 NCR
<u>National Pretreatment Standards: Prohibited Discharges</u>	15A	NCAC 02H	.0909	24:23 NCR
<u>National Pretreatment Standards: Categorical Standards</u>	15A	NCAC 02H	.0910	24:23 NCR
<u>Adjustments for Fundamentally Different Factors</u>	15A	NCAC 02H	.0912	24:23 NCR
<u>Public Access to Information</u>	15A	NCAC 02H	.0913*	24:23 NCR
<u>Upset Provision</u>	15A	NCAC 02H	.0914	24:23 NCR
<u>Net/Gross Calculation</u>	15A	NCAC 02H	.0915	24:23 NCR
<u>Pretreatment Permits</u>	15A	NCAC 02H	.0916*	24:23 NCR
<u>Pretreatment Permit Submission and Review</u>	15A	NCAC 02H	.0917*	24:23 NCR
<u>Bypass</u>	15A	NCAC 02H	.0919	24:23 NCR
<u>Pretreatment Facility Operation and Maintenance</u>	15A	NCAC 02H	.0920*	24:23 NCR
<u>Revision to Reflect POTW Removal of Pollutant</u>	15A	NCAC 02H	.0921	24:23 NCR

COASTAL RESOURCES COMMISSION

<u>Definitions</u>	15A	NCAC 07M	.0402*	25:03 NCR
--------------------	-----	----------	--------	-----------

WILDLIFE RESOURCES COMMISSION

<u>Emergency Powers</u>	15A	NCAC 10A	.1201*	25:09 NCR
-------------------------	-----	----------	--------	-----------

MEDICAL BOARD

<u>Suspension of Authority to Expend Funds</u>	21	NCAC 32A	.0114*	25:10 NCR
<u>Application and Limitation</u>	21	NCAC 32B	.0601	25:10 NCR
<u>Certification of Graduation</u>	21	NCAC 32B	.0602	25:10 NCR
<u>Definition of Practice</u>	21	NCAC 32B	.0801	25:10 NCR
<u>Eligibility Requirements</u>	21	NCAC 32B	.0802	25:10 NCR
<u>Application</u>	21	NCAC 32B	.0803	25:10 NCR
<u>Fee</u>	21	NCAC 32B	.0804	25:10 NCR
<u>Certified Photograph and Certificate of Graduation</u>	21	NCAC 32B	.0805	25:10 NCR
<u>Verification of Medical Licensure</u>	21	NCAC 32B	.0806	25:10 NCR
<u>Letters of Recommendation</u>	21	NCAC 32B	.0807	25:10 NCR
<u>Personal Interview</u>	21	NCAC 32B	.0808	25:10 NCR
<u>Definitions</u>	21	NCAC 32B	.1301*	25:10 NCR
<u>Application for Physician License</u>	21	NCAC 32B	.1303*	25:10 NCR
<u>Reentry to Active Practice</u>	21	NCAC 32B	.1370*	25:10 NCR
<u>Scope of Practice Under Medical School Faculty Limited Li...</u>	21	NCAC 32B	.1501*	25:10 NCR
<u>Application for Medical School Faculty Limited License</u>	21	NCAC 32B	.1502*	25:10 NCR
<u>Qualifications and Requirements for License</u>	21	NCAC 32S	.0202*	25:10 NCR
<u>Qualifications for License</u>	21	NCAC 32W	.0102*	25:10 NCR

OPTOMETRY, BOARD OF EXAMINERS IN

<u>Graduate of Approved School</u>	21	NCAC 42B	.0101*	25:08 NCR
<u>Written Examination</u>	21	NCAC 42B	.0107	25:08 NCR
<u>Suspension of Authority to Expend Funds</u>	21	NCAC 42B	.0305	25:08 NCR

TITLE 11 – DEPARTMENT OF INSURANCE

11 NCAC 01 .0301 DECLARATORY RULINGS: GENERAL INFORMATION

- (a) Declaratory rulings pursuant to G.S. 150B-4 shall be issued by the Department only:
- (1) as to the validity of a rule adopted by the Department; or
 - (2) as to the applicability to a given state of facts of:
 - (A) a statute administered by the Department,
 - (B) a rule adopted by the Department, or
 - (C) an order issued by the Department.
- (b) A declaratory ruling shall not be issued on a matter requiring an evidentiary proceeding.

History Note: Authority G.S. 58-2-40(1); 150B-4; Eff. February 1, 1976; Readopted Eff. May 12, 1978; Amended Eff. March 1, 2011; July 1, 1992; August 1, 1988.

11 NCAC 06A .0801 DEFINITIONS

As used in this Section:

- (1) "Biennial compliance period" means the 24-month period during which an agent or adjuster shall comply with continuing education requirements.
- (2) "Cluster of courses" means a number of courses, each of which is less than 100 minutes in length, but altogether 100 minutes or more in length, that are offered within one state or national program or convention.
- (3) "Compliance year" means the second year of the biennial compliance period.
- (4) "Continuing Education Administrator" or "Administrator" means the entity with which the Commissioner contracts for continuing education administration, including the approval of providers and courses and the retention of ICEC records for licensees.

- (5) "Course" means a continuing education course directly related to insurance principles and practices or a course designed and approved specifically for licensees; but does not mean a business course of a general nature or an insurance marketing or sales course. Courses shall be for instructional purposes only and not for promoting the interests of or recruiting employees for any particular insurance agency or company.
- (6) "Disinterested third party" means a person not concerned, with respect to possible gain or loss, in the result of a pending course final examination.
- (7) "Distance learning" means an educational program in which the licensee and the instructor are in different physical locations and interact with each other through various methods of telecommunication.
- (8) "Ethics course" means a continuing education course that deals with usage and customs among members of the insurance profession involving their moral and professional duties toward one another, toward clients, toward insureds, and toward insurers.
- (9) "Insurance continuing education credit" or "ICEC" means a value assigned to a course by the Commissioner after review and approval of a course information. This term means the same as "credit hour" as used in G.S. 58-33-130.
- (10) "Instructor" means an individual who teaches, lectures, leads, or otherwise instructs a course.
- (11) "Licensee" means a licensed adjuster, a licensed broker, or a licensed agent with any of the following lines of authority: property, casualty, personal lines, life, or accident and health or sickness.
- (12) "Long-Term Care Partnership Education" means a continuing education course related to long-term care insurance, long-term care services and qualified state long-term care insurance partnership programs which includes:
 - (a) State and federal regulations and requirements relating to long-term care partnership policies;
 - (b) the relationship between qualified state long-term care insurance partnership programs and other public and private coverage of long-term care services, including Medicaid;
 - (c) available long-term care services and providers;
 - (d) changes or improvements in long-term care services or providers;
 - (e) alternatives to the purchase of private long-term care insurance;
- (f) the effect of inflation on long-term care partnership policy benefits and the importance of inflation protection; and
- (g) consumer suitability standards and guidelines for long-term care partnership policies.
- (13) "Qualified Policy" has the same meaning as in G.S. 58-55-55(6) and includes a certificate issued under a group policy as specified in G.S. 58-55-60.
- (14) "Supervised examination" means a timed, closed book examination that is monitored and graded by a disinterested third party.
- (15) "Supervised individual study" means learning through the use of audio tapes, video tapes, computer programs, programmed learning courses, and other types of electronic media that are completed in the presence of an instructor.

History Note: Authority G.S. 58-2-40; 58-33-130; 58-55-55; 58-55-60; 58-55-65; 58-55-75; Temporary Adoption Eff. June 22, 1990, for a period of 180 days to expire on December 19, 1990; ARRC Objection Lodged July 19, 1990; Eff. December 1, 1990; Amended Eff. March 1, 2011; February 1, 2008; February 1, 1995; June 1, 1992.

11 NCAC 06A .0809 APPROVAL OF COURSES

- (a) Providers of all courses specifically approved under Rule .0803 of this Section shall file with the Commissioner or Administrator copies of program catalogs, course outlines, copies of advertising literature, and pay the fee prescribed in G.S. 58-33-133(b).
- (b) All providers of courses not specifically approved under Rule .0803 of this Section shall do the following:
 - (1) Any individual, school, insurance company, insurance industry association, or other organization intending to provide classes, seminars, or other forms of instruction as approved courses shall apply on forms provided by the Commissioner or Administrator; pay the fee prescribed in G.S. 58-33-133(b), provide detailed outlines of the subject matter to be covered, and copies of handouts to be given.
 - (2) Providers of supervised individual study programs shall file copies of the study programs and the examination, and Internet course security procedures.
 - (c) The Commissioner shall indicate the number of ICECs that have been assigned to the course that has been approved. If a course is not approved or disapproved within 60 days after receipt of all required information, the course is deemed to be approved at the end of the 60-day period.

(d) If a course approval application is denied, a written explanation of the reason for such action shall be furnished with the denial.

- (e) Course approval applications shall include the following:
 - (1) A statement for whom the course is designed;
 - (2) The course objectives;
 - (3) The names and duties of all persons who will be affiliated in an official capacity with the course;
 - (4) The course provider's tuition and fee refund policy;
 - (5) An outline that shall include:
 - (A) a statement of whether there will be a written examination, a written report, or a certification of attendance only;
 - (B) the method of presentation;
 - (C) a course content outline with instruction hours assigned to the major topics; and
 - (D) the schedule of dates, beginning and ending times and places the course will be offered, along with the names of instructors for each course session, submitted at least 30 days before any subsequent course offerings;
 - (6) A copy of the course completion certificate;
 - (7) A course rating form;
 - (8) A course bibliography; and
 - (9) An electronic copy of the course content and course examination for Internet courses.

(f) A provider may request that its materials be kept confidential if they are of a proprietary nature.

(g) Courses awarded more than six ICECs shall have an examination approved by the Commissioner in order for the licensee to get full credit.

(h) A provider may request an exemption to the examination requirement in 11 NCAC 6A .0809(g) when filing a long-term care partnership continuing education course of eight hours.

(i) A provider shall not cancel a course unless the provider gives written notification to all students on the roster and to the Commissioner or Administrator at least five days before the date of the course.

(j) A provider shall submit course attendance records electronically within 15 business days after course completion.

(k) An error on the licensee's record that is caused by the provider in submitting the course attendance records shall be resolved by the provider within 15 days after the discovery of the error by the provider.

History Note: Authority G.S. 58-2-40; 58-33-130; 58-33-132;
Temporary Adoption Eff. June 22, 1990, for a period of 180 days to expire on December 19, 1990;
ARRC Objection Lodged July 19, 1990;
Eff. December 1, 1990;
Amended Eff. March 1, 2011; February 1, 2008; February 1, 1996; June 1, 1992.

11 NCAC 06A .0814 AGENT EDUCATION ON LTCP POLICIES: COMPANY RESPONSIBILITY

(a) Each licensee who holds an accident and health or sickness license, a Medicare/Supplement Long-Term Care limited lines license, and who sells, solicits or negotiates Long-term Care Partnership policies shall complete eight hours of continuing education in Long-Term Care Partnership as defined in 11 NCAC 06A .0801(12) within one year of March 7, 2011.

(b) Each licensee issued an accident and health or sickness license or a Medicare/Supplement Long-Term Care limited lines license after March 7, 2011 shall complete eight hours of continuing education in Long-Term Care Partnership as defined in 11 NCAC 06A .0801(12) prior to selling, soliciting or negotiating a Long-Term Care Partnership Policy.

(c) Each licensee who holds an accident and health or sickness license, a Medicare/Supplement Long-Term Care limited lines license, and who sells, solicits or negotiates Long-term Care Partnership policies shall complete four hours of continuing education in Long-Term Care Partnership every biennial compliance period thereafter as defined in this Section.

(d) Insurers who provide Long-Term Care Partnership insurance shall verify that their appointed agents who sell, solicit or negotiate Long-Term Care Partnership policies as defined in G.S. 58-55-55(6) and G.S. 58-55-60 meet the continuing education requirements prescribed by this Rule. Verification may be accomplished by obtaining and maintaining the continuing education certificate of completion or by obtaining and maintaining a copy of the continuing education transcript for each agent.

(e) Upon written request by the Commissioner the records obtained by the insurer to verify the agent has satisfied the continuing education requirements of this Rule shall be provided to the Commissioner within 30 calendar days.

History Note: Authority G.S. 58-2-40; 58-2-190; 58-33-130; 58-55-55; 58-55-60;
Eff. March 1, 2011.

11 NCAC 11F .0406 LIMITED USE OF ANTICIPATED WITHDRAWAL RATES

(a) This Rule applies to universal life insurance policies and certificates issued after December 31, 2006, and before January 1, 2014, that contain a secondary guarantee that the death benefits will remain in effect as long as the accumulation of premiums paid satisfies the secondary guarantee requirement stated in the policy or certificate.

(b) For purposes of applying 11 NCAC 11F .0405(b) and 11 NCAC 11F .0405(c), a withdrawal rate of no more than two percent per year for the first five policy years, followed by no more than one percent per year to the policy anniversary specified in the following table, and zero percent thereafter shall be used. If the duration determined by reference to the table is less than five policy years, a withdrawal rate of no more than two percent per year shall be used through that duration, with zero percent per year used thereafter.

<u>Issue Age</u>	<u>Duration</u>
0-50	Policy Duration 30 years.

51-60	Duration at which policyholder reaches attained age 80.
61-70	Policy Duration 20 years.
71-89	Duration at which policyholder reaches attained age 90.
90 and over	No withdrawal rate assumption allowed.

History Note: Authority G.S. 58-2-40; 58-58-50(b); 58-58-50(l);
 Eff. December 1, 2007;
 Amended Eff. March 1, 2011.

11 NCAC 13 .0512 COLLATERAL SECURITY REQUIRED BY BONDSMEN

- (a) The collateral security required by bail bondsmen shall be reasonable in relation to the amount of the bond in that any collateral security (including personal property, real property, indemnity agreement and guarantee) received by such licensee shall not, in the aggregate, exceed the amount of the bond.
- (b) Any collateral security shall be returned to the person who deposited it with the bail bondsman immediately after the obligation, the satisfaction of which was secured by the collateral, is discharged.
- (c) Any bail bondsman or runner who receives collateral security shall hold such collateral security in trust. No indemnity agreement or other security received as collateral security for a bond shall contain any provision whereby any liability or obligation under such agreement extends beyond the termination of liability under the bond.
- (d) If the bondsman's liability is reduced at any time and for any reason, the collateral security and all obligations under collateral indemnity agreements or guarantees shall be reduced to the same extent that the liability under the bond was reduced, and any excess thereof shall be immediately returned to the depositor of the security.
- (e) No indemnity agreement or other security agreement taken as collateral for bonds shall include any provision for the payment of interest or other additional fees or charges.
- (f) All persons who sign any type of indemnity agreement or other type of security agreement to be used as collateral shall be furnished by the bondsman or runner with a copy of such agreement.
- (g) The provisions of this Section relating to indemnity agreements or other security agreements apply to all such agreements whether set forth on the face of the bond or contained in a separate agreement.
- (h) All indemnity agreements or other security agreements shall be considered as collateral security and shall be listed and described on the form provided by the Administrative Office of the Courts (Form AOC-CR-201 or its successor) entitled "Appearance Bond for Pretrial Release."
- (i) Upon any modification or alteration of the collateral security, the bondsman shall comply with the provisions of 11 North Carolina Administrative Code 13 .0513.

- (j) All agreements and contracts with defendants or anyone on behalf of the defendant, shall have a form number and the license number of the bail bondsman printed thereon and shall be submitted to the Department for approval according to the standards in these Rules. No such agreements or contracts shall be used by the licensee until written approval has been given by the Department.

History Note: Authority G.S. 58-2-40; 58-71-5(a); 58-71-95; 58-71-100;
 Eff. August 1, 1976;
 Readopted Eff. January 1, 1978;
 Amended Eff. March 1, 2011; October 1, 2010; September 14, 1978.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

15A NCAC 02B .0312 WHITE OAK RIVER BASIN

- (a) The White Oak River Basin Schedule of Classifications and Water Quality Standards may be inspected in the following places:
 - (1) the internet at <http://h2o.enr.state.nc.us/csu/>; and
 - (2) the North Carolina Department of Environment and Natural Resources:
 - (A) Washington Regional Office
943 Washington Square Mall
Washington, North Carolina;
 - (B) Wilmington Regional Office
127 Cardinal Drive Extension
Wilmington, North Carolina; and
 - (C) Division of Water Quality
Central Office
512 North Salisbury Street
Raleigh, North Carolina.
- (b) The White Oak River Basin Schedule of Classification and Water Quality Standards was amended effective:
 - (1) December 13, 1979 see Paragraph (c);
 - (2) June 1, 1988 see Paragraph (d);
 - (3) January 1, 1990 see Paragraph (e);
 - (4) August 1, 1990 see Paragraph (f);
 - (5) August 1, 1991 see Paragraph (g);
 - (6) June 1, 1992 see Paragraph (h);
 - (7) December 1, 1992 see Paragraph (i);
 - (8) November 1, 2007 see Paragraph (j);
 - (9) July 1, 2011 see Paragraph (k).
- (c) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin has been amended effective December 13, 1979 with the reclassification of a portion of the White Oak River Restricted Area (Index No. 20-32) and a portion of the Newport River (Morehead City and Beaufort Harbors Restricted Area) [Index No. 21-(31)] from Class SC to Class SA.
- (d) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin has been amended

effective June 1, 1988 with the reclassification of unnamed waters as follows:

- (1) a portion of the Roosevelt Natural Area Swamp, which drains to Bogue Sound (20-36), from Class SA to Class C Sw ORW.
 - (2) another portion of the Roosevelt Natural Area Swamp, which drains to Bogue Sound (20-36), from Class SA to Class SA Sw ORW.
- (e) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin has been amended effective January 1, 1990 as follows:
- (1) Intracoastal Waterway (Index No. 19-39) from northeastern boundary of Cape Fear River Basin to Daybeacon No. 17 including all unnamed bays, guts, and channels, except Rogers Bay and Mill Creek and Intracoastal Waterway (Index No. 19-41) from the northeast mouth of Goose Creek to the southwest mouth of Queen Creek were reclassified from Class SA to Class SA ORW.
 - (2) Bear Island ORW Area, which includes all waters within an area north of Bear Island defined by a line from the western most point on Bear Island to the northeast mouth of Goose Creek on the mainland, east to the southwest mouth of Queen Creek, then south to green marker No. 49, then northeast to the northern most point on Huggins Island, then southeast along the shoreline of Huggins Island to the southeastern most point of Huggins Island, then south to the northeastern most point on Dudley Island, then southwest along the shoreline of Dudley Island to the eastern tip of Bear Island to the western mouth of Foster Creek including Cow Channel were reclassified from Class SA to Class SA ORW.
 - (3) Bogue Sound (including Intracoastal Waterway from White Oak River Basin to Beaufort Inlet) (Index No. 20-36) from Bogue Inlet to a line across Bogue Sound from the southwest side of mouth of Gales Creek to Rock Point and all tributaries except Hunting Island Creek, Goose Creek, and Broad Creek were reclassified from Class SA to Class SA ORW.
 - (4) Core Sound (Index No. 21-35-7) from northern boundary of White Oak River Basin (a line from Hall Point to Drum Inlet) to Back Sound and all tributaries except Atlantic Harbor Restricted Area, Nelson Bay, Jarrett Bay, Williston Creek, Wade Creek and Middens Creek were reclassified from Class SA to Class SA ORW.
 - (5) Back Sound (Index No. 21-35) from a point on Shackleford Banks at lat. 34 degrees 40' 57" and long 76 degrees 37' 30" north to the western most point of Middle Marshes and along the northwest shoreline of Middle Marshes (to include all of Middle Marshes) to

Rush Point on Harkers Island and along the southern shore of Harkers Island back to Core Sound and all tributaries were reclassified from Class SA to Class SA ORW.

- (f) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin has been amended effective August 1, 1990 with the reclassification of a portion of the White Oak River [Index No. 20-(1)] from Spring Branch to Hunters Creek from Class C to Class C HQW.
- (g) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin was amended effective August 1, 1991 by adding the supplemental classification NSW (Nutrient Sensitive Waters) to all waters in the New River Drainage Area above a line running across the New River from Grey Point to a point of land approximately 2,200 yards downstream of the mouth of Duck Creek.
- (h) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin was amended effective June 1, 1992 with the reclassification of Peletier Creek (Index No. 20-36-11) from its source to Bogue Sound from Class SA to Class SB with the requirement that no discharges be allowed.
- (i) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin has been amended effective December 1, 1992 with the reclassification of the Atlantic Harbor Restricted Area (Index No. 21-35-7-2) from Class SC to Class SA ORW.
- (j) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin has been amended effective November 1, 2007 with the reclassifications listed below, and the North Carolina Division of Water Quality maintains a Geographic Information Systems data layer of these UWLs:
 - (1) Theodore Roosevelt Maritime Swamp Forest near Roosevelt Natural Area Swamp [Index No. 20-36-9.5-(1)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
 - (2) Bear Island Maritime Wet Grassland near the Atlantic Ocean [Index No. 99-(4)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (k) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin has been amended effective July 1, 2011 with the reclassification of a portion of Southwest Creek [Index No. 19-17-(0.5)] from a point approximately 0.5 mile upstream of Mill Run to Mill Run from Class C NSW to Class SC NSW, and another portion of Southwest Creek [Index No. 19-17-(6.5)] from Mill Run to New River from Class C HQW NSW to Class SC HQW NSW.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); Eff. February 1, 1976; Amended Eff. July 1, 2011; November 1, 2007; December 1, 1992; June 1, 1992; August 1, 1991; August 1, 1990.

15A NCAC 02H .0901 PURPOSE

(a) The rules in this Section are designed to implement North Carolina General Statutes 143-215.3(a)(14) and 143-215.1 and provisions of the Federal Water Pollution Control Act (also

known as the "Clean Water Act") regarding the discharge of non-domestic wastewater into publicly owned treatment works (POTWs). They establish responsibilities of state and local government, industry, and the public to implement pretreatment standards to control pollutants which pass through or interfere with treatment processes in POTWs, which may contaminate sewage sludge, or which otherwise have an adverse impact on the POTW, its workers, or the environment.

(b) Copies of rules referenced in this Section may be obtained from the Division of Water Quality, Surface Water Protection Section at the following locations:

- (1) <http://portal.ncdenr.org/web/wq/swp/ps/pret/>;
- (2) the North Carolina Department of Environment and Natural Resources, Division of Water Quality
Offices of the Pretreatment, Emergency Response, and Collection Systems (PERCS) Unit
Physical Address: Archdale Building, 512 N. Salisbury St.,
Raleigh, N.C. 27604
Mailing Address: 1617 Mail Service Center
Raleigh, N.C. 27699-1617;
- (3) Raleigh Regional Office
3800 Barrett Dr.
Raleigh, N.C. 27609;
- (4) Asheville Regional Office
2090 US Highway 70
Swannanoa, NC 28778;
- (5) Mooresville Regional Office
610 East Center Avenue, Suite 301
Mooresville, N.C. 28115;
- (6) Fayetteville Regional Office
Systel Bldg; Suite 714
225 Green Street
Fayetteville, N.C. 28301;
- (7) Washington Regional Office
1424 Carolina Avenue,
Washington, N.C. 27889;
- (8) Wilmington Regional Office
127 Cardinal Drive Extension,
Wilmington, N.C. 28405-3845; and
- (9) Winston-Salem Regional Office
585 Waughtown Street
Winston-Salem, N.C. 27107.

History Note: Authority G.S. 143-215.3(a)(14); Eff. March 28, 1980; Amended Eff. April 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984.

15A NCAC 02H .0902 SCOPE

These Rules apply to:

- (1) Pollutants from non-domestic sources covered by pretreatment standards which are indirectly discharged into or transported by truck or rail or otherwise introduced into POTWs as defined in 40 CFR 403.3 and Rule .0903 of this Section;

- (2) POTWs and control authorities which receive wastewater from sources subject to pretreatment standards; and
- (3) Any new or existing source subject to pretreatment standards. Pretreatment standards do not apply to sources which discharge to a sewer which is not connected to a POTW treatment plant.

History Note: Authority G.S. 143-215.3(a)(14); Eff. March 28, 1980; Amended Eff. April 1, 2011; November 1, 1994; October 1, 1987.

15A NCAC 02H .0904 REQUIRED PRETREATMENT PROGRAMS

(a) The regulations regarding pretreatment program development by the control authority promulgated by the Environmental Protection Agency and codified as 40 CFR Parts 403.8(a) through 403.8(e) are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.

(b) The Division may allow a control authority having a combined permitted flow less than or equal to two million gallons per day and less than four significant industrial users to develop and implement a modified pretreatment program that encompasses a portion of the requirements in Rules .0905 and .0906 of this Section, as designated by the Division Director. In making the decision to allow modified pretreatment program development and implementation, the Division Director may consider factors including percent industrial flow, industrial waste characteristics, compliance status of the facility, and the potential for industrial growth.

History Note: Authority G.S. 143-215.1(a); 143-215.1(b); 143-215.3(a)(14); 150B-21.6; Eff. March 28, 1980; Amended Eff. April 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984.

15A NCAC 02H .0905 POTW PRETREATMENT PROGRAM IMPLEMENTATION REQUIREMENTS

Except where specified differently in this Section, the POTW pretreatment program requirements promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.8(f) and (g) are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.

In general, the implementation of a pretreatment program involves the updating of the sewer use ordinance (SUO); implementation of industrial waste survey (IWS) activities; updating of the headworks analysis (HWA), or technical basis for local limits; implementation of the long or short term monitoring plan (LTMP/STMP); implementation of compliance activities, including sampling and inspection of significant industrial users;

maintenance of control authority organization description; maintenance of staffing and funding information; implementation of the enforcement response plan (ERP), and reporting to the Division on pretreatment program activities.

History Note: Authority G.S. 143-215.1(a); 143-215.1(b); 143-215.3(a)(1); 143-215.3(a)(14); 150B-21.6; 153A-274; 153A-275; 160A-311; 160A-312; Eff. March 28, 1980; Amended Eff. April 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984.

15A NCAC 02H .0906 SUBMISSION FOR PRETREATMENT PROGRAM APPROVAL

(a) Except where in conflict with any part of this Section, the regulations regarding the contents of pretreatment programs submitted for approval and the contents of a request to revise national categorical pretreatment standards, promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.9 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.

(b) In addition to the contents of a control authority pretreatment program submission described in Paragraph (a) of this Rule, the program submission shall contain:

- (1) a sewer use ordinance (SUO) providing the legal authority for implementing the pretreatment program, along with an attorney's statement, as required by 40 CFR Part 403.8 (f)(1) and Rule .0905 of this Section. Where the control authority accepts wastewater from one or more satellite POTWs and is the control authority within the satellite POTW's service area, the attorney's statement for that control authority shall document the interlocal agreements (ILAs) authorized by G.S. 153A-278 and 160A-460 et seq and SUO sections that establish the control authority's authority for regulation within all satellite POTW services areas which are tributary to the control authority's POTW. Where a satellite POTW serves as the control authority within its service area, the attorney's statement for that control authority shall document the ILAs and SUO sections that establish the satellite POTW's authority for regulation within its service area and the requirements for the satellite POTW to implement its pretreatment program in accordance with the downstream POTW's SUO and the ILA. In either case, where the POTW organizations have other written procedures to outline responsibilities not covered by the ILA or SUO, the applicable attorney's statements shall also include documentation of these procedures and the source of their enforceability;

- (2) an industrial waste survey (IWS), or industrial user survey, as defined in Subparagraph (13) of Rule .0905(b) of this Section;
- (3) a monitoring plan to provide POTW site-specific data for the HWA and subsequent technical evaluations of local limits to satisfy the requirements of 40 CFR Part 122.21(j). Modified pretreatment programs developed under Rule .0904(b) of this Section shall be allowed to implement a short term monitoring plan (STMP);
- (4) a headworks analysis (HWA) and supporting documentation, including POTW site-specific and relevant literature data, upon which to base industrial user-specific effluent limits and other local limits for prohibited pollutants (as defined in 40 CFR Parts 403.5(a) and (b) and Rule .0909 of this Section);
- (5) a compliance monitoring program, including inspection, sampling, equipment, and other compliance procedures, which will implement the requirements of 40 CFR Parts 403.8(f) and 403.12, and Rules .0905 and .0908 of this Section;
- (6) draft industrial user pretreatment permits for significant industrial users as required by 40 CFR Parts 403.8(f)(1)(iii) and 403.9(b)(1)(ii) and Rule .0916 of this Section, and supporting documentation outlined in Rules .0916 and .0917 of this Section;
- (7) procedures for approving the construction of pretreatment facilities by industrial users and for permitting industrial users for construction, operation and discharge as required by G.S. 143-215.1; procedures for approving construction shall include issuance of authorization to construct, as appropriate;
- (8) an enforcement response plan (ERP) as required by 40 CFR Parts 403.8(f)(5) and 403.9(b)(1)(ii) for identifying violations of and enforcing specific local limits and other pretreatment requirements as required by and specified in 40 CFR Parts 403.5 and 403.6 and Rules .0909 and .0910 of this Section;
- (9) a brief description (including organization charts) of the control authority which will administer the pretreatment program. Where more than one POTW organization is involved in the POTW wastewater collections or treatment system, the description shall address all the agencies, including identification of which party will receive Industrial User applications for new and changed discharges and how the parties will communicate on significant industrial user determinations;
- (10) a description of funding levels and full- and part-time manpower available to implement the program;

- (11) a description of data management procedures for compiling and managing compliance, LTMP/STMP, and any other pretreatment-related monitoring data, including documentation of approval of electronic reporting procedures as required under 40 CFR Part 3 if applicable; and
- (12) a request for pretreatment program approval as required by 40 CFR Part 403.9 and this Section.

History Note: Authority G.S. 143-215.1(a); 143-215.1(b); 143-215.3(a)(1); 143-215.3(a)(14); 150B-21.6; Eff. March 28, 1980; Amended Eff. April 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984.

15A NCAC 02H .0909 NATIONAL PRETREATMENT STANDARDS: PROHIBITED DISCHARGES

The regulations regarding national prohibited pretreatment standards and local limits development and enforcement promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.5 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.

History Note: Authority G.S. 143-215.1(a)(7); 143-215.1(b); 143-215.3(a)(1); 143-215.3(a)(14); 150B-21.6; Eff. March 28, 1980; Amended Eff. March 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984.

15A NCAC 02H .0910 NATIONAL PRETREATMENT STANDARDS: CATEGORICAL STANDARDS

The regulations regarding national categorical pretreatment standards promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.6 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.

History Note: Authority G.S. 143-215.1(a)(7); 143-215.1(b); 143-215.3(a)(14); 150B-21.6; Eff. March 28, 1980; Amended Eff. March 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984.

15A NCAC 02H .0912 ADJUSTMENTS FOR FUNDAMENTALLY DIFFERENT FACTORS

The regulations regarding variances from national categorical pretreatment standards for fundamentally different factors promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.13 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the locations listed in

Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.

History Note: Authority G.S. 143-215(a); 143-215.1(a); 143-215.1(b); 143-215.3(a)(14); 143-215.3(e); 150B-21.6; Eff. March 28, 1980; Amended Eff. March 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984.

15A NCAC 02H .0913 PUBLIC ACCESS TO INFORMATION

(a) Information and data provided by an industrial user to the POTW Director pursuant to this Section, identifying the nature and frequency of a discharge, shall be available to the public without restriction. All other information which may be so submitted by an industrial user to the POTW Director in connection with any required reports shall also be available to the public unless the industrial user or other interested person specifically identifies the information as confidential upon submission and is able to demonstrate to the satisfaction of the POTW Director that the disclosure of such information or a particular part thereof to the general public would divulge methods or processes entitled to protection as trade secrets.

(b) Information and data provided by an industrial user to the Division Director shall be subject to the processes set forth in G.S. 143-215.3C.

(c) Information provided by an industrial user to a control authority that is determined to be entitled to confidential treatment shall be made available upon written request to the Division or any state agency for uses related to the pretreatment program, the National Pollutant Discharge Elimination System (NPDES) permit, collection system permit, stormwater permit, or non-discharge permit, and for uses related to judicial review or enforcement proceedings involving the person furnishing the report.

(d) Information and data received by the Division or other state agency under Paragraph (c) of this Rule shall be subject to the processes set forth in G.S. 143-215.3C.

History Note: Authority G.S. 132-1.2; 132-6; 132-9; 143-215.1; 143-215.3; 143-215.3C; Eff. March 28, 1980; Amended Eff. April 1, 2011; October 1, 1987.

15A NCAC 02H .0914 UPSET PROVISION

The upset provision promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.16 is hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(14); 150B-21.6; Eff. December 1, 1984; Amended Eff. March 1, 2011; November 1, 1994; October 1, 1987.

15A NCAC 02H .0915 NET/GROSS CALCULATION

The net/gross calculation provisions promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.15 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(14); 150B-21.6; Eff. December 1, 1984; Amended Eff. March 1, 2011; November 1, 1994; October 1, 1987.

15A NCAC 02H .0916 PRETREATMENT PERMITS

(a) All significant industrial users who discharge waste into a POTW or who construct or operate a pretreatment facility shall obtain a permit from the control authority.

(b) Where the Division is the control authority, permits shall be issued in accordance with Section .0100 of this Subchapter.

(c) Where the control authority is a POTW organization, significant industrial user permits shall be issued as follows:

- (1) Application: any significant industrial user required to obtain a permit in Paragraph (a) of this Rule shall be required to complete, sign and submit to the control authority a permit application. Application fees and procedures may be prescribed by the control authority. All pretreatment permit applications shall include as a minimum:
 - (A) name of industrial user;
 - (B) address of industrial user;
 - (C) standard industrial classification (SIC) code(s) or expected classification and industrial user category;
 - (D) wastewater flow;
 - (E) types and concentrations (or mass) of pollutants contained in the discharge;
 - (F) major products manufactured or services supplied;
 - (G) description of existing on-site pretreatment facilities and practices;
 - (H) locations of discharge points;
 - (I) raw materials used or stored at the site;
 - (J) flow diagram or sewer map for the industrial user;
 - (K) number of employees;
 - (L) operation and production schedules; and
 - (M) description of current and projected waste reduction activities in accordance with G.S. 143-215.1(g);
- (2) Renewals: Applications for pretreatment permit renewals shall be accomplished by filing an application form as listed in Subparagraph (c)(1) of this Rule prior to permit expiration. The number of days prior

to expiration by which the application shall be filed shall be established by the control authority;

(3) Review and Evaluation:

- (A) The POTW Director is authorized to accept applications for the Commission and shall refer all applications to the control authority staff for review and evaluation;
- (B) The POTW Director shall acknowledge receipt of a complete application, or if not complete, shall return the application to the applicant with a statement of what additional information is required;
- (C) The control authority staff shall include documentation of the most recent on site inspection of the industrial user and any existing wastewater pretreatment system as part of the permit record for new and renewed permits; and
- (D) The control authority staff shall conduct an evaluation and make a tentative determination to issue or deny the permit. If the control authority staff's tentative determination is to issue the permit, it shall make the following additional determinations in writing and transmit them to the industrial user:
 - (i) proposed effluent limitations for those pollutants proposed to be limited;
 - (ii) a proposed schedule of compliance, including interim dates and requirements, for meeting the proposed effluent limitations; and
 - (iii) a description of any other proposed special conditions which will have significant impact upon the discharge described in the application;

The control authority staff shall organize the determinations made into a pretreatment permit;

(4) Permit supporting documentation. The control authority staff shall prepare the following documents for all significant industrial user permits:

- (A) An allocation table (AT) listing permit information for all significant industrial users, including but not limited to permit limits, permit effective and expiration dates, and a comparison of total permitted flows

- and loads with Division approved maximum allowable loadings of the POTW, including flow, on forms or in a format provided by the Division. The AT shall be updated as permits are issued or renewed, and as permits are modified where the permitted limits or other AT information is revised;
- (B) The basis, or rationale, for the pretreatment limitations, including documentation of categorical determination, including documentation of any calculations used in applying categorical standards; and
- (C) Documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403.12(e)(2);
- (5) Final Action on Permit Applications:
- (A) The POTW Director shall take final action on all applications by either issuing a pretreatment permit or by denying the discharge not later than 90 days following the receipt of a complete application. If, following the 30 day period required by Rules .0917(d) and .0922 of this Section, no written demand for hearing, objection, or request for more information under Rule .0917(f)(2) of this Section has been made, the permit shall become final and binding;
- (B) The POTW Director is authorized to:
- (i) issue a permit containing such conditions as are necessary to effectuate the purposes of G.S. 143-215.1;
- (ii) issue a permit containing time schedules for achieving compliance with applicable pretreatment standards and limitations and other legally applicable requirements;
- (iii) modify or revoke any permit pursuant to Subparagraph (c)(6) of this Rule;
- (iv) deny a permit application;
- (v) issue permits to industrial users not identified as significant industrial users using procedures prescribed by the control authority; and
- (vi) require industrial users to develop a waste reduction plan and implement waste reduction techniques and technologies;
- (C) Permits shall be issued or renewed for a period of time deemed reasonable by the POTW Director but in no case shall the period exceed five years; and
- (D) The POTW Director shall notify an applicant by certified or registered mail of the denial of his/her permit application. Notifications of denial shall specify the reasons for the denial and the proposed changes which in the opinion of the POTW Director will be required to obtain the permit;
- (6) Modification and Revocation of Permits:
- (A) Any permit issued pursuant to this Rule is subject to revocation or modification in whole or part as outlined in the control authority's sewer use ordinance; and
- (B) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as follows:
- (i) changes in the ownership of the discharge when no other change in the permit is indicated;
- (ii) a single modification of any compliance schedule not in excess of four months;
- (iii) modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational; or
- (iv) modifications of the monitoring requirements in the permit; and
- (7) Permit effective dates and modification effective dates shall not be retroactive.

History Note: Authority G.S. 143-215(a); 143-215.1(a); 143-215.1(c); 143-215.1(g); 143-215.3(a)(3); 143-215.3(a)(14); 143-215.3(e); Eff. October 1, 1987; Amended Eff. April 1, 2011; November 1, 1994.

15A NCAC 02H .0917 PRETREATMENT PERMIT SUBMISSION AND REVIEW

- (a) Upon issuance, each control authority shall transmit to the Division copies of all issued significant industrial user pretreatment permits.
- (b) Permits and permit renewal submissions to the Division for significant industrial users shall include the supporting

information listed below. Permit modification submissions for significant industrial users shall include updated versions of this supporting information listed below as applicable to that modification:

- (1) the rationale for limits and allocation table required by Rule .0916(c)(4) of this Section;
- (2) a copy of the completed application required in Rule .0916(c)(1) of this Section; and
- (3) a copy of the record of the inspection required in Rule .0916(c)(3)(C) of this Section;

(c) The Division Director may waive some or all of the requirements in Paragraphs (a) and (b) of this Rule. In making the decision to waive these requirements, the Division Director may consider factors including but not limited to training levels of control authority staff, quality of previous pretreatment permit submissions, percent maximum allowable headworks loading capacity remaining, percent industrial user flow, industrial user waste characteristics, and compliance status of the POTW and its respective environmental permits.

(d) The Division shall have 30 days from the receipt of pretreatment permits in which to make general comments upon, objections to or recommendations with respect to the permit. Unless such an objection or request for more information in accordance with Paragraph (g) of this Rule is made, the permit shall be final and binding.

(e) Within 30 days of the receipt of a pretreatment permit to which the Division Director has objected the Division staff shall set forth in writing and transmit to the control authority:

- (1) A statement of the reasons for the objection, including the rules or regulations that support the objection; and
- (2) The actions which shall be taken by the control authority to eliminate the objection including the effluent limitations and conditions which the permit would include if it were issued by the Division;

(f) The Division Director's objection to the issuance of a pretreatment permit shall be based upon one or more of the following grounds:

- (1) the permit fails to apply or to ensure compliance with any applicable requirement of this Section;
- (2) the procedures followed in connection with formulation of the pretreatment permit failed to comply with the procedures required by state statute or by the control authority's approved pretreatment program;
- (3) a finding made by the control authority in connection with the pretreatment permit which misinterprets any categorical standard or pretreatment regulation or misapplies them to the facts; and
- (4) the provisions of the pretreatment permit relating to the maintenance of records, monitoring or sampling by the control authority and the industrial user are, in the judgment of the Division Director, inadequate to assure compliance with permit conditions or applicable pretreatment standards;

(g) Prior to notifying the control authority of an objection, the Division Director:

- (1) shall consider all data transmitted pursuant to Rules.0916 and .0917 of this Section;
- (2) may, if more information is needed to determine whether the permit is adequate, request the control authority to make available to the Division staff the complete record of permit proceedings, or any portions of the record that the Division Director determines are necessary for review. Requests shall be made within 30 days of the Division's receipt of the permit under Rule .0916 of this Section, and shall suspend the 30 day review period in Paragraph (d) of this Rule. When the Division staff has obtained the requested records or portions of the record, the Division staff shall have an additional 30 days for review; and
- (3) may, to the extent feasible within the period of time available, afford interested persons the opportunity to comment on the basis for the objection; and

(h) If within 60 days of the receipt of the Division Director's objection the control authority does not resubmit a permit revised to meet the Division Director's objection, the Division Director may issue the permit in accordance with Section .0100 of this Subchapter. Exclusive authority to issue the permit required by G.S. 143-215.1(a) passes to the Division when this time expires.

History Note: Authority G.S. 143-215(a); 143-215.1(a); 143-215.1(c); 143-215.3(a)(3) ; 143-215.3(a)(14); 143-215.3(e); Eff. October 1, 1987; Amended Eff. April 1, 2011; November 1, 1994.

15A NCAC 02H .0919 BYPASS

The regulations regarding the bypass provisions promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.17 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.

History Note: Authority G.S. 143-215.1(a)(1); 143-215.3(a)(14); 150B-21.6; Eff. November 1, 1994; Amended Eff. March 1, 2011.

15A NCAC 02H .0920 PRETREATMENT FACILITY OPERATION AND MAINTENANCE

(a) Upon classification of pretreatment facilities permitted under this Section and upon development of specific certification and training programs for operators of classified facilities, the industrial user shall designate an operator in responsible charge and a back-up operator as required by the Water Pollution Control System Operators Certification Commission as established in Subchapter 08G of these Rules.

(b) In order to insure the proper operation and maintenance of facilities permitted under this Section and classified under the

rules of the Water Pollution Control System Operators Certification Commission (Subchapter 08G of these Rules), the operator in responsible charge, or a back-up operator when appropriate, shall operate and visit the facility as required by the Water Pollution Control System Operators Certification Commission as established in Subchapter 08G of these Rules.

(c) Copies of rules referenced in this Rule may be obtained at the following locations:

- (1) <http://portal.ncdenr.org/web/wq/admin/tacu>; and
- (2) the North Carolina Department of Environment and Natural Resources, Division of Water Quality
Offices of the Technical Assistance and Certification Unit (TACU)
Physical Address: 219 North East Street
Raleigh, N.C. 27601
Mailing Address: 1618 Mail Service Center
Raleigh, N.C. 27699-1618.

History Note: Authority G.S. 143-215.3; Eff. November 1, 1994; Amended Eff. April 1, 2011.

15A NCAC 02H .0921 REVISION TO REFLECT POTW REMOVAL OF POLLUTANT

The regulations regarding removal credits promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.7 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.

History Note: Authority G.S. 143-215.1(a); 143-215.1(b); 143-215.3(a)(14); 150B-21.6; Eff. November 1, 1994; Amended Eff. March 1, 2011.

15A NCAC 07M .0402 DEFINITIONS

(a) "Impact Assessment" is an analysis which discusses the potential environmental, economic and social consequences, including cumulative and secondary impacts, of a proposed major energy facility. At a minimum, the assessment shall include the following and for each of the following shall discuss and assess any effects the project will have on the use of public trust waters, adjacent lands and on the coastal resources, including the effects caused by activities outside the coastal area:

- (1) a discussion of the preferred sites for those elements of the project affecting the use of public trust waters, adjacent lands and the coastal resources:
 - (A) In all cases where the preferred site is located within an area of environmental concern (AEC) or on a barrier island, the applicant shall identify alternative sites considered and present a full discussion [in terms

of Subparagraphs (a)(2) through (9) of this Rule] of the reasons why the chosen location was deemed more suitable than another feasible alternate site;

- (B) If the preferred site is not located within an AEC or on a barrier island, the applicant shall present evidence to support the proposed location over a feasible alternate site;
 - (C) In those cases where an applicant chooses a site previously identified by the state as suitable for such development and the site is outside an AEC or not on a barrier island, alternative site considerations shall not be required as part of this assessment procedure;
- (2) a discussion of the economic impacts, both positive and negative, of the proposed project. This discussion shall focus on economic impacts to the public, not on matters that are purely internal to the corporate operation of the applicant. No proprietary or confidential economic data shall be required. This discussion shall include analysis of likely adverse impacts upon the ability of any governmental unit to furnish necessary services or facilities as well as other secondary impacts of significance;
 - (3) a discussion of potential adverse impacts on coastal resources, including marine and estuarine resources and wildlife resources, as defined in G.S. 113-129;
 - (4) a discussion of potential adverse impacts on existing industry and potential limitations on the availability of, and accessibility to, coastal resources, including beach compatible sand and water, for future use or development;
 - (5) a discussion of potential significant adverse impacts on recreational uses and scenic, archaeological and historic resources;
 - (6) a discussion of potential risks to human life or property;
 - (7) a discussion of the impacts on the human environment including noise, vibration and visual impacts;
 - (8) a discussion of the procedures and time needed to secure an energy facility in the event of severe weather conditions, such as extreme wind, currents and waves due to northeasters and hurricanes;
 - (9) other specific data necessary for the various state and federal agencies and commissions with jurisdiction to evaluate the consistency of the proposed project with relevant standards and guidelines;
 - (10) a plan regarding the action to be taken upon the decommissioning and removal of the

facility and related structures. The plan shall include an estimate of the cost to decommission and remove the energy facility including a discussion of the financial instrument(s) used to provide for the decommissioning and the removal of the structures that comprise the energy facility. The plan shall also include a proposed description of the condition of the site once the energy facility has been decommissioned and removed.

- (11) a specific demonstration that the proposed project is consistent with relevant local land use plans and with guidelines governing land uses in AECs.

Any impact assessment for a proposed major energy facility shall include a discussion of the items described in Subparagraphs (a)(1) through (11) of this Rule for the associated energy exploration or development activities including all foreseeable assessments of resource potential, including the gathering of scientific data, exploration wells, and any delineation activities that are likely to follow development, production, maintenance and decommissioning.

(b) "Major energy facilities" are those energy facilities which because of their size, magnitude or scope of impacts, have the potential to affect any land or water use or coastal resource of the coastal area. For purposes of this definition, major energy facilities shall include, but are not necessarily limited to, the following:

- (1) Any facility capable of refining petroleum products;
- (2) Any terminals (and associated facilities) capable of handling, processing, or storing petroleum products or synthetic gas;
- (3) Any petroleum storage facility that is capable of storing 15 million gallons or more on a single site;
- (4) Gas, coal, oil or nuclear electric generating facilities 300 MGW or larger;
- (5) Wind energy facilities, including turbines, accessory buildings, transmission facilities and other equipment necessary for the operation of a wind generating facility that cumulatively, with any other wind energy facility whose turbines are located within one-half mile of one another, are capable of generating three megawatts or larger;
- (6) Thermal energy generation;
- (7) Major pipelines 12 inches or more in diameter that carry petroleum products or synthetic gas;
- (8) Structures, including drillships and floating platforms and structures relocated from other states or countries, located in offshore waters for the purposes of energy exploration, development or production; and
- (9) Onshore support or staging facilities related to offshore energy exploration, development or production.

(c) "Offshore waters" are those waters seaward of the state's three-mile offshore jurisdictional boundary in which development activities may impact any land or water use or natural resource of the state's coastal area.

History Note: Authority G.S. 113A-102(b); 113A-107; 113A-124; Eff. March 1, 1979; Amended Eff. October 1, 1988; Amended Eff. November 3, 1997 pursuant to E.O. 121, James B. Hunt Jr., 1997; Temporary Amendment Eff. July 8, 1999; December 22, 1998; Amended Eff. March 1, 2011; August 1, 2000.

15A NCAC 10A .1201 EMERGENCY POWERS

(a) Upon a finding by the Wildlife Resources Commission that a wildlife disease threatens irreparable injury to wildlife or to the public, the Executive Director shall develop an emergency response plan in consultation with the Governor's office and the State Veterinarian. The plan may prescribe one or more of the following actions:

- (1) shorten or lengthen harvest seasons;
- (2) prohibit transport of wildlife resources or parts thereof;
- (3) prohibit possession of wildlife resources;
- (4) confiscate wildlife resources;
- (5) revoke licenses or permits;
- (6) expand or restrict daily bag limits, daily creel limits, and possession limits;
- (7) establish mandatory wildlife check stations;
- (8) restrict public access to game lands;
- (9) require prepayment of outside testing costs by persons who desire disease testing of their harvested wildlife resource when such testing is not essential to the objectives of the plan;
- (10) prohibit supplemental feeding or baiting of wildlife;
- (11) prohibit any other activities that aid in the transmission or movement of the disease as determined by the best available science regarding the disease threat;
- (12) implement any other activities necessary to reduce infection opportunities; and
- (13) implement any other requirements necessary to assist in the detection and isolation of the disease.

(b) The Commission shall inform the public of the actions in the response plan through press releases, postings on the Wildlife Commission web site, letters sent to representatives of sportsmen's groups or other constituents likely to be directly affected, and by employee outreach.

History Note: Authority G.S. 113-134; 113-306(f); Eff. March 1, 2011.

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

CHAPTER 32 – MEDICAL BOARD

**21 NCAC 32A .0114 SUSPENSION OF AUTHORITY
TO EXPEND FUNDS**

In the event 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 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.

*History note: Authority G.S. 93B-2(d);
Eff. March 1, 2011.*

**21 NCAC 32B .0601 APPLICATION AND
LIMITATION**

**21 NCAC 32B .0602 CERTIFICATION OF
GRADUATION**

*History Note: Authority G.S. 90-12;
Eff. February 1, 1976;
Amended Eff. November 1, 1985;
Recodified from 21 NCAC 32B .0501 Eff. April 5, 1989 (Rule
.0601);
Recodified from 21 NCAC 32B .0502 Eff. April 5, 1989 (Rule
.0602);
Amended Eff. May 1, 1989;
Repealed Eff. March 1, 2011.*

- 21 NCAC 32B .0801 DEFINITION OF PRACTICE**
- 21 NCAC 32B .0802 ELIGIBILITY REQUIREMENTS**
- 21 NCAC 32B .0803 APPLICATION**
- 21 NCAC 32B .0804 FEE**
- 21 NCAC 32B .0805 CERTIFIED PHOTOGRAPH
AND CERTIFICATE OF GRADUATION**
- 21 NCAC 32B .0806 VERIFICATION OF MEDICAL
LICENSURE**
- 21 NCAC 32B .0807 LETTERS OF
RECOMMENDATION**
- 21 NCAC 32B .0808 PERSONAL INTERVIEW**

*History Note: Authority G.S. 90-12;
Eff. October 1, 1993;
Amended Eff. July 1, 2004; September 1, 1995;
Repealed Eff. March 1, 2011.*

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) Area(s) of Practice – the medical or surgical specialty in which a physician or physician assistant has practiced or intends to practice;
- (8) Board –The North Carolina Medical Board;
- (9) CACMS – Committee for the Accreditation of Canadian Medical Schools;
- (10) CAQ – Certificate of Added Qualification conferred by a specialty board recognized by the ABMS, the AOA, CCFP, FRCP or FRCS;
- (11) CCFP – Certificat of the College of Family Physicians;
- (12) CFPC – College of Family Physicians of Canada;
- (13) COCA – Commission on Osteopathic Colleges Accreditation;
- (14) Core Competencies – patient care; medical knowledge; communication; practice-based learning; systems-based care; and professionalism as defined by the ACGME;
- (15) CME – Continuing Medical Education;
- (16) COMLEX – Comprehensive Osteopathic Medical Licensure Examination;
- (17) COMVEX – Comprehensive Osteopathic Medical Variable-Purpose Examination;
- (18) ECFMG – Educational Commission for Foreign Medical Graduates;
- (19) FCVS – Federation Credential Verification Service;
- (20) Fifth Pathway – an avenue for licensure as defined in the AMA's Council on Medical Education Report 1-I-07;
- (21) FLEX – Federation Licensing Examination;
- (22) FRCP – Fellowship of the Royal College of Physicians of Canada;
- (23) FRCS – Fellowship of the Royal College of Surgeons of Canada;
- (24) FSMB – Federation of State Medical Boards;
- (25) GME – Graduate Medical Education;
- (26) HIPDB – Healthcare Integrity and Protection Data Bank;
- (27) IMG – International Medical Graduate – a physician who has graduated from a medical or osteopathic school not approved by the LCME, the CACMS or COCA;
- (28) Intensity of Practice – the number of hours, the number of years and the responsibilities involved in a person's medical practice;
- (29) LCME – Liaison Commission on Medical Education;
- (30) LMCC – Licentiate of the Medical Council of Canada;
- (31) MCCQE – Medical Council of Canada Qualifying Examination;

- (32) Mentoring Physician – a licensed physician with no public disciplinary record in the last 10 years, who is certified by an American Board of Medical Specialties ("ABMS"), the American Osteopathic Association ("AOA") or a board determined by the Medical Board to be equivalent to the ABMS or AOA and who practices in the same or similar area of practice into which the applicant for reentry is reentering. A mentoring physician must have had some experience as a medical educator or mentor, and shall have no conflicts of interest with the reentry applicant that would impair the mentoring physician's ability to provide an objective evaluation of the reentering licensee's competence;
 - (33) NBME – National Board of Medical Examiners;
 - (34) NBOME – National Board of Osteopathic Medical Examiners;
 - (35) NPDB – National Practitioner Data Bank;
 - (36) RCPSC – Royal College of Physicians and Surgeons of Canada;
 - (37) Reentry Plan – an individualized program of assessment, education and re-assessment intended to confirm the competence to practice in an intended area of practice of an applicant for reentry;
 - (38) Reentry Agreement – a public, non-disciplinary agreement which incorporates by reference the Reentry Plan;
 - (39) Reentry Period – the duration of Reentry Plan;
 - (40) SPEX – Special Purpose Examination; and
 - (41) USMLE – United States Medical Licensing Examination.
- (5) 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; submit proof on the Board's Medical Education Certification form 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 on the form; the dean or other official of the applicant's medical school shall sign this form, verifying the information;
 - (6) for an applicant who has graduated from a medical or osteopathic school approved by the LCME, the CACMS or AOA, meet the requirements set forth in G.S. 90-9.1;
 - (7) for an applicant graduating from a medical school not approved by the LCME, the CACMS or AOA, meet the requirements set forth in G.S. 90-9.2;
 - (8) 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;
 - (9) 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 AOA 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, CACMS or AOA, 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 Paragraphs (a) or (b) of this Rule by showing proof of current certification by a specialty board recognized by the ABMS, CCFP, FRCP, FRCS or AOA;
 - (10) submit a FCVS profile:
 - (A) If the applicant is a graduate of a medical school approved by LCME, CACMS or COCA, and the applicant previously has completed a FCVS profile; or

History Note: Authority G.S. 90-8.1; 90-14(a)(11a); Eff. August 1, 2010; Amended Eff. March 1, 2011.

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 a photograph, at least two inches by two inches, affixed to the oath, and attested by a notary public as a true likeness of the applicant;
- (3) submit documentation of a legal name change, if applicable;
- (4) supply a certified copy of applicant's birth certificate if the applicant was born in the United States or a certified copy of a valid and unexpired U.S. passport. If the applicant does not possess proof of U.S. citizenship, the

- (B) If the applicant is a graduate of a medical school other than those approved by LCME, COCA or CACMS;
 - (11) If a graduate of a medical school other than those approved by LCME, AOA, COCA or CACMS, 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;
 - (12) 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;
 - (13) submit an AMA Physician Profile and, if applicant is an osteopathic physician, also submit an AOA Physician Profile;
 - (14) 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; and
 - (B) proof that the applicant has passed each step within three attempts. However, the Board shall 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;
 - (15) if applying on the basis of COMLEX, submit:
 - (A) a transcript from the NBOME showing a score of at least 75 on COMLEX; and
 - (B) proof that the applicant has passed COMLEX within three attempts. However, the Board shall 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;
 - (16) if applying on the basis of any other board-approved examination, submit a transcript showing a passing score;
 - (17) submit a NPDB / HIPDB report, dated within 60 days of submission of the application;
 - (18) submit a FSMB Board Action Data Report;
 - (19) submit two completed fingerprint record cards supplied by the Board;
 - (20) submit a signed consent form allowing a search of local, state, and national files for any criminal record;
 - (21) 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;
 - (22) 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
 - (23) 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 10 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 10 years completed GME approved by ACGME, CFPC, RCPSC or AOA; or
 - (4) within the past three years completed CME as required by 21 NCAC 32R .0101(a), .0101(b), and .0102.
- (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.

*History note: Authority G.S. 90-8.1; 90-9.1; 90-9.2; 90-13.1;
Eff. August 1, 2010;
Amended Eff. October 1, 2011.*

21 NCAC 32B .1370 REENTRY TO ACTIVE PRACTICE

(a) A physician or physician assistant applicant ("applicant" or "licensee") who has not actively practiced or who has not maintained continued competency, as determined by the Board, for the two-year period immediately preceding the filing of an application for a license from the Board shall complete a reentry agreement as a condition of licensure.

(b) The applicant shall identify a mentoring physician.

(c) The applicant shall propose a reentry plan containing the components outlined in Paragraphs (g) and (h) of this Rule to the Board. The Board shall review the proposed reenter plan and interview the applicant.

(d) Factors that may affect the length and scope of the reentry plan include:

- (1) The applicant's amount of time out of practice;
- (2) The applicant's prior intensity of practice;
- (3) The reason for the interruption in practice;
- (4) The applicant's activities during the interruption in practice, including the amount of practice-relevant continuing medical education;
- (5) The applicant's previous and intended area(s) of practice;
- (6) The skills required of the intended area(s) of practice;
- (7) The amount of change in the intended area(s) of practice over the time the applicant has been out of continuous practice;
- (8) The applicant's number of years of graduate medical education;
- (9) The number of years since completion of graduate medical education; and
- (10) As applicable, the date of the most recent ABMS, AOA or equivalent specialty board, or National Commission on Certification of Physician Assistant certification or recertification.

(e) If the Board approves an applicant's reentry plan, it shall be incorporated by reference into a reentry agreement and executed by the applicant, the Board and the mentoring physician.

(f) After the reentry agreement has been executed, and the applicant has completed all other requirements for licensure, the applicant shall receive a restricted License. The licensee may not practice outside of the scope of the reentry agreement and its referenced reentry plan during the reentry period.

(g) The first component of a reentry plan is an assessment of the applicant's current strengths and weaknesses in his or her intended area of practice. The process used to perform the assessment shall be described by the applicant and confirmed by the mentoring physician. The process may include self-

reflection, self-assessment, and testing and evaluation by colleagues, educators or others. The applicant and mentoring physician shall evaluate and describe applicant's strengths and areas of needed improvement in regard to the core competencies. The assessment shall continue throughout the reentry period as the licensee and the mentoring physician practice together.

(h) The second component of the reentry plan is education. Education shall address the licensee's areas of needed improvement. Education shall consist of:

- (1) a reentry period of retraining and education under the guidance of a mentoring physician, upon terms as the Board may decide, or
- (2) a reentry period of retraining and education under the guidance of a mentoring physician consisting of the following:
 - (A) Phase I – The observation phase. During the observation phase, the licensee will not practice, but will observe the mentoring physician in practice.
 - (B) Phase II – Direct supervision phase. During the direct supervision phase, the licensee shall practice under the direct supervision of the mentoring physician. Guided by the core competencies, the mentoring physician shall reassess the licensee's progress in addressing identified areas of needed improvement.
 - (C) Phase III – Indirect supervision phase. During the indirect supervision phase, the licensee shall continue to practice with supervision of the mentoring physician. Guided by the core competencies, and using review of patient charts and regular meetings, the mentoring physician shall reassess the licensee's progress in addressing the areas of needed improvement.
 - (D) No later than 30 days after the end of phase I and II, the mentoring physician shall send a report to the Board regarding the licensee's level of achievement in each of the core competencies. At the completion of phase III the mentoring physician shall submit a summary report to the Board regarding the licensee's level of achievement in each of the core competencies and affirm the licensee's suitability to resume practice as a physician or to resume practice as a physician assistant.
 - (E) If the mentoring physician reassesses the licensee and concludes that the licensee requires an extended reentry period or if additional areas of needed improvement are identified during

Phases II or III, the Board, the licensee and the mentoring physician shall amend the reentry agreement.

(i) Under the terms of either reentry periods Subparagraph (h)(1) or (h)(2) of this Rule, the mentoring physician may terminate his role as the mentoring physician upon written notice to the Board. Such written notice shall state the reasons for termination. The licensee's approval is not required for the mentoring physician to terminate his role as mentoring physician. Upon receipt of the notice of termination, the Board shall place the licensee's license on inactive status. Within six months from the effective date of the mentoring physician's termination, the licensee shall provide a substitute mentoring physician, who must be approved by the Board in writing, and resume the reentry plan upon such terms as are acceptable to the Board. In such event, an amended reentry agreement must be executed prior to resumption of the reentry plan. If licensee does not resume the reentry plan as required herein within six months from the effective date of the mentoring physician's termination, then the Board shall not return the licensee to active status unless and until licensee applies and is approved for reactivation of the license with a new reentry agreement and reentry plan, which must be in place before licensee may resume practice as a physician or physician assistant.

(j) Under the terms of either reentry periods Subparagraph (h)(1) or (h)(2) of this Rule, the licensee may terminate the relationship with the mentoring physician upon written notice to the Board. Such written notice shall state the reasons for termination. The mentoring physician's approval is not required for the licensee to terminate this relationship. Upon receipt of the notice of termination, the Board shall place the licensee's license on inactive status. Within six months from the effective date of the mentoring physician's termination, the licensee shall provide a substitute mentoring physician, who must be approved by the Board in writing, and resume the reentry plan upon such terms as are acceptable to the Board. In such event, an amended reentry agreement must be executed prior to resumption of the reentry plan. If licensee does not resume the reentry plan as required herein within six months from the effective date of the mentoring physician's termination, then the Board shall not return the licensee to active status unless and until licensee applies and is approved for reactivation of the license with a new reentry agreement and reentry plan, which must be in place before licensee may resume practice as a physician or physician assistant.

(k) The licensee shall meet with members of the Board at such dates, times and places as directed by the Board to discuss the licensee's transition back into practice and any other practice-related matters.

(l) Unsatisfactory completion of the reentry plan or practicing outside the scope of the reentry agreement, as determined by the Board, shall result in the automatic inactivation of the licensee's license, unless the licensee requests a hearing within 30 days of receiving notice from the Board.

(m) If the Board determines the licensee has successfully completed the reentry plan, the Board shall terminate the reentry agreement and notify the licensee that the license is no longer restricted.

History Note: Authority G.S. 90-8.1; 90-14(a)(11a); Eff. March 1, 2011.

21 NCAC 32B .1501 SCOPE OF PRACTICE UNDER MEDICAL SCHOOL FACULTY LICENSE

A physician holding a Medical School Faculty License may practice only within the confines of the medical school or its affiliates. "Affiliates" means the primary medical school hospital(s) and clinic(s), as designated by the ACGME.

History Note: Authority G.S. 90-12.3; Eff. March 1, 2011.

21 NCAC 32B .1502 APPLICATION FOR MEDICAL SCHOOL FACULTY LICENSE

(a) The Medical School Faculty License is limited to physicians who have expertise which can be used to help educate North Carolina medical students, post-graduate residents and fellows but who do not meet the requirements for Physician licensure.

(b) In order to obtain a Medical School Faculty 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 the Board's form, signed by the Dean or his appointed representative, indicating that the applicant has received full-time appointment as either a lecturer, assistant professor, associate professor, or full professor at a medical school in the state of North Carolina;
- (3) submit documentation of a legal name change, if applicable;
- (4) submit a photograph, at least two inches by two inches, affixed to the oath, and attested by a notary public as a true likeness of the applicant;
- (5) submit proof on the Board's Medical Education Certification form 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 on the form; the dean or other official of the applicant's medical school shall sign this form, verifying the information;
- (6) 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 does not possess proof of US citizenship, 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;
- (7) submit proof of satisfactory completion of at least one year of GME approved by ACGME,

- CFPC, RCPSC, or AOA; or evidence of other education, training or experience, determined by the Board to be equivalent;
- (8) submit reports from all 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;
 - (9) submit an AMA Physician Profile; and, if applicant is an osteopathic physician, submit an AOA Physician Profile;
 - (10) submit a NPDB report, HIPDB report, dated within 60 days of applicant's oath;
 - (11) submit a FSMB Board Action Data Bank report;
 - (12) submit two completed fingerprint record cards supplied by the Board;
 - (13) submit a signed consent form allowing a search of local, state, and national files to disclose any criminal record;
 - (14) provide two original references from persons with no family or marital relationship to the applicant. These letters 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 applicant's oath; and
 - (D) bearing the original signature of the writer.
 - (15) pay to the Board a non-refundable fee of three hundred fifty dollars (\$350.00), plus the cost of a criminal background check; and
 - (16) 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 the applicant's oath.
- (f) This Rule applies to licenses granted after the effective date of this Rule.

*History Note: Authority G.S. 90-12.3; 90-13.2;
 Eff. Pending Consultation Pursuant to G.S. 12-3.1.*

21 NCAC 32S .0202 QUALIFICATIONS AND REQUIREMENTS FOR LICENSE

(a) Except as otherwise provided in this Subchapter, an individual must obtain a license from the Board before practicing as a physician assistant. An applicant for a physician assistant license must:

- (1) submit a completed application to the Board;
- (2) meet the requirements set forth in G.S. 90-9.3 and has not committed any of the acts listed in G.S. 90-14;
- (3) supply a certified copy of applicant's birth certificate if the applicant was born in the United States or a certified copy of a valid and unexpired U.S. passport. If the applicant does not possess proof of U.S. citizenship, 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 to the Board proof that the applicant has completed a Physician Assistant Educational Program; if a physician assistant was licensed in North Carolina after June 1, 1994, he/she must also show successful completion of the Physician Assistant National Certifying Examination;
- (5) pay to the Board a non-refundable fee of two hundred dollars (\$200.00) plus the cost of a criminal background check. There is no fee to apply for a physician assistant limited volunteer license;
- (6) submit National Practitioner Data Bank (NPDB) and Healthcare Integrity and Protection Data Bank (HIPDB) reports. These reports must be requested by the Applicant and submitted to the Board within 60 days of the request;
- (7) submit a Board Action Data Bank Inquiry from the Federation of State Medical Boards (FSMB). This report must be requested by the Applicant and submitted to the Board within 60 days of the request;
- (8) submit to the Board two complete original fingerprint record cards, on fingerprint record cards supplied by the Board;
- (9) submit to the Board a signed consent form allowing a search of local, state, and national files to disclose any criminal record;
- (10) disclose whether he/she has ever been suspended from, placed on academic probation, expelled or required to resign from any school, including a PA educational program;
- (11) attest that he/she has no license, certificate, or registration as a physician assistant currently under discipline, revocation, suspension or probation or any other adverse action resulting from a health care licensing board;
- (12) certify that he or she is mentally and physically able to safely practice as a physician assistant and is of good moral character;
- (13) provide the Board with three original recommendation forms dated within six months of the application. These

recommendations shall come from persons under whom the applicant has worked or trained who are familiar with the applicant's academic competence or clinical skills. At least one reference form must be from a physician and two reference forms must be from peers under whom the applicant has worked or trained. References must be able to evaluate the applicant's academic competence, clinical skills and character as a physician assistant. References shall not be from any family member or in the case of new graduate applicants, references shall not be from fellow students of the applicant's Educational Program;

- (14) if two years or more have passed since graduation from a Physician Assistant Educational Program, document that he/she has successfully completed at least 100 hours of continuing medical education (CME) during the preceding two years, at least 40 hours of which must be American Academy of Physician Assistants Category I CME; and
- (15) supply any other information the Board deems necessary to evaluate the applicant's qualifications.

(b) An applicant may be required to appear in person for an interview with the Board.

History Note: Authority G.S. 90-3; 90-9.3; 90-11; 90-18(c)(13); 90-18.1; Eff. September 1, 2009; Amended Eff. March 1, 2011.

21 NCAC 32W .0102 QUALIFICATIONS FOR LICENSE

(a) Except as otherwise provided in this Subchapter, an individual shall obtain a license from the Board before practicing as an Anesthesiologist Assistant. An applicant for an anesthesiologist assistant license shall:

- (1) submit a completed license application on forms provided by the Board;
- (2) supply a certified copy of applicant's birth certificate if the applicant was born in the United States or a certified copy of a valid and unexpired U.S. passport. If the applicant does not possess proof of U.S. citizenship, 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;
- (3) pay the license fee established by Rule .0113 in this Subchapter;
- (4) submit to the Board proof of completion of a training program for Anesthesiologist Assistants accredited by the Commission on Accreditation of Allied Health Education Programs or its preceding or successor organization;

- (5) submit to the Board proof of current certification by the National Commission for Certification of Anesthesiologist Assistants (NCCAA) or its successor organization, including passage of the Certifying Examination for Anesthesiologist Assistants administered by the NCCAA within 12 months after completing training;
- (6) certify that he or she is mentally and physically able to safely practice as an Anesthesiologist Assistant;
- (7) have no license, certificate, or registration as an Anesthesiologist Assistant currently under discipline, revocation, suspension, or probation;
- (8) have good moral character; and
- (9) submit to the Board any other information the Board deems necessary to determine if the applicant meets the requirements of the rules in this Subchapter.

(b) The Board may deny any application for licensure for any enumerated reason contained in G.S. 90-14 or for any violation of the Rules of this Subchapter.

(c) An applicant may be required to appear, in person, for an interview with the Board, or its representatives upon completion of all credentials.

History Note: Authority G.S. 90-9.4; 90-18(c)(20); 90-18.5; Temporary Adoption Eff. January 28, 2008; Eff. April 1, 2008; Amended Eff. March 1, 2011.

CHAPTER 42 – BOARD OF EXAMINERS IN OPTOMETRY

21 NCAC 42B .0101 GRADUATE OF APPROVED SCHOOL

(a) The Board may grant recognition and approval to a school or college of optometry, deny or rescind recognition and approval, or make any recognition and approval granted by the Board conditional or probational, based on the Board's determination of the quality of the educational programs and offerings of the school or college of optometry. Their optometric educational programs having been accredited by the Accreditation Council on Optometric Education and recommended to the Board by the Association of Regulatory Boards in Optometry as worthy of approval, the following accredited schools and colleges of optometry are recognized and approved in accordance with the provisions of this Rule:

- (1) University of Alabama at Birmingham
School of Optometry
1716 University Boulevard
Birmingham, AL 35294-0010
- (2) University of California, Berkeley
School of Optometry
350 Minor Hall MC 2020
Berkeley, CA 94720-2020

- | | |
|---|---|
| <p>(3) Southern California College of Optometry
2575 Yorba Linda Blvd.
Fullerton, CA 92631</p> <p>(4) Ferris State University
Michigan College of Optometry
1310 Cramer Circle
Big Rapids, MI 49307-2738</p> <p>(5) University of Houston
College of Optometry
505 J. Davis Armistead Bldg.
Houston, TX 77004-2020</p> <p>(6) Illinois College of Optometry
3241 South Michigan Avenue
Chicago, IL 60616</p> <p>(7) Indiana University
School of Optometry
800 East Atwater
Bloomington, IN 47405-3680</p> <p>(8) New England College of Optometry
424 Beacon Street
Boston, MA 02115</p> <p>(9) State University of New York
State College of Optometry
33 West 42nd Street
New York, NY 10036-8003</p> <p>(10) The Ohio State University
College of Optometry
338 West Tenth Avenue
Columbus, OH 43210-1280</p> <p>(11) Pacific University
College of Optometry
2043 College Way
Forest Grove, OR 97116</p> <p>(12) Pennsylvania College of Optometry
at Salus University
Elkins Park Campus
8360 Old York Road
Elkins Park, PA 19027</p> <p>(13) Southern College of Optometry
1245 Madison Avenue
Memphis, TN 38104</p> <p>(14) University of Waterloo
School of Optometry
200 University Avenue West
Waterloo, ON N2L 3G1 CANADA</p> <p>(15) Inter American University of Puerto Rico
School of Optometry
500 Carretera Dr John Will Harris
Bayamon, PR 00957</p> <p>(16) University of Missouri, St. Louis
College of Optometry
One University Blvd.
331 Marillac Hall
St. Louis, MO 63121-4400</p> <p>(17) University of Montreal
Ecolo d'Optometrie
3744 Jean-Brillant, Suite 260-7
Montreal, QC H3T 1P1 CANADA</p> <p>(18) Northeastern State University</p> | <p>Oklahoma College of Optometry
1001 N. Grand Avenue
Tahlequah, OK 74464</p> <p>(19) Nova Southeastern University
College of Optometry
3200 S. University Drive
Ft. Lauderdale, FL 33328</p> <p>(20) Midwestern University
Arizona College of Optometry
19555 N 59th Ave
Glendale, AZ 85308</p> <p>(21) University of the Incarnate Word
School of Optometry
4301 Broadway, Box 373
San Antonio, TX 78209-6397</p> <p>(22) Western University of Health Sciences
College of Optometry
309 E Second St.
Pomona, CA 91766-1854</p> <p>(b) The Board may request a copy of the Council of Optometric Education's accreditation report on each school or college recognized and approved by the Board and for each school or college which has requested recognition and approval or for which the Board is considering recognition and approval.</p> <p><i>History Note: Authority G.S. 90-117.5; 90-118(a),(b); Eff. February 1, 1976; Readopted Eff. May 30, 1978; Amended Eff. April 1, 2011; April 1, 1993; June 1, 1989; September 30, 1981.</i></p> <p>21 NCAC 42B .0107 WRITTEN EXAMINATION</p> <p>(a) Each applicant for examination must submit evidence of having reached the recommended levels of acceptable performance on the National Board examinations given by the National Board of Examiners in Optometry on or after the April, 1978 administration in one of the following formats and under the following conditions prior to Board approval of his application to take the clinical practicum examination administered by the Board and shall authorize the release of his official score report by the National Board to the Board prior to the approval by the Board of his application to take the clinical practicum examination:</p> <p>(1) April, 1978 through August, 1986 administrations: passing scores on Parts I, IIA, and IIB, with scores of not less than 75 in Section 7 (Pathology) and Section 9 (Pharmacology) on the Part IIB examination, and a score of not less than 75 on the National Board's Treatment and Management of Ocular Disease ("TMOD") examination.</p> <p>(2) April, 1987 through August, 1992 administrations: passing scores on the Part I Basic Science (BS) examination and Part II Clinical Science (CS) examination of the National Board, with scores of not less than 75 on the Ocular Disease/Trauma and Clinical Pharmacology sections of the Part II Clinical Science (CS) examination, and a score of not</p> |
|---|---|

less than 75 on the National Board's Treatment and Management of Ocular Disease (TMOD) examination.

- (3) April, 1993 through December, 2008: passing score on the Part I Basic Science Examination of the National Board.
- (4) April, 1993 through April, 2009: passing score on the Part II Clinical Science Examination of the National Board, with a score of not less than 75 on the Ocular Disease/Trauma component within the Clinical Science examination, or on the equivalent stand-alone TMOD examination.
- (5) March, 2009 and thereafter: passing score on Part I Applied Basic Science (ABS) examination of the National Board.
- (6) December, 2009 and thereafter: passing score on Part II Patient Assessment and Management (PAM) examination of the National Board, with a score of not less than 75 on the Disease/Trauma component within the Patient Assessment and Management (PAM) examination, and a score of not less than 75 on the TMOD component within the Patient Assessment and Management (PAM).
- (7) March, 2010 and thereafter: passing score on the Part III Clinical Skills Examination (CSE) of the National Board.

(b) For applicants with passing scores on at least one National Board examination part under different formats and time periods described in (a)(1), (a)(2), (a)(3), (a)(4), and (a)(5) of this Rule, the following equivalences shall apply:

- (1) Parts I and IIA are the equivalent of Basic Science;
- (2) Part IIB is the equivalent of Clinical Science without the inclusion of TMOD;
- (3) Part I Applied Basic Science (ABS) is the equivalent of Part I Basic Science; and
- (4) Part II Patient Assessment and Management (PAM) is the equivalent of Part II Clinical Science.

(c) For those candidates taking the National Board examination under any of the examination formats dating back to April 1978 and prior to March 2009, old Part III (Patient Care) is not required.

History Note: Authority G.S. 90-117.5; 90-118;

Eff. February 1, 1976;

Readopted Eff. May 30, 1978;

Amended Eff. April 1, 2011; July 1, 1998; May 1, 1995; April 1, 1993; June 1, 1989; September 30, 1981.

**21 NCAC 42B .0305 SUSPENSION OF AUTHORITY
TO EXPEND FUNDS**

In the event the Board's authority to expend funds is suspended pursuant to Session Law 2009-125, 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.

History Note: Authority G.S. 93B-2(b);

Eff. April 1, 2011.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission on Thursday April 21, 2011 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
Daniel F. McLawhorn
Curtis Venable
Ann Reed
George Lucier

COMMISSION COUNSEL

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

RULES REVIEW COMMISSION MEETING DATES

April 21, 2011 May 19, 2011
June 16, 2011 April 21, 2011

AGENDA

RULES REVIEW COMMISSION

Thursday, April 21, 2011 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. Department of Cultural Resources – 07 NCAC 02H .0102, .0203, .0306 (Bryan)
 - B. Commission for Public Health – 15A NCAC 13B .1635 (Bryan)
 - C. Well Contractors Certification Commission – 15A NCAC 27 .0301, .0702 (DeLuca)
 - D. Board of Cosmetic Art Examiners – 21 NCAC 14N .0113 (DeLuca)
 - E. Medical Board – 21 NCAC 32F .0103 (Bryan)
 - F. State Board of Opticians – 21 NCAC 40 .0402 (DeLuca)
 - G. Appraisal Board – 21 NCAC 57D .0402 (DeLuca)
- IV. Review of Log of Filings (Permanent Rules) for rules filed between February 22, 2011 and March 21, 2011
- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days of the RRC Meeting
- VI. Commission Business
 - Next meeting: May 19, 2011

Commission Review
Log of Permanent Rule Filings
February 22, 2011 through March 21, 2011

SOCIAL SERVICES COMMISSION

The rules in Chapter 70 concern Children's Services.

The rules in Subchapter 70B concern foster care services including general provisions (.0100); resource items to support school participation (.0200); and risk assessment (.0300).

Goals and Strategies 10A NCAC 70B .0105
Amend/*

ENVIRONMENT AND NATURAL RESOURCES, DEPARTMENT OF

The rules in Subchapter 2H concern procedures for permits: approvals including point source discharges to the surface waters (.0100); waste not discharged to surface waters (.0200); coastal waste treatment disposal (.0400); water quality certification (.0500); laboratory certification (.0800); local pretreatment programs (.0900); stormwater management (.1000); biological laboratory certification (.1100); special orders (.1200); and discharges to isolated wetlands and isolated waters (.1300).

Stormwater Discharges 15A NCAC 02H .0126
Amend/*

Definitions 15A NCAC 02H .0150
Adopt/*

Designation and Petition Process 15A NCAC 02H .0151
Adopt/*

Development in Urbanizing Areas 15A NCAC 02H .0152
Adopt/*

Program Implementation 15A NCAC 02H .0153
Adopt/*

Post Construction Practices 15A NCAC 02H .0154
Adopt/*

Definitions 15A NCAC 02H .1002
Amend/*

Stormwater Requirements: Coastal Counties 15A NCAC 02H .1005
Amend/*

Stormwater Management for Urbanizing Areas 15A NCAC 02H .1014
Adopt/*

Urbanizing Area Definitions 15A NCAC 02H .1015
Adopt/*

Development in Urbanizing Areas 15A NCAC 02H .1016
Adopt/*

Post-Construction Practices 15A NCAC 02H .1017
Adopt/*

PUBLIC HEALTH, COMMISSION FOR

The rules in Chapter 13 concern Solid Waste Management.

The rules in Subchapter 13B concern Solid Waste Management including general provisions (.0100); permits for solid waste management facilities (.0200); treatment and processing facilities (.0300); transfer facilities (.0400); disposal sites (.0500); monitoring requirements (.0600); administrative penalty procedures (.0700); septage management (.0800); yard waste facilities (.0900); solid waste management loan program (.1000); scrap tire management (.1100); medical waste management (.1200); disposition of remains of terminated pregnancies (.1300); municipal solid waste

compost facilities (.1400); standards for special tax treatment of recycling and resource recovery equipment and facilities (.1500); requirements for municipal solid waste landfill facilities (.1600); and requirements for beneficial use of coal combustion by-products (.1700).

General Requirements for MSWLF Facilities 15A NCAC 13B .1604
Amend/*

Operational Requirements for MSWLF Facilities 15A NCAC 13B .1626
Amend/*

DENTAL EXAMINERS, BOARD OF

The rules in Subchapter 16A concern the organization of the board of dental examiners.

Definitions 21 NCAC 16A .0101
Amend/*

The rules in Subchapter 16F concern professional corporations.

Corporate or Limited Liability Company Name 21 NCAC 16F .0103
Amend/*

The rules in Subchapter 16M are fee setting rules.

Dentists 21 NCAC 16M .0101
Amend/*

MIDWIFERY JOINT COMMITTEE

The rules in Chapter 33 are from the Midwifery Joint Committee.

Suspension of Authority to Expend Funds 21 NCAC 33 .0108
Adopt/*

ADMINISTRATIVE HEARINGS, OFFICE OF

The rules in Chapter 2 are from the rules division and cover publication of The North Carolina Administrative Code (NCAC) and the North Carolina Register (NCR).

The rules in Subchapter 2C are the submission procedures for rules and other documents to be published in the North Carolina Register and the North Carolina Administrative Code including general provisions (.0100); codification of rules (.0200); the Register (.0300); the Administrative Code (.0400); temporary rules (.0500); emergency rules (.0600); and publication on the OAH website (.0700).

Definitions 26 NCAC 02C .0102
Amend/*

Original and Duplicate Copy 26 NCAC 02C .0103
Amend/*

Return Copy 26 NCAC 02C .0104
Repeal/*

Electronic Version 26 NCAC 02C .0105
Amend/*

General Format Instructions 26 NCAC 02C .0108
Amend/*

Illustrations/Notes 26 NCAC 02C .0110

Amend/*		
<u>Publication of Notice of Text</u>	26	NCAC 02C .0306
Amend/*		
<u>Electronic Filing</u>	26	NCAC 02C .0308
Adopt/*		
<u>Publication of a Permanent Rule</u>	26	NCAC 02C .0402
Amend/*		
<u>Body of the Rule</u>	26	NCAC 02C .0405
Amend/*		
<u>History Note</u>	26	NCAC 02C .0406
Amend/*		
<u>Publication of a Temporary Rule</u>	26	NCAC 02C .0502
Amend/*		
<u>Publication of an Emergency Rule</u>	26	NCAC 02C .0602
Amend/*		
<u>Publication of a Rule on the OAH Website</u>	26	NCAC 02C .0702
Amend/*		

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>DATE</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<u>ALCOHOLIC BEVERAGE CONTROL COMMISSION</u>			
ABC Commission v. Fusion Foods, Inc., T/A Coastal Blue	09 ABC 4672	11/08/10	
ABC Commission v. Quickstops of Guilford County, Inc., T/A Road Runner Express (Regional Road)	09 ABC 5421	04/19/10	
ABC Commission v. Ghulam Khan v. T/A West Green Market	09 ABC 4303	04/19/10	
ABC Commission v. Sarabjit Kaur v. T/A G&S Food Market	09 ABC 5257	04/19/10	
ABC Commission v. Quickstops of Guilford County, Inc., T/A Road Runner Express (Lee Street)	09 ABC 5422	06/09/10	
ABC Commission v. Boulos 2, Inc., T/A Akron Texaco	10 ABC 0027	04/21/10	
ABC Commission v. Startown Lounge, Inc. T/A 5 O'clock Somewhere	10 ABC 0153	06/25/10	
ABC Commission v. Diversified Investments and Growth, LLC, T/A Petro Mart 6	10 ABC 0576	07/09/10	
ABC Commission v. Talmar Inc. D/B/A E-City Restaurant and Lounge, Mary Ann Davidson and Ratanya Walker			
ABC Commission v. Scooby's Bar & Restaurant, Sherri Lynn Bridgeman	10 ABC 2512	08/02/10	
Melvin Lewis, JA's Inc. T/A PAPA Ja's Fine Family Dining v. ABC Commission	10 ABC 2603	12/08/10	
ABC Commission v. Alpha 3 Enterprises LLC, T/A Liquid Room	10 ABC 2659	07/14/10	
ABC Commission v. Taqueria Guadalajara II, Inc, Jaime Fuentes Vice President	10 ABC 3107	07/15/10	
ABC Commission v. Ab3 LLC T/A On the Roxx	10 ABC 4120	10/08/10	
ABC Commission v. El Corona Mexican Restaurant Inc., T/A Corona II	10 ABC 4122	09/24/10	
ABC Commission v. Speed Dee Superette, Tonya Marchisella	10 ABC 4583	11/04/10	
ABC Commission v. Ben Long Wang, T/A Sapporo Bistro	10 ABC 4843	10/15/10	
Bobby Larry Avery Jr. Larry's v. State of North Carolina ABC Commission	10 ABC 5360	12/14/10	
ABC Commission v. Lourdes, Inc, T/A, El Gavilan	10 ABC 6372	01/13/11	
<u>BOARD OF SOCIAL WORK CERTIFICATION AND LICENSURE</u>			
Miriam Deborah Kahn Sichel v. Social Work Certification and Licensure Board	10 BSW 2454	06/25/10	
<u>DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY</u>			
Tammy S. Barbone v. Crime Victims Compensation Comm.	08 CPS 2667	07/16/10	
Christine G. Mroskey v. Crime Victims Compensation	09 CPS 0451	06/24/10	
Ace Wrecker Service Inc, Secretary of Crime Control and Public Safety	09 CPS 2292	03/31/10	
William G. Fisher v. Victims and Justice Services	09 CPS 4024	11/15/10	
Terry L. SChermerhorn v. North Carolina State Highway Patrol	09 CPS 4547	10/21/10	
William Pickard Trucking, Inc., William Pickard v. Dept. of Crime Control and Public Safety, State Highway Patrol	09 CPS 4692	06/09/10	
California Overland Ltd., NC State Highway Patrol, Motor Carrier Enforcement Section	09 CPS 5225	05/12/10	
Earl Stanley Peters III v. Victims Compensation Service Division	09 CPS 5444	08/30/10	
John Rose (Fliptastic, Inc) v. Department of Crime Control and Public Safety	09 CPS 5985	08/25/10	25:11 NCR 1345
Lynch's Auto Sales Salvage & Wrecker Service, inc v. Crime Control and Public Safety, Division of State Highway Patrol	09 CPS 6158	09/10/10	
Alice Conrad v. Crime Victims Compensation Commission	09 CPS 6168	04/01/10	
Marius A. Christian v. State Highway Patrol	09 CPS 6368	08/13/10	

CONTESTED CASE DECISIONS

Jose H. Geronimo Ramirez v. Victims and Justice Services	09 CPS 6454	06/23/10	
Neill Grading and Construction Co., Inc., v. North Carolina State Highway Patrol Motor Carrier Enforcement Section	09 CPS 6516	11/24/10	
David Leon Darby v. Division of Crime Control and Public Safety	09 CPS 6703	08/17/10	
Selective Clearing and Grading, Inc., Danny Creech, Lynn Creech v. Crime Control and Public Safety	09 CPS 6726	07/29/10	
Harry L. Foy Jr., Department of Crime Control and Public Safety, Div. of State Highway Patrol Motor Carrier Enforcement Section	09 CPS 6728	08/17/10	
James M. Abdella v. Department of Crime Control and Public Safety v. Motor Carrier Enforcement Div	09 CPS 6740	08/18/10	
AD Gustafson Inc., Andrew Gustafson v. State Highway Patrol	10 CPS 0071	07/30/10	
Covenant Trucking Company, Inc v. Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	10 CPS 0212	10/21/10	
Benjamin C. Simmons III, Precision Custom Farming, LLC v. DMV	10 CPS 0419	06/29/10	25:04 NCR 515
Keon J. Jones v. Victims Compensation Commission	10 CPS 0848	07/26/10	
X&M Trucking, Xavier Artis v. Dept State Highway Patrol, DMV	10 CPS 0855	07/20/10	
Preferred Materials Inc v. Department of Crime Control & Public Safety, DMV	10 CPS 0931	08/30/10	
AD Gustafson, Inc., Andrew Gustafson v. Secretary of Crime Control	10 CPS 2072	06/15/10	
Tracy James Drake, SR v. Victims and Justice Services	10 CPS 2073	08/30/10	
Victim: Tyler A. Wright/Guardian Claire S. Casale v. Crime Victims Compensation Commission	10 CPS 2178	12/20/10	
Michael A. Rossi Sr., v. Dept. of Crime Control and Public Safety, Div. of Victims Compensation Services	10 CPS 2478	08/30/10	
McLain, LLC, Phillip McLain v. NC State Highway Patrol	10 CPS 2515	07/02/10	
Vincent John Hall v. Crime Victims Compensation Commission, Maxton Police Department, Officer Duron Burney	10 CPS 2811	10/04/10	
Anne F. Palmer v. Victim and Justice Services	10 CPS 3604	09/08/10	
Nivia Velandra v. Crime Victims Compensation Commission	10 CPS 4061	11/15/10	
Tinita Vick v. Crime Victims Compensation Commission	10 CPS 7825	01/14/11	

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Peterkin & Associates Inc v. DHHS	09 DHR 1883	10/15/10	
Vance County Home Health, Nwa Kpuda v. DHHS	09 DHR 2815	10/27/10	
C&W Alternative Family Living Facility, Inc., v. CenterPoint Human Services and DHHS	09 DHR 3377	06/16/10	
Kevin Summers v. DHHS, Div. of Health Service Regulation, Health Care Personnel Registry	09 DHR 3766	08/12/10	
Ward Drug Co. of Nashville Gary Glisson v. DHHS	09 DHR 3830	04/29/10	
Mekre Francis v. DHHS, Div. of Health Service Regulation	09 DHR 3935	05/27/10	
Mattie Lowe/Angela Lowe, Lowe Family Care Home #3 v. DHHS, Division of Health Service Regulation	09 DHR 4148	08/27/10	
Kid Ventures Inc., d/b/a Health Park Child Development Center v. Div. of Child Development DHHS	09 DHR 4887	06/22/10	
Nicol Smith v. DHHS	09 DHR 4932	09/01/10	25:11 NCR 4932
Kimberly N. Carter (Davis) v. DHHS, Div. of Health Service Regulation	09 DHR 5133	08/03/10	
Theresa Renee Moore v. DHHS	09 DHR 5163	12/17/10	
A+ Child Development Center LLC, v. DHHS, Division of Child Development	09 DHR 5443	04/27/10	
Gail N. Highsmith v. DHHS	09 DHR 5513	05/13/10	
Sarah J. Bridges v. DHHS	09 DHR 5583	05/27/10	
Onslow MRI, LLC v. DHHS, Div. of Health Service Regulation, Certificate of Need Section and Jacksonville Diagnostic Imaging, LLC d/b/a Coastal Diagnostic Imaging	09 DHR 5617	06/24/10	
Jacksonville Diagnostic Imaging, LLC d/b/a Coastal Diagnostic Imaging v. DHHS, Division of Health Service Regulation, CON Section and Onslow MRI, LLC	09 DHR 5638	06/24/10	
Kimberly Denise Harrison v. DHHS, Division of Health Service Regulation	09 DHR 5702	11/09/10	
Rex Hospital, Inc, d/b/a Rex Hospital and UNC and Wake Radiology Oncology Services v. DHHS, Division of Health Service Regulation, Certificate of Need Section and Parkway Urology, P.A.	09 DHR 5769	07/20/10	
University of North Carolina Hospitals at Chapel Hill, and Rex Hospital, Inc. d/b/a Rex Healthcare and Wake Radiology Oncology Services, PLLC v. DHHS	09 DHR 5770	07/20/10	
Wake Radiology Oncology Services, PLLC and University of North Carolina Hospitals at Chapel Hill and Rex Hospital, Inc. d/b/a Rex Healthcare v. DHHS, Division of Health Service Regulation, CON Section and Parkway Urology, P.A. d/b/a Cary Urology, P.A.	09 DHR 5785	07/20/10	
The Charlotte-Mecklenburg Hospital Authority, d/b/a Carolinas Rehabilitation-Mount Holly and d/b/a Carolinas Health Care System v. DHHS, Div of Health Service Regulation CON Section and Caromont Health, Inc. and Gaston Memorial Hospital, Inc	09 DHR 6116	07/26/10	25:08 NCR 1010
June Rae Crittenden v. Health Care Registry Section, DHHS	09 DHR 6166	03/29/10	
Kelvin Donelle Lewis v. Health Care Personnel Registry , Nurse Aide Registry	09 DHR 6196	04/05/10	
Elizabeth Ann Holt v. DHHS, Division of Health Service Regulation	09 DHR 6347	03/31/10	
Gloria Manley v. DHHS-DCD	09 DHR 6816	06/24/10	
Estate of Nora L. Edwards, Wanda Harrington v. DHHS, Div. of Medical Assistance	09 DHR 6836	03/16/10	
Jerry Flood, Forever Young Group Care v. DHHS, Div. of Health Service Regulation	09 DHR 6839	10/01/10	
Teresa Dargan Williams v. DHHS, Division of Health Service Regulation	10 DHR 0246	05/21/10	
Lai-Fong Li v. DHHS, Division of Health Service Regulation	10 DHR 0248	09/02/10	25:11 NCR 0248
Fredrick DeGraffenreid v. DHHS, Division of Health Service Regulation	10 DHR 0326	08/18/10	
Helen Graves v. DHHS	10 DHR 0334	08/30/10	

CONTESTED CASE DECISIONS

Carolyn E. Hall v. DHHS	10 DHR 0348	11/09/10	
Samuel and Nita Gaskin v. DHHS	10 DHR 0420	06/09/10	
Zulu Nwankwo v. DHHS, Div. of Health Service Regulation Mental Health Licensure and Cert.	10 DHR 0449	10/08/10	
TLC Adult Group Home, Sonja Hazelwood v. DHHS, Div. of Health Service Regulation	10 DHR 0485	06/11/10	
Tamekia Cain v. DHHS, Division of Health Service	10 DHR 0488	05/20/10	
Alternative Life Programs Inc. Marchell F. Gunter v. DHHS	10 DHR 0558	10/22/10	25:15 NCR 1847
Forever Young Group Care, Jerry Flood v. DHHS, Division of Health Service Regulation	10 DHR 0647	10/29/10	
Margarette Snow v. DHHS	10 DHR 0648	09/07/10	
Elizabeth Locke v. DHHS, Div. of Health Service Regulation, Health Care Personnel Registry	10 DHR 0678	06/17/10	
Cassandra Johnson v. Div. of Child Development, DHHS	10 DHR 0683	06/29/10	
Karen Stutts v. DHHS	10 DHR 0719	08/18/10	
Candy Bynum-Anderson v. DHHS, Division of Facility Services, Health Care Personnel Registry	10 DHR 0793	07/29/10	
John J. Hannan v. Wake County Finance Dept	10 DHR 0831	08/27/10	
Donald Eugene Gordon v. DHHS	10 DHR 0932	11/10/10	
Ryan Bonscot Shearin v. Walter B. Jones Alcohol & Drug Treatment Center	10 DHR 0957	08/02/10	
Jessica Monnot v. Wake Med EMS	10 DHR 0960	09/20/10	
Filmore Academy Educational Institute Inc v. DHHS, Div. of Child Development	10 DHR 1032	08/30/10	
Omega Independent Living Services Inc, Site IV v. Div. of Health Service Regulation	10 DHR 1173	08/30/10	
Group Homes of Forsyth, Inc., Independence Group Home MHL #034-151 v. DHHS, Div. of Health Service Regulation	10 DHR 1165	07/16/10	
Diana Hood v. DHHS	10 DHR 1167	10/28/10	
Timothy S. Wilson v. DHHS	10 DHR 1252	06/18/10	
Park Village Rehab and Health v. DHHS	10 DHR 1305	09/15/10	
Felicia J. Stewart v. DHHS, Div. of Health Service Regulation	10 DHR 1348	06/21/10	
Phillip D. Hollifield, Administrator of the Estate of Phillip W. Hollifield v. DHHS	10 DHR 1448	06/16/10	
Wee Wiggles Child Care Center a/k/a P&L Services LLC, Patricia York, and Ramona Jones	10 DHR 1514	07/20/10	
Carrolton Home Care Inc d/b/a Community Home Care & Hospice; Community Home Care & Hospice Inc. d/b/a Community Home Care & Hospice; and Community Home Care of Vance County Inc. d/b/a Community Home Care & Hospice v. DHHS, Div. of Health Service Regulation, CON Section and DHHS, Div. of Health Service Regulation Acute and Home Care Licensure and Certification Section	10 DHR 1614	08/11/10	
Triad ENT Debbie Beck v. DHHS, Division of Medical Assistance	10 DHR 1668	08/04/10	
Elizabeth House Blackwell v. DHHS, Div. of Health Service Regulation	10 DHR 1670	07/15/10	
Sandbox Academy Child Care Center, Cynthia Martin v. OAH, DHHS	10 DHR 1837	08/27/10	
Patrice Michelee Harris-Powell v. DHHS, Div. of Health Service Regulation	10 DHR 2067	07/26/10	
Joseph B. Twine III v. DHHS	10 DHR 2068	08/30/10	
Lenora Wesley v. Division of Child Development, DHHS	10 DHR 2069	08/17/10	
Deborah Gail Robinson v. DHHS, Health Service Regulation	10 DHR 2448	10/18/10	
Tracy Herron v. Division of Child Development/DHHS	10 DHR 2594	10/05/10	
Happy Feet Learning Center, Tamika Herron v. Division of Child Development, DHHS	10 DHR 2658	08/20/10	
Community Helps Network, LLC v. Alamance-Caswell Local Management Entity f/k/a Alamance-Caswell MH/DD/SA	10 DHR 2660	07/02/10	
Michael Parks c/o Fresh Start Residential Services Inc v. Div. of Medical Assistance Program Integrity/BHRS	10 DHR 2661	07/21/10	
Shelia D. Gaskins v. DHHS, Health Care Registry	10 DHR 2870	10/22/10	
Cassandra Yvette Fuiell v. Division of Child Development/DHHS	10 DHR 2871	10/21/10	
Laytoya Daniels v. DHHS, Div. of Health Service Regulation, Health Care Personnel Registry	10 DHR 2913	08/27/10	
The Circle of Courage Faith House (formerly Birges House) LaRonda Woods-Freeman v. DHHS Ms. Emery E. Milliken General Counsel	10 DHR 2937	08/13/10	
Baker's Counseling and Mentoring Center, Inc., v. The Division of Mental Health, Developmental Disabilities and Substance Abuse Services	10 DHR 2989	08/24/10	
Gloria R. Stover v. Division of Child Development, DHHS	10 DHR 3008	12/14/10	
Ultimate Care LLC, Fostoria Pierson v. DHHS-NC State Atty Gen Office	10 DHR 3052	08/23/10	
Community Support Specialists, Annie Della Kenion v. Dept. of Mental Health, Substance Abuse and Development Disabilities, DHHS	10 DHR 3060	08/04/10	
Positive Connection Community Services, Inc., DHHS	10 DHR 3128	07/30/10	
Peggy's Home Health Care, Inc., DHHS	10 DHR 3309	07/30/10	
Straight Walk Family Services, Inc., DHHS	10 DHR 3411	07/30/10	
Gary Peeler v. DHHS, Office of the Controller	10 DHR 3436	11/10/10	
Our Future Child Care, Gloria Williams v. Div. of Child Development/DHHS	10 DHR 3448	09/07/10	
Vivian U. Enyinnaya v. DHHS, Division of Health Service Regulation	10 DHR 3470	09/07/10	
The Lawson's House v. Division of Mental Health/Developmental Disabilities and Substance Abuse Services	10 DHR 3472	09/09/10	
Felecia Moore Rhyne v. DHHS, Division of Health Service Regulation	10 DHR 3578	09/07/10	
Tiffany Horne v. DHHS	10 DHR 3579	09/07/10	
Pamela Terry-President/Administrator People Achieving Living Skills Inc. (PALS) v. DHHS, Div Of Health Service Regulation Mental Health Licensure & Certification	10 DHR 3883	08/18/10	
Peggy Ann Blackburn v. Health Care Personnel Registry	10 DHR 4117	11/13/10	
Cherry Crisp at Lillies Place LLC v. DHHS	10 DHR 4400	11/04/10	
Clara Yancey v. DHHS	10 DHR 4401	11/04/10	
Alexander Path Child Enrichment Center v. Division of Child Development, DHHS	10 DHR 4404	10/26/10	
Center for Speech Language & Learning PLLC v. DHHS, DMA	10 DHR 4586	01/19/11	
Anita R. Weak v. Health Care Registry	10 DHR 4690	11/08/10	
King's Memorial Christian Academy v. DHHS, Div. of Child Development	10 DHR 4719	09/30/10	

CONTESTED CASE DECISIONS

Patricia Hill, Building Joy in Healthcare v. DHSR	10 DHR 4842	09/23/10	
Travis Davis v. Health Care Personnel Registry	10 DHR 4985	11/02/10	
Crandell's Enterprises Inc., Mary Ann Crandell-MHL #-092-669	10 DHR 5201	10/15/10	
Alimot Folarin v. DHHS, Division of Health Service Regulation	10 DHR 5239	01/06/11	
Shira Roseboro v. DHHS, Division of Health Service Regulation	10 DHR 5457	12/02/10	
Andy Faircloth Stephen Hambrick v. DHHS	10 DHR 5655	12/20/10	
Sonshine Christian Daycare, Morris Stanford Aekins Jr v. Division of Child Care Development, Child Abuse/Neglect Department	10 DHR 5698	01/04/11	
Hansel & Gretel's Playhouse, Scott Armstrong v. DHHS, Division of Public Health Child and Adult Care Food Program	10 DHR 5700	12/14/10	
Melinda Durden v. DHHS, Division of Health Service Regulation	10 DHR 5719	11/23/10	
Irene Graham v. DHHS, Division of Medical Assistance	10 DHR 5798	01/31/11	
Keshav's Mart Inc. d/b/a Curve View Quick Shop, Haresh B. Italia v. DHHS, Division of Public Health	10 DHR 6000	12/22/10	
Betty D. Forysthe, Supreme Love 2, Division of Health Services Reg Dept of Health Human Services	10 DHR 6262	01/28/11	
Stop N Shop (WIC Vendor #7674) Jayendra Patel v. DHHS, Dept. of Public Health, WIC Program	10 DHR 6437	12/01/10	
Janet Enemall v. Dept. of Human Services, Division of Health Service Regulation	10 DHR 7531	01/18/11	
Linda Pauline Hutchens v. DHHS	10 DHR 7760	02/01/11	
Robeson Health Care Corp., v. DHHS, Division of Health Service Regulation, Mental Health Licensure and Certification	10 DHR 7878	01/13/11	
Charwonda J Parker v. DHHS, Division of Health Service Regulation	10 DHR 8825	01/26/11	
<u>DEPARTMENT OF CORRECTION</u>			
Robert Lee Hood v. DOC	10 DOC 4838	10/11/10	
<u>DEPARTMENT OF JUSTICE</u>			
Jay Eduard Krueger v. Criminal Justice Education and Training Standards Commission	06 DOJ 0578	06/29/10	
Scott Ray Berkley v. Criminal Justice Education and Training Standards Commission	09 DOJ 3750	06/25/10	
Tony Blaine Drake v. Criminal Justice Education and Training Standards Commission	09 DOJ 4151	04/14/10	
Daniel Brannon Gray v. Sheriff's Education and Training Standards Commission	09 DOJ 4364	03/15/10	
Phyllis Ann Johnson v. DOJ, Company Police Program	09 DOJ 5295	05/03/10	25:01 NCR 111
Joseph Thomas DePrisco v. Criminal Justice Education and Training Standards Commission	09 DOJ 5354	06/01/10	
Michael Gray Solomon, Jr v. Sheriffs' Education and Training Standards Commission	09 DOJ 5648	06/30/10	
Lang Lemorris Harrison v. Sheriffs' Education and Training Standards Commission	09 DOJ 5649	07/30/10	
Kenneth Maidene, Jr v. Sheriff's Education and Training Standards Commission	09 DOJ 5650	04/19/10	
Dustin RY Hussey v. Sheriffs' Education and Training Standards Commission	09 DOJ 5857	07/27/10	
Jeffrey Gray Royall v. Sheriffs' Education and Training Standards Commission	09 DOJ 5859	07/28/10	
Mitchell Ray Satterthwaite v. Criminal Justice Education and Training Standards Commission	09 DOJ 6326	07/16/10	
Dustin Matthew James v. Sheriffs' Education and Training Standards Commission	09 DOJ 6254	05/07/10	
Robert Clay Thompson v. Sheriffs' Education and Training Standards Commission	10 DOJ 0064	07/26/10	
Frankie Durwood Hill v. Sheriffs' Education and Training Standards Commission	10 DOJ 0065	07/24/10	
Charles Lovelace Williams v. Sheriffs' Education and Training Standards Commission	10 DOJ 0066	05/26/10	
Richard Anthony Simpson v. Sheriffs' Education and Training Standards Commission	10 DOJ 0155	07/21/10	
Phillip Daniel Griffin v. Sheriffs' Education and Training Standards Commission	10 DOJ 0156	07/21/10	
Anthony Paul Britt v. Sheriffs' Education and Training Standards Commission	10 DOJ 0157	06/02/10	
Wayne Keith Timmons v. Sheriffs' Education and Training Standards Commission	10 DOJ 0158	05/26/10	
Jeffrey Edward Byrd v. Sheriffs' Education and Training Standards Commission	10 DOJ 0389	05/26/10	
Timothy Wayne Hudson v. Sheriffs' Education and Training Standards Commission	10 DOJ 0390	10/05/10	
John David Dykes v. Criminal Justice Education and Training Standards Commission	10 DOJ 0391	08/10/10	
Christopher Ben Huff v. Criminal Justice Education and Training Standards Commission	10 DOJ 0392	08/13/10	
Jason Robert Bryant v. Sheriffs' Education and Training Standards Commission	10 DOJ 0394	09/29/10	
James William Carpenter, Jr. v. Criminal Justice Education and Training Standards Commission	10 DOJ 0395	11/17/10	
William Lee Walter v. Private Protective Services Board	10 DOJ 0528	04/22/10	
Mark Mauldin v. Criminal Justice Education and Training Standards Commission	10 DOJ 0583	07/29/10	
Hosea James v. DOJ, Company Police Program	10 DOJ 0703	09/30/10	
Chad Aaron Webster v. Criminal Justice Education and Training Standards Commission	10 DOJ 0722	10/06/10	
Kenya Solomon v. Private Protective Services Board	10 DOJ 1004	12/03/10	
Thomas Bernard Clark v. Private Protective Services Board	10 DOJ 1009	07/23/10	
Michael H. Robinson v. DOJ, Company Police Program	10 DOJ 1093	07/29/10	
Michael Luther Cole v. Private Protective Service Board	10 DOJ 1102	07/26/10	
Frederick Charles Newingham v. Private Protective Services Board	10 DOJ 1103	07/23/10	
Guy Yuri Fongging v. DOJ, Campus Police Program	10 DOJ 1131	08/23/10	
Steven Daniel Blue v. Private Protective Service Board	10 DOJ 1250	08/03/10	
Shawn Carson Houston v. Criminal Justice Education and Training Standards Commission	10 DOJ 1394	12/13/10	25:17 NCR 2132
Brian Scott Bradshaw v. Alarm Systems Licensing Board	10 DOJ 1738	08/03/10	
Emery Roland Anderson v. Criminal Justice Education and Training Standards Commission	10 DOJ 1842	11/17/10	
Tony Harold Shelton v. Sheriffs' Education and Training Standards Commission	10 DOJ 2373	08/31/10	
Bruce John Vosefski v. Sheriffs' Education and Training Standards Commission	10 DOJ 2377	09/30/10	
Geoffrey Paul Doucette v. Sheriffs' Education and Training Standards Commission	10 DOJ 2378	08/20/10	
Leroy Wilson, Jr. v. Private Protective Services Board	10 DOJ 3179	09/21/10	
Vincent Vanlear McMillan v. Sheriffs' Education and Training Standards Commission	10 DOJ 3185	10/04/10	
Timothy Tracy Walker v. Criminal Justice Education and Training Standards Commission	10 DOJ 3288	09/13/10	
James Albert Bowditch Sr. v. Criminal Justice Education and Training Standards Commission	10 DOJ 3792	11/01/10	
Shawn Carson Houston v. Criminal Justice Education and Training Standards Commission	10 DOJ 3945	12/13/10	25:17 NCR 2132

CONTESTED CASE DECISIONS

James Oneil Shannon v. Private Protective Service Board	10 DOJ 4286	09/20/10	
Timothy Bobby Adams v. Alarm Systems Licensing Board	10 DOJ 4324	10/08/10	
Joshua N. Jacobs v. Private Protective Services Board	10 DOJ 4633	10/08/10	
Richard Dwayne Campbell v. Private Protective Services Board	10 DOJ 4791	12/21/10	
Richard H. Rundus v. Alarm Systems Licensing Board	10 DOJ 4839	10/08/10	
Rory Franklin Jones v. Private Protective Services Board	10 DOJ 5155	11/05/10	
Qwan M. Boler v. Private Protective Services Board	10 DOJ 6339	12/03/10	
Marcus Henry Potter v. Sheriffs' Education and Training Standards Commission	10 DOJ 6967	12/30/10	
Julian Bernard Williams v. Sheriffs' Education and Training Standards Commission	10 DOJ 6968	01/12/11	
Danielle Michelle Harrison v. Private Protective Services Board	10 DOJ 7039	02/02/11	
Rocardo Gomez v. Criminal Justice Education and Training Standards Commission	10 DOJ 7776	01/26/11	
<u>DEPARTMENT OF LABOR</u>			
Mac VIII Enterprises Inc, d/b/a Instant Imprints Michael McDonald v. DOL, John Hoomani Legal Counsel	10 DOL 3556	09/29/10	
Nader Behrouzjou v. Office of Administrative Hearings	10 DOL 3719	09/24/10	
<u>DEPARTMENT OF TRANSPORTATION</u>			
Andrew Scott Treadway v. Commissioner of Division of Motor Vehicles, Mr. Robertson	10 DOT 3746	08/19/10	
Rodney-Dale; Class v. DOT	10 DOT 7047	01/19/11	
<u>DEPARTMENT OF STATE TREASURER</u>			
Michael L. Bost Sr., v. Retirement System	09 DST 3781	04/15/10	
Jane C. Brocius v. State Treasurer Retirement System Division	09 DST 4066	03/25/10	25:03 NCR 350
Russell Ray Rouse v. DOT, Retirement Systems Division	10 DST 0068	07/21/10	
John Franklin Oates v. Dept. of State Treasurer/Retirement Systems Division	10 DST 4757	12/23/10	
<u>STATE BOARD OF EDUCATION</u>			
Curtis Alexander Williams v. State Board of Education, Dept. of Public Instruction	09 EDC 6102	12/10/10	25:17 NCR 2120
Marine Sciences High School, Inc v. State Board of Education	10 EDC 1104	09/16/10	
Bear Grass Charter School, Inc v. State Board of Education	10 EDC 1420	10/27/10	
Benjamin Franklin Wyche Jr. v. State Board of Education	10 EDC 2449	07/20/10	
Renie E. Johnston v. Dept. of Public Instruction	10 EDC 2513	11/09/10	
Dionne B. Stafford Pursley v. State Board of Education	10 EDC 2685	07/21/10	
Olivia C. Dombrowski v. Dept. of Public Instruction	10 EDC 3345	09/09/10	
David Needham v. Dept. of Public Instruction	10 EDC 5126	11/15/10	
<u>DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES</u>			
Bakari Delcackio Johnson v. DENR, Division of On-Site Wastewater, Carteret County Health Dept. Environmental Health and Bakari Johnson; Larry Parmley v. DENR, Division of On-Site Wastewater, Carteret County Health Department	06 EHR 1400	12/30/11	25:17 NCR 2110
U.S. Department of the Interior (DOI), Fish and Wildlife Service(FWS) v. DENR, Division of Air Quality And PCS Phosphate Company, Inc (PCS Phosphate)	08 EHR 1067	11/12/10	25:15 NCR 1857
Quality Built Homes Inc. v. DENR, Division of Water Quality	09 EHR 2650	07/22/10	
Dennis Keeney & Patricia Keeney v. Division of Environmental Health	09 EHR 4425	12/30/10	
Windy Woods, LLC v. DENR, Division of Water Quality	09 EHR 4621	06/04/10	25:05 NCR 674
Rufus E. Murray v. DENR, Division of Marine Fisheries	09 EHR 5042	07/23/10	
Gleason James v. DENR	09 EHR 5294	09/02/10	
Burt Benson, CEO, Benson Construction, Inc v. DENR, Division of Air Quality	09 EHR 6251	08/27/10	
Bakari Delcackio Johnson v. DENR, Division of On-Site Wastewater, Carteret County Health Dept. Environmental Health and Bakari Johnson; Larry Parmley v. DENR, Division of On-Site Wastewater, Carteret County Health Department	09 EHR 6635	12/30/11	25:17 NCR 2110
Joel F. Hollowell Oil Co, Inc 18,582.02 v. DENR	10 EHR 0287	10/18/10	
Joel F. Hollowell Oil Co, Inc 16,969.43 v. DENR	10 EHR 0288	10/18/10	
Joel F. Hollowell Oil Co, Inc 7,576.10 v. DENR	10 EHR 0289	10/18/10	
Little Miracles Child Care, Margaret Mosley v. Moore County Health Department, DENR	10 EHR 0624	08/11/10	
Wyatt Aldridge Construction Inc. v. DENR, The Sedimentation Pollution Control Act of 1973	10 EHR 0796	10/14/10	
Bradford M. Kimzey v. DENR, Division of Environmental Health	10 EHR 0876	06/23/10	
Thom Road Development, LLC v. DENR, Div. of Land Resources	10 EHR 2723	09/13/10	
Peter Pallas v. Association of Local Health Directors	10 EHR 2972	09/02/10	
Saul Romero v. DENR, Div. of Environmental Health	10 EHR 3061	09/17/10	
Northview Mobile Home Park, James Rice v. DENR	10 EHR 3132	09/27/10	
Bill M. Klimvakis, Bill's Plumbing v. DENR, Division of Waste Management	10 EHR 3286	08/23/10	
M&M Builders, Inc v. DENR	10 EHR 3510	01/06/11	
David McMillan, McMillan Contracting, Inc. v. DENR, Division of Air Quality	10 EHR 4059	11/19/10	
Talford Cline v. DENR, Division of Environmental Health	10 EHR 4403	12/06/10	
KV Shah & Jay Shah v. DENR	10 EHR 4635	10/27/10	
Archie S. Hill v. DENR, Division of Water Quality	10 EHR 5358	01/27/11	
D Allen Raynor v. EMC, Division of Land Resources	10 EHR 6157	01/26/11	
Joseph F. Monette, Jr v. DENR, Division of Waste Management, UST Section	10 EHR 6344	02/07/11	
B&K Coastal LLC, d/b/a Cape Fear Paving v. DENR	10 EHR 6584	12/14/10	
Center For Massage & Natural Health, Audra Klein, GM, Program Director v. DENR	10 EHR 7040	01/20/11	
McNair-McMillian (Montreat Pool) v. NCDENR	10 EHR 7219	01/27/11	

CONTESTED CASE DECISIONS

Mahesh R. Patel v. NCDENR	10 EHR 7275	01/27/11	
<u>DEPARTMENT OF INSURANCE</u>			
Tammy A. Lee v. Blue Cross Blue Shield of NC	09 INS 6817	05/03/10	
Benton E. Miles, Jr., State Health Plan	10 INS 0720	06/08/10	
James Edward Summerlin v. State Health Plan	10 INS 2520	09/21/10	
Paul Henry Brodish v. State Health Plan Blue Cross Blue Shield of NC	10 INS 1171	08/25/10	
Lloyd Nelson v. State Health Plan Blue Cross Blue Shield of NC	10 INS 2177	09/08/10	
Tania H. Caravella, Lepage Associates v. NC State Health Plan Blue Cross Blue Shield of NC	10 INS 5797	01/25/11	
<u>MISCELLANEOUS</u>			
Tony Wallace v. Dept. of Mental Health	10 MIS 1838	10/27/10	
<u>OFFICE OF STATE PERSONNEL</u>			
Linda Cheryl Strider v. Vance County Board of Social Services	08 OSP 0904	06/25/10	
Gwendolyn E. White v. DHHS, Department of Information Resource Management (DIRM) Privacy and Security Office	08 OSP 0991	06/14/10	25:04 NCR 519
Jewel C. Mosley v. Wilson County Health Department, Felix Meyer, Director	08 OSP 2140	07/20/10	
Spencer Batchelor v. NCSU Campus Police	09 OSP 0059	03/29/10	25:03 NCR 358
Nedra T. Rollins v. NC State University	09 OSP 1536	06/07/10	
Bobby L. Murray v. NCCU	09 OSP 2149	06/18/10	25:07 NCR 933
Frederick Gooch v. Central Regional Hospital, DHHS	09 OSP 2398	10/28/10	25:16 NCR 1922
John Long v. Central Regional Hospital, DHHS	09 OSP 2400	10/28/10	25:16 NCR 1922
Patricia Swann v. Central Regional Hospital, DHHS	09 OSP 2402	10/28/10	25:16 NCR 1922
Mekre Francis v. DHHS, Division of Mental Health, Developmental Disabilities and Substance Abuse Services, Murdoch Developmental Center	09 OSP 2813	05/27/10	
Willie Hubbs v. Broughton Hospital	09 OSP 3326	04/19/10	25:03 NCR 372
Esther K. Dunn v. Dept. of Commerce, Div. of Tourism, Film and Sports Development	09 OSP 3582	08/24/10	
Alanda A. Vance v. Beth Wood, NC Office of State Auditor	09 OSP 3649	01/07/11	
Kathleen Kicinski v. NC A&T University	09 OSP 3923	12/29/10	
Pamela D. Shoffner v. Agricultural and Technical State University, Mr. Linc Butler, Assistant Vice Chancellor for Human Resources	09 OSP 4432	05/19/10	
Charolettee Hope v. Cumberland County Department of Social Services	09 OSP 4436	04/15/10	
Isham Spann v. Marva G. Scott and Edgecombe County, Dept. of Social Services	09 OSP 4625	09/27/10	
O'Tonious T. Raynor v. DHHE, Emery Milliken	09 OSP 4648	07/26/10	25:07 NCR 948
Camela O. Warren v. NC A&T	09 OSP 4811	10/22/10	
Charles T. Hodge Jr. v. Mike Totolo, Vance County Public Schools	09 OSP 4977	08/30/10	
Natalie Jones v. NCSU	09 OSP 5041	10/19/10	
Michael Karr v. DHHS, Division of Vocational Rehabilitation Services	09 OSP 5157	07/19/10	25:07 NCR 960
Purnell Sowell v. DOT, Div. of Motor Vehicles	09 OSP 5262	08/31/10	
Robert L. Hamm v. Department of Correction	09 OSP 5320	04/15/10	
Horace Blakeney v. UNC Charlotte	09 OSP 5352	07/14/10	
Andria Lambert v. DOC	09 OSP 5551	12/02/10	
Steven Dancy v. Appalachian State University	09 OSP 5566	08/02/10	
Quintino Brooks v. NCCU	09 OSP 5567	04/28/10	25:03 NCR 379
Thomas C. Wetherington v. Dept. of Crime Control and Public Safety, NC Highway Patrol	09 OSP 5768	09/03/10	
Dwight Steven Murphy v. DHHS, Div. of Services for the Blind	09 OSP 5924	05/13/10	
Russell Alan Swindell Sr. v. NCSU BMO	09 OSP 6599	11/10/10	
LaCinda L. McKenzie v. O'Berry Center	09 OSP 6785	06/21/10	
Glenn Hodge v. DOT	10 OSP 0229	06/14/10	
Nathan Anthony Swanson v. DHHS, Div. of Mental Health	10 OSP 0929	10/18/10	
Anthony P. Moore v. DOT	10 OSP 0930	12/10/10	
Melissa M. Reed v. Cumberland County, Dept. of Social Services	10 OSP 1090	11/15/10	
Anthony E. Scott v. Dept. of Crime Control and Public Safety, NC Highway Patrol	10 OSP 1105	10/26/10	
Vinson Jerome Horton v. NCCU	10 OSP 1168	11/17/10	
Stephen R. West v. UNC	10 OSP 1567	09/02/10	
Janice F. Stokes v. DOC, Division of Community Corrections	10 OSP 2316	08/20/10	
Beverly Ann Wynn v. DOC, Div. of Community Corrections and Div. of Prisons	10 OSP 2415	09/20/10	
Alvin L. Bess v. The County of Cumberland	10 OSP 2517	06/25/10	
Ingrid Matenge v. DOT, Div. of Motor Vehicles	10 OSP 2519	10/21/10	
Cynthia Lloyd v. Vance County	10 OSP 2577	08/30/10	
John Anthony McDonald, II v. DHHS, Division of Information Resource Management	10 OSP 2786	06/24/10	
Tammy R. Northern v. County of Durham Criminal Justice Resources Center	10 OSP 2904	08/20/10	
Cornelia G. Snow v. Wendy Godwin/Longleaf Neuro-Medical Treatment Center	10 OSP 2909	06/29/10	
Angela R. Harris v. DOC	10 OSP 3007	08/31/10	
Vance L. Yates v. DJJDP Dept. of Juvenile Justice & Delinquency Prevention	10 OSP 3155	08/20/10	
Maureen Marie Schepis v. DHHS, J. Iverson Riddle Developmental Center, Emery Milliken, DHHS General Counsel	10 OSP 3346	08/30/10	
George A. McLamb v. DOC	10 OSP 4398	10/20/10	
Montressa B. DeRosa v. DOC	10 OSP 4797	11/18/10	
Michael Bramwell v. DHHS	10 OSP 5016	11/10/10	
Louis G. Antonellis v. Cumberland County Board of Education Superintendent (Frank Till) Asst. Superintendent (Joseph Locklear) Board Attorney (David Phillips) Principal (Vanessa	10 OSP 5393	10/29/10	

CONTESTED CASE DECISIONS

Alford)			
Elizabeth Plummer v. Vance County, Department of Social Services, Kay Fields, Director	10 OSP 5695	12/16/10	
Sabir M. Rashidi v. DOT	10 OSP 8005	02/07/11	
<u>OFFICE OF SECRETARY OF STATE</u>			
Jenny S. Thompson v. Department of SOS	09 SOS 2342	03/17/10	
Jessica Nicole Blackwell Lewis v. Dept. of SOS	09 SOS 6174	08/30/10	
Seaton W. Howell v. Dept. of SOS	10 SOS 1350	11/08/10	
James D. Harrison v. Notary Public Commission	10 SOS 1515	06/15/10	
Donald R. Beason and Mark C. Beason v. Dept. of SOS	10 SOS 1913	11/22/10	25:16 NCR 1931
Alden Briscoe, Brakeley Briscoe, Inc v. Dept. of SOS	10 SOS 5697	01/25/11	
<u>TEACHING FELLOWS COMMISSION</u>			
Elizabeth Danial Dominique v. NC Teaching Fellows Commission	09 TFC 6833	09/24/10	25:11 NCR 1366
<u>UNC HOSPITALS</u>			
Alexander Lee v. UNC Hospitals	10 UNC 1095	08/30/10	
Edwin Matthews v. UNC Hospitals	10 UNC 2576	09/13/10	