

# ***NORTH CAROLINA REGISTER***

**VOLUME 25 • ISSUE 22 • Pages 2435 - 2477**

**May 16, 2011**

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**PUBLISHED BY**

*The Office of Administrative Hearings  
Rules Division  
6714 Mail Service Center  
Raleigh, NC 27699-6714  
Telephone (919) 431-3000  
Fax (919) 431-3104*

*Julian Mann, III, Director  
Camille Winston, Deputy Director  
Molly Masich, Codifier of Rules  
Dana Vojtko, Publications Coordinator  
Julie Edwards, Editorial Assistant  
Tammara Chalmers, Editorial Assistant*

## **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 and Governor's Review**

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: 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

### **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  
Jeff 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 <sup>th</sup> 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
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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
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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. 87  
PROCLAMATION OF A STATE OF EMERGENCY  
BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA**

Pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina:

**Section 1.**

I declare that a state of emergency exists in the State due to severe weather impacting the State including tornadoes, flooding and severe winds.

**Section 2.**

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

**Section 3.**

I delegate to Reuben F. Young, Secretary of Crime Control and Public Safety, or his designee, all power and authority granted to me and required of me by Article 1 of Chapter 166A of the General Statutes for the purpose of implementing the State's Emergency Operations Plan and to take such further action as is necessary to promote and secure the safety and protection of the populace in North Carolina.

**Section 4.**

Further, Secretary Young, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in G. S. § 143B-476.

**Section 5.**

I further direct Secretary Young to seek assistance from any and all agencies of the United States Government as may be needed to meet the emergency and seek reimbursement for costs incurred by the State in responding to this emergency.

**Section 6.**

I hereby order this proclamation: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) unless the circumstances of the state of emergency prevent or impede, to be promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to assure proper implementation of this proclamation.

**Section 7.**


This order is adopted pursuant to my powers under Article 1 of Chapter 166A of the General Statutes and not under my authority under Article 36A of Chapter 14 of the General Statutes. It does not trigger the limitations on weapons in G.S. § 14-288.7 or impose any limitation on the consumption, transportation, sale or purchase of alcoholic beverages.

**Section 8.**


This Executive Order is effective immediately and shall remain in effect for thirty (30) days or the duration of the emergency, whichever is less.

**IN WITNESS WHEREOF**, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this sixteenth day of April 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 E. Marshall  
*chief deputy* Secretary of State



BEVERLY EAVES PERDUE  
GOVERNOR

EXECUTIVE ORDER NO. 88

**TEMPORARY SUSPENSION OF MOTOR VEHICLE REGULATIONS  
TO ENSURE RESTORATION OF UTILITY SERVICES AND TRANSPORTING  
ESSENTIALS THROUGHOUT THE STATE**

**WHEREAS**, I have determined that a State of Emergency exists in the State due to the severe weather impacting the State including tornadoes, flooding and severe winds, thereby justifying an exemption from 49 CFR Part 395 (Federal Motor Carrier Safety Regulations); and

**WHEREAS**, the prompt restoration of utility services and delivery of fuels, food, water, medical supplies to citizens is essential to their safety and well being; and

**WHEREAS**, 49 CFR § 390.23 allows the Governor of a state to suspend the rules and regulations under 49 CFR Part 395 for up to 30 days if the Governor determines that an emergency condition exists; and

**WHEREAS**, under N.C.G.S. §§ 166A-4 and 166A-6.03(b), the Governor may declare that the health, safety, or economic well-being of persons or property in this State require that the maximum hours of service for drivers prescribed by N.C.G.S. § 20-381 should be waived for persons transporting essential fuels, food, water, medical supplies, and restoration of utility services; and debris removal.

**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.**

The Department of Crime Control and Public Safety in conjunction with the North Carolina Department of Transportation shall waive the maximum hours of service for drivers prescribed by the Department of Crime Control and Public Safety pursuant to N.C.G.S. § 20-381.

**Section 2.**

The waiver of regulations under 49 CFR Part 395 (Federal Motor Carrier Safety Regulations) does not apply to the commercial drivers' licenses and insurance requirements.

**Section 3.**

The Department of Crime Control & Public Safety in conjunction with the North Carolina Department of Transportation shall waive certain size and weight restrictions and penalties arising under N.C.G.S. §§ 20-116 and 20-118, and certain registration requirements and penalties arising under N.C.G.S. §§ 20-86.1, 20-382, 105-449.47, 105-449.49 for the vehicles transporting equipment and supplies for the restoration of utility services along North Carolina roadways to our impacted counties.

**Section 4.**

Notwithstanding the waivers set forth above, size and weight restrictions and penalties have not been waived under the following conditions:

- a. When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross weight, whichever is less.
- b. When the tandem axle weight exceeds 42,000 pounds and the single axle weight exceeds 22,000 pounds.
- c. When a vehicle/vehicle combination exceeds 12 feet in width and a total overall vehicle combination length 75 feet from bumper to bumper.
- d. Vehicles and vehicles combinations subject to exemptions or permits by authority of this executive order shall not be exempt from the requirement of a yellow banner on the front and rear measuring a total length of 7 feet by 18 inches bearing the legend oversized load in 10 inch black letters 1.5 inches wide and red flags measuring 18 inches square to be displayed on all sides at the widest point of the load. In addition, when operating between sunset and sunrise a certified escort shall be required for load exceeding 8 feet 6 inches in width.

**Section 5.**

Vehicles referenced under Sections 1 and 3 shall be exempt from the following registration requirements:

- a. The \$50.00 fee listed in N.C.G.S. § 105-449.49 for a temporary trip permit is waived for the vehicles described above. No quarterly fuel tax is required because the exception in N.C.G.S. § 105-449.45(a)(1) applies.
- b. The registration requirements under N.C.G.S. § 20-382.1 concerning intrastate and interstate for-hire authority is waived; however, vehicles shall maintain the required limits of insurance as required.
- c. Non-participants in North Carolina's International Registration Plan will be permitted into North Carolina in accordance with the exemptions identified by this Executive Order.



**Section 6.**

The size and weight exemption for vehicles will be allowed on all routes designated by the North Carolina Department of Transportation, except those routes designated as light traffic roads under N.C.G.S. § 20-118. This order shall not be in effect on bridges posted pursuant to N.C.G.S. § 136-72.

**Section 7.**

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 1-6 of this Executive Order in a manner which will implement this rule without endangering motorists in North Carolina.

**Section 8.**

Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish their loads are being used for relief efforts associated with the severe weather.

**Section 9.**

This order is adopted pursuant to my powers under Article 1 of Chapter 166A of the General Statutes and not under my authority under Article 36A of Chapter 14 of the General Statutes. It does not trigger the limitations on weapons in G.S. § 14-288.7 or impose any limitation on the consumption, transportation, sale or purchase of alcoholic beverages.

**Section 10.**

This Executive Order is effective immediately and shall remain in effect for thirty (30) days or the duration of the emergency, whichever is less.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this sixteenth day of April 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  
Chief Deputy Secretary of State



**EXECUTIVE ORDER NO. 89**

**RELIEF FOR FARMERS TO REMOVE AGRICULTURAL DEBRIS DUE TO STATE  
OF EMERGENCY CAUSED BY TORNADOES**

**WHEREAS**, on April 16, 2011, I issued Executive Order No. 87 declaring a state of emergency due to severe weather that impacted the State, including tornadoes, flooding and severe winds; and

**WHEREAS**, on April 16, 2011, I also issued Executive Order No. 88 suspending certain motor vehicle regulations; and

**WHEREAS**, as a result of the severe weather, many of our farms have accumulated debris that is interfering with the ability of farmers to tend to their crops; and

**WHEREAS**, the North Carolina General Assembly is considering adoption of legislation consistent with this Executive Order, and it is necessary to issue this Executive Order to ensure farmers get the relief they need without delay.

**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.     Piling of Debris for Removal

To facilitate the removal and disposal of debris on farmland caused by the severe weather on April 16, 2011, I hereby direct the Department of Transportation, in conjunction with the Department of Environment and Natural Resources, the Department of Agriculture and Consumer Services, the Department of Correction, and local county officials, to assist local farmers in piling debris for removal.

Section 2.     Appropriate Removal and Disposal of Debris

For purposes of Section 1, farmers should move debris to the edge of their property to facilitate removal. In the event removal to the edge of the property is impossible, farmers may dispose of the debris in an appropriate manner on the property, consistent with any applicable local ordinances and state laws or regulations. Farmers should coordinate with the N.C. Forestry Service and their local officials to determine if burning of debris is in any manner inconsistent with federal, state and local law.

Section 3.     Review of Regulations by the Department of Environment and Natural Resources

The Department of Environment and Natural Resources is hereby directed to coordinate with local county officials to ensure compliance with open burning regulations and burial of debris regulations.

Section 4.     Effect and Duration

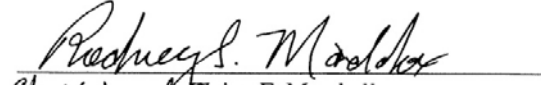
This Executive Order is effective immediately and shall remain in effect for thirty (30) days or the duration of the emergency, whichever is less.

**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 twentieth day of April 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



EXECUTIVE ORDER NO. 90

**TEMPORARY SUSPENSION OF CERTAIN MOTOR VEHICLE REGULATIONS  
TO PROVIDE FOR THE EXPEDITED MOVEMENT OF TEMPORARY HOUSING  
FOR STORM DAMAGED COUNTIES**

**WHEREAS**, I have determined that a State of Emergency exists in the State due to the severe weather impacting the State including tornadoes, flooding and severe winds; and

**WHEREAS**, under the provisions of N.C.G.S. §§ 166A-4 and 166A-6(c)(3) the Governor, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

**WHEREAS**, with the concurrence of the Council of State, I have found that vehicles bearing mobile homes or other forms of temporary housing to relieve our afflicted counties currently must adhere to the registration requirements of N.C.G.S. § 20-86.1 and 20-382, fuel tax requirements of N.C.G.S. § 105-449.47, and the size and weight requirements of N.C.G.S. §§ 20-116 and 20-118 and;

**WHEREAS**, with the concurrence of the Council of State, I have found that certain motor vehicle restrictions need to be waived to facilitate the expeditious movement of temporary housing in the afflicted counties.

**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.**

The Department of Crime Control & Public Safety in conjunction with the North Carolina Department of Transportation shall waive certain size and weight restrictions and penalties arising under N.C.G.S. §§ 20-116 and 20-118, and certain registration requirements and penalties arising under N.C.G.S. §§ 20-86.1, 20-382, 105-449.47, and 105-449.49 for the vehicles transporting mobile homes or other forms of temporary housing along North Carolina roadways to our impacted counties.

**Section 2.**

Notwithstanding the waivers set forth above, size and weight restrictions and penalties have not been waived under the following conditions:

- a. When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross weight, whichever is less.
- b. When the tandem axle weight exceeds 42,000 pounds and the single axle weight exceeds 22,000 pounds.
- c. When a vehicle and vehicle combination exceeds 12 feet in width and a total overall vehicle combination length of 75 feet from bumper to bumper.
- d. Vehicles and vehicle combinations subject to exemptions or permits by authority of this Executive Order shall not be exempt from the requirement of having a yellow banner on the front and rear measuring a total length of 7 feet by 18 inches bearing the legend "Oversized Load" in 10 inch black letters 1.5 inches wide and red flags measuring 18 inches square to be displayed on all sides at the widest point of the load. In addition, when operating between sunset and sunrise, a certified escort shall be required for loads exceeding 8 feet 6 inches in width.

**Section 3**

Vehicles referenced under Sections 1 and 2 shall be exempt from the following registration requirements:

- a. The \$50.00 fee listed in N.C.G.S. § 105-449.49 for a temporary trip permit is waived for the vehicles described above. No quarterly fuel tax is required because the exception in N.C.G.S. § 105-449.45(a)(1) applies.
- b. The registration requirements under N.C.G.S. § 20-382.1 concerning intrastate and interstate for-hire authority is waived; however, vehicles shall maintain the required limits of insurance as required.
- c. Non-participants in North Carolina's International Registration Plan will be permitted into North Carolina in accordance with the exemptions identified by this Executive Order.
- d. The fees listed in N.C.G.S. § 20-119 for an annual permit and a single trip permit to transport mobile homes only applies to mobile homes being transported under contract with the Federal Emergency Management Agency (FEMA) as part of the relief effort for the severe weather that impacted the State including tornadoes, flooding and severe winds. Transporters moving mobile homes under this section are exempted from the requirement to enter weigh stations as required under N.C.G.S. § 20-118.1. However, these same transporters shall have in the transport vehicle a copy of the Transport Authorization letter from FEMA, the permit from the North Carolina Department of

Transportation, and the manufacturer's bill of lading for the mobile home being transported. This does not exempt transporters from the requirements of the regulations regarding escorts, flags, signs, and other safety requirements. Movement of these mobile homes required to obtain a permit shall be granted travel from sunrise to sunset seven days a week.

- e. The requirement of a permit shall be waived for transporters moving mobile homes that do not exceed 14 feet wide, 13 feet 6 inches high, and a length of 105 feet overall combination tractor and mobile home unit being transported under contract with the FEMA as part of the relief effort for the severe weather that impacted the State including tornadoes, flooding and severe winds. However, transporters moving mobile homes not exceeding 14 feet wide, 13 feet 6 inches high, and a length of 105 feet overall combination tractor and mobile home unit are required to have escort vehicles as would be required under normal conditions. Transporters moving mobile homes under this section are exempted from the requirement to enter weigh stations as required under N.C.G.S. § 20-118.1. However, these same transporters shall have in the transport vehicle a copy of the Transport Authorization letter from FEMA and the manufacturer's bill of lading for the mobile home being transported. This does not exempt transporters from the requirements of the regulations regarding escorts, flags, signs, and other safety requirements. Movement of these mobile homes shall be granted travel from sunrise to sunset seven days a week.

#### **Section 4.**

The size and weight exemption for vehicles will be allowed on all routes designated by the North Carolina Department of Transportation, except those routes designated as light traffic roads under N.C.G.S. § 20-118. This Order shall not be in effect on bridges posted pursuant to N.C.G.S. § 136-72.

#### **Section 5.**

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 1 through 4 of this Executive Order in a manner which will implement these provisions without endangering motorists in North Carolina.

#### **Section 6.**

Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish their loads are being used for relief efforts associated with bringing in mobile homes or other forms of temporary housing due to the severe weather that impacted the State including tornadoes, flooding and severe winds.

#### **Section 7.**

This order is adopted pursuant to my powers under Article 1 of Chapter 166A of the General Statutes and not under my authority under Article 36A of Chapter 14 of the General Statutes. It

does not trigger the limitations on weapons in G.S. § 14-288.7 or impose any limitation on the consumption, transportation, sale or purchase of alcoholic beverages.

**Section 8.**

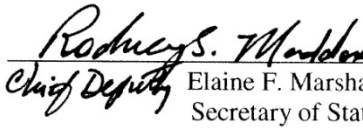
This Executive Order is effective immediately and shall remain in effect for sixty (60) days or the duration of the emergency, whichever is less.

**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 twenty-eighth day of April 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





**EXECUTIVE ORDER NO. 91**

**EMERGENCY RELIEF FOR DAMAGE CAUSED BY TORNADOES AND SEVERE STORMS IN THE SOUTHERN UNITED STATES**

**WHEREAS**, the Governors of Alabama, Georgia, Mississippi, Tennessee, and Virginia have proclaimed that a State of Emergency exists in these states due to tornadoes; and

**WHEREAS**, under the provisions of N.C.G.S. §§ 166A-4 and 166A-6(c)(3) the Governor, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

**WHEREAS**, with the concurrence of the Council of State, I have found that vehicles bearing equipment and supplies to relieve Alabama, Georgia, Mississippi, Tennessee and Virginia's grief stricken areas must adhere to the registration requirements of N.C.G.S. § 20-86.1 and 20-382, fuel tax requirements of N.C.G.S. § 105-449.47, and the size and weight requirements of N.C.G.S. §§ 20-116 and 20-118. I have further found that citizens in those states have suffered losses and imminent further widespread damage within the meaning of N.C.G.S. § 166A-4(3) will occur.

**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.**

The Department of Crime Control & Public Safety in conjunction with the North Carolina Department of Transportation shall waive certain size and weight restrictions and penalties arising under N.C.G.S. §§ 20-116 and 20-118, and certain registration requirements and penalties arising under N.C.G.S. §§ 20-86.1, 20-382, 105-449.47, and 105-449.49 for the vehicles transporting equipment and supplies to relieve Alabama, Georgia, Mississippi, Tennessee and Virginia's grief stricken areas.

**Section 2.**

Notwithstanding the waivers set forth above, size and weight restrictions and penalties have not been waived under the following conditions:

- a. When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross weight, whichever is less.
- b. When the tandem axle weight exceeds 42,000 pounds and the single axle weight exceeds 22,000 pounds.
- c. When a vehicle and vehicle combination exceeds 12 feet in width and a total overall vehicle combination length of 75 feet from bumper to bumper.
- d. Vehicles and vehicle combinations subject to exemptions or permits by authority of this Executive Order shall not be exempt from the requirement of having a yellow banner on the front and rear measuring a total length of 7 feet by 18 inches bearing the legend "Oversized Load" in 10 inch black letters 1.5 inches wide and red flags measuring 18 inches square to be displayed on all sides at the widest point of the load. In addition, when operating between sunset and sunrise, a certified escort shall be required for loads exceeding 8 feet 6 inches in width.

**Section 3**

Vehicles referenced under Sections 1 and 2 shall be exempt from the following registration requirements:

- a. The \$50.00 fee listed in N.C.G.S. § 105-449.49 for a temporary trip permit is waived for the vehicles described above. No quarterly fuel tax is required because the exception in N.C.G.S. § 105-449.45(a)(1) applies.
- b. The registration requirements under N.C.G.S. § 20-382.1 concerning intrastate and interstate for-hire authority is waived; however, vehicles shall maintain the required limits of insurance as required.
- c. Non-participants in North Carolina's International Registration Plan will be permitted into North Carolina in accordance with the exemptions identified by this Executive Order.

**Section 4.**

The size and weight exemption for vehicles will be allowed on all North Carolina Interstate Highways Only.

**Section 5.**

The waiver of regulations under 49 CFR (Federal Motor Carrier Safety Regulations) issued by the states of Alabama, Georgia, Mississippi, Tennessee, and Virginia do not apply to the CDL and Insurance Requirements. This waiver shall be in effect for 60 days or the duration of the emergency, whichever is less.

**Section 6.**

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 1 through 5 of this Executive Order in a manner which will implement these provisions without endangering motorists in North Carolina.

**Section 7.**

Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish their loads are being used for relief efforts associated with transporting equipment and supplies to relieve Alabama, Georgia, Mississippi, Tennessee and Virginia's grief stricken areas.

**Section 8.**

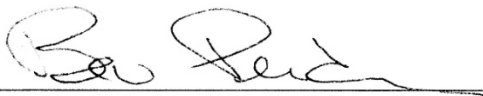
This order is adopted pursuant to my powers under Article 1 of Chapter 166A of the General Statutes and not under my authority under Article 36A of Chapter 14 of the General Statutes. It does not trigger the limitations on weapons in N.C.G.S. § 14-288.7 or impose any limitation on the consumption, transportation, sale or purchase of alcoholic beverages.

**Section 9.**

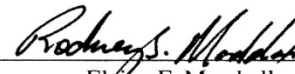
This Executive Order is effective immediately and shall remain in effect for sixty (60) days or the duration of the emergency, whichever is less.

**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 twenty-eighth day of April 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  
Chief Deputy 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 an interim maximum allowable concentration in groundwater for tert-Butyl Alcohol. This interim concentration 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 concentration is hereby established for Class GA and GSA groundwaters effective June 1, 2011.

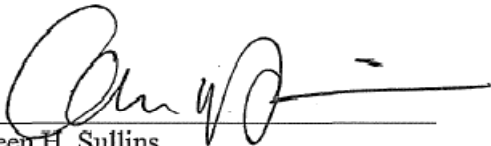
**Substance**

tert-Butyl Alcohol

**Established IMAC**

10 ug/L

Action to adopt a permanent standard for this substance 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](mailto: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

**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 NC Department of Health and Human Services-Social Services Commission intends to amend the rules cited as 10A NCAC 70M .0401 and .0403.

**Proposed Effective Date:** September 1, 2011

### **Public Hearing:**

**Date:** July 18, 2011

**Time:** 10:00 a.m.

**Location:** Albemarle Building, Division of Social Services, Conference Room 819-E (8<sup>th</sup> Floor), 325 Salisbury Street, Raleigh, NC 27603

**Reason for Proposed Action:** These services no longer support the core mission of the Division of Social Services. They were originally intended to provide services and resources to children adopted out of the foster care system and to address these children's special needs. The Division no longer believes that the provision of these resources is utilized appropriately and therefore believes that the funds should not continue.

**Procedure by which a person can object to the agency on a proposed rule:** By submitting your objection in writing to Carlotta Dixon, Division of Social Services, 2401 Mail Service Center, Raleigh, NC 27699-2401 or email [carlotta.dixon@dhhs.nc.gov](mailto:carlotta.dixon@dhhs.nc.gov) and by telephone (919) 334-1005.

**Comments may be submitted to:** Carlotta Dixon, APA Rulemaking Coordinator, Division of Social Services, 2401 Mail Service Center, Raleigh, NC 27699-2401; phone (919) 733-3055; fax (919) 334-1018; email [carlotta.dixon@dhhs.nc.gov](mailto:carlotta.dixon@dhhs.nc.gov)

**Comment period ends:** July 18, 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/DHHS03282011.pdf](http://www.osbm.state.nc.us/files/pdf_files/DHHS03282011.pdf)

## **CHAPTER 70 - CHILDREN'S SERVICES**

### **SUBCHAPTER 70M - ADOPTION STANDARDS**

#### **SECTION .0400 - ADOPTION ASSISTANCE: GENERAL**

##### **10A NCAC 70M .0401 ADOPTION ASSISTANCE DEFINED**

(a) ~~Regular~~ For Purposes of this Section, regular monthly cash assistance payments means the graduated rates set by the General Assembly. The payments may be made to children who meet the requirements set out in Rule .0402 of this Section.

(b) Vendor payments are made directly to the provider, including adoptive parents, for medical services not covered by Medicaid, therapeutic, psychological, and remedial services for children who meet the eligibility criteria set out in Rule .0402 of this Section. Section, except that no vendor payment shall be approved by a county Department of Social Services or made for any adoption in which the Decree of Adoption is issued on or after July 1, 2011.

(c) Special Children Adoption Incentive Fund payments may be made to children who meet the requirements as set out in Rule .0404 of this Section.

Authority G.S. 108A-49; 108A-50; 143B-153.

##### **10A NCAC 70M .0403 PROCEDURES/ REIMBURSEMENT OF ADOPTION ASSISTANCE BENEFITS**

(a) Adoption assistance benefits for which ~~the~~ a child may be eligible will become effective the first month following the month in which the Decree of Adoption is issued.

(b) Claims from service providers and monthly cash assistance ~~will~~ shall be reimbursed or provided from adoption assistance funds in accordance with the Department of Health and Human

Services county department of social services reimbursement process, subject to the following limitations:

- (1) Vendor payments to adoptive parents, medical providers and to providers of psychological, therapeutic, and remedial services ~~will~~ shall be made only for treatment or services given to alleviate or correct those ~~special~~ conditions for which the child has been determined eligible to receive benefits.
- (2) The total amount for vendor payments for any ~~combination of the following services:~~ combination of medical services not covered by Medicaid, Medicaid including psychological, therapeutic services or remedial services for any child shall not exceed two thousand four hundred dollars (\$2,400.00) per State fiscal year.
- (3) Vendor payments ~~will~~ shall not be made to reimburse providers for the following:
  - (A) routine medical examinations;
  - (B) illnesses or conditions not related to or resulting from the conditions for which the child was determined eligible for vendor payments;
  - (C) services or treatment provided to the child prior to entry of the Decree of Adoption; and
  - (D) services or treatment that may have been provided on or after the first day of the month following the month in which the child's eligibility ceases.

(c) No local match, in terms of dollars, is required for funds for those children certified to receive benefits under the State Fund for Adoptive Children with Special Needs who are the placement responsibility of licensed private child-placing agencies with the exception of monthly cash payments for those children who are eligible for benefits from Title IV-E of the Social Security Act. No monthly cash assistance payments from the State Fund for Adoptive Children with Special Needs shall be made for any adoption in which the Decree of Adoption is issued on or after July 1, 2011.

*Authority G.S. 108A-49; 108A-50; 143B-153.*

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

### **CHAPTER 32 – NC MEDICAL BOARD**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Medical Board intends to adopt the rules cited as 21 NCAC 32C .0109; 32R .0106 and amend the rules cited as 21 NCAC 32B .1303, .1350, .1402; 32C .0102-.0108.*

**Proposed Effective Date:** *September 1, 2011*

#### **Public Hearing:**

**Date:** *July 15, 2011*

**Time:** *10:00 a.m.*

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

#### **Reason for Proposed Action:**

**21 NCAC 32B .1303** – *To make rule more consistent and clearer.*

**21 NCAC 32B .1350** – *To clarify existing rules for reinstatement of physician license.*

**21 NCAC 32B .1402** – *To be consistent with rule changes already made to full license application.*

**21 NCAC 32C .0102-.0109** – *To update and clarify existing corporation rules.*

**21 NCAC 32R .0106** – *To allow waiver for CME requirements for General Assembly members.*

**Procedure by which a person can object to the agency on a proposed rule:** *A person may submit objections to the proposed amendments, in writing by July 15, 2011, to the Rules Coordinator, NC Medical Board, 1203 Front Street, Raleigh, NC 27609 or email at rules@ncmedboard.org.*

**Comments may be submitted to:** *Rules Coordinator, NC Medical Board, P.O. Box 20007, Raleigh, NC 27619-0007; phone (919) 326-1100; fax (919) 326-0036; email rules@ncmedboard.org*

**Comment period ends:** *July 15, 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**

### **SUBCHAPTER 32B - LICENSE TO PRACTICE MEDICINE**

#### **SECTION .1300 - GENERAL**

**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 applicant must provide information about applicant's immigration and work status which the Board will use to verify applicant's ability to work lawfully in the United States;
- (5) 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, if an applicant has a completed FCVS profile;
- (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~~; COMLEX Level 1, both portions of Level 2 (cognitive evaluation and performance evaluation) and Level 3; 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.
- Authority G.S. 90-8.1; 90-9.1; 90-9.2; 90-13.1.*
- 21 NCAC 32B .1350 REINSTATEMENT OF PHYSICIAN LICENSE**
- (a) Reinstatement is for a physician who has held a North Carolina License, but whose license either has been inactive for more than one year, or whose license became inactive as a result of disciplinary action (revocation or suspension) taken by the Board. It also applies to a physician who has surrendered a license prior to charges being filed by the Board.
- (b) All applicants for reinstatement shall:
- (1) submit a completed application, attesting under oath that information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) submit documentation of a legal name change, if applicable;
- (3) supply a certified copy of applicant's birth certificate if the applicant was born in the United States or a certified copy of a valid and unexpired US 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) If a graduate of a medical school other than those approved by LCME, AOA, COCA or CACMS, shall furnish an original ECFMG certification status report of a currently valid certification of the ECFMG. The ECFMG certification status report requirement shall be waived if:
- (A) the applicant has passed the ECFMG examination and successfully completed an approved Fifth Pathway program (original ECFMG score transcript from the ECFMG required); or
- (B) the applicant has been licensed in another state on the basis of a written examination before the establishment of the ECFMG in 1958;



- (5) submit reports from all state medical or osteopathic boards from which the applicant has ever held a medical or osteopathic license, indicating the status of the applicant's license and whether or not any action has been taken against the license;
- (6) submit the AMA Physician Profile; and, if applicant is an osteopathic physician, also submit the AOA Physician Profile;
- (7) submit a NPDB/HIPDB report dated within 60 days of the application's submission;
- (8) submit a FSMB Board Action Data Bank report;
- (9) submit documentation of CME obtained in the last three ~~years~~; years, upon request;
- (10) submit two completed fingerprint cards supplied by the Board;
- (11) submit a signed consent form allowing a search of local, state, and national files to disclose any criminal record;
- (12) provide two original references from persons with no family or material relationship to the applicant. These references must be:
  - (A) from physicians who have observed the applicant's work in a clinical environment within the past three years;
  - (B) on forms supplied by the Board;
  - (C) dated within six months of submission of the application; and
  - (D) bearing the original signature of the author.
- (13) pay to the Board a non-refundable fee pursuant to G.S. 90-13.1(a), plus the cost of a criminal background check;
- (14) upon request, supply any additional information the Board deems necessary to evaluate the applicant's qualifications.

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

- (1) within the past 10 years taken and passed either:
  - (A) an exam listed in G.S. 90-10.1 (a state board licensing examination; NBME; NBOME; USMLE; FLEX; COMLEX; or MCCQE or their successors);
  - (B) SPEX (with a score of 75 or higher); or
  - (C) COMVEX (with a score of 75 or higher); or
- (2) within the past ten years obtained certification or recertification of CAQ by a ~~specialty~~ 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.

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

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

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

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

## **SECTION .1400 - RESIDENT'S TRAINING LICENSE**

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

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

- (1) submit a completed application, attesting under oath that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) submit documentation of a legal name change, if applicable;
- ~~(3) supply a certified copy of applicant's birth certificate if the applicant was born in the United States or a certified copy of a valid and unexpired US 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) submit a recent photograph, at least two inches by two inches, affixed to the oath, and attested by a notary public;~~
- ~~(4) submit a recent photograph, at least two inches by two inches, affixed to the Board's Medical Education Certification form. The dean or other official of the applicant's medical school shall certify this as a true likeness of the applicant, and that the applicant has completed at least 130 weeks of medical education. The applicant's date of graduation from medical school shall be written in the designated space, and the school seal shall be stamped over the photograph;~~
- (4) 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 the form verifying the information.

- (5) If the graduate of a medical school other than those approved by LCME, AOA, COCA or CACMS, shall furnish an original ECFMG certification status report of a currently valid certification of the ECFMG. The ECFMG certification status report requirement shall be waived if:
    - (A) the applicant has passed the ECFMG examination and successfully completed an approved Fifth Pathway program (original ECFMG score transcript from the ECFMG required); or
    - (B) the applicant has been licensed in another state on the basis of a written examination before the establishment of the ECFMG in 1958;
  - (6) submit an appointment letter from the program director of the GME program or his appointed agent verifying the applicant's appointment and commencement date;
  - (7) provide two original references from persons with no family or marital relationship to the applicant. These references must be:
    - (A) from physicians who have observed the applicant's work in a clinical setting;
    - (B) on forms supplied by the Board;
    - (C) dated within six months of the application; and
    - (D) bearing the original signature of the writer;
  - (8) submit two completed fingerprint record cards supplied by the Board;
  - (9) submit a signed consent form allowing a search of local, state, and national files for any criminal record;
  - (10) pay a non-refundable fee pursuant to G.S. 90-13.1(b), plus the cost of a criminal background check;
  - (11) provide proof that the applicant has taken and passed:
    - (A) the COMLEX Level 1 and both components of COMLEX Level 2 (cognitive evaluation and performance evaluation); or
    - (B) the USMLE Step 1 and both components of the USMLE Step 2 (Clinical Knowledge and Clinical Skills);
  - ~~(11)~~(12) upon request, supply any additional information the Board deems necessary to evaluate the applicant's competence and character.
- (b) An applicant may be required to appear in person for an interview with the Board or its agent to evaluate the applicant's competence and character.

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

## **SUBCHAPTER 32C - PROFESSIONAL CORPORATIONS**

### **21 NCAC 32C .0102 NAME OF PROFESSIONAL CORPORATION**

The following requirements must be met regarding the name of a professional corporation to practice medicine:

- (1) The name shall not include any adjectives or other words not in accordance with ethical customs of the medical profession.
- (2) The professional corporation may not be identical or substantially similar in name to an existing professional corporation.
- ~~(2)~~(3) The professional corporation may not use any name other than its corporate name.
- (4) The professional corporation shall specify its corporate structure in the public domain by the use of the designation "P.C." or "P.A."
- ~~(3)~~(5) A shareholder may authorize the retention of his surname in the corporate name after his retirement or inactivity because of age or disability, even though he may have disposed of his stock. The estate of a deceased shareholder may authorize the retention of the deceased shareholder's surname in the corporate name after the shareholder's death.
- ~~(4)~~(6) If a living shareholder in a professional corporation whose surname appears in the corporate name becomes a "disqualified person" as defined in the Professional Corporation Act, the name of the professional corporation shall be promptly changed to eliminate the name of the shareholder, and the shareholder shall promptly dispose of his stock in the corporation.

*Authority G.S. 55B-5; 55B-7; 55B-12.*

### **21 NCAC 32C .0103 PREREQUISITES FOR INCORPORATION**

(a) Before filing the articles of incorporation for a professional corporation with the Secretary of State, the incorporators shall file with the ~~Executive Director of the Board:~~

- (1) the properly executed original articles of incorporation;
- ~~(2) an additional executed copy of the articles of incorporation;~~
- ~~(3) a copy of the articles of incorporation;~~
- ~~(4)~~(2) a registration fee of ~~fifty dollars (\$50.00)~~ set by Rule .0008 of this Section; in the maximum allowable amount set forth in G.S. 55B-10;
- ~~(5)~~(3) a signed certificate (P-C, N.C.M.B.-P.C. Form 1) certified by all incorporators, shareholders setting forth the names and addresses of each person who will be employed by the corporation to practice medicine for the corporation, and stating that all such persons are duly licensed to practice medicine in North

Carolina, and representing that the business of the corporation will be conducted in compliance with the Professional Corporation Act and the rules in this Subchapter;

(6)(4) a signed certificate (P.C. Form 2) N.C.M.B.-P.C. Form 2 for the Executive Director or the Director of Finance/Operations/Human Resources of the Board to sign certifying that at least one of the incorporators and each of the persons named as original shareholders is licensed to practice medicine in North Carolina, certifying that all shareholders are duly licensed to practice medicine in North Carolina or are otherwise qualified to own shares pursuant to G.S. 55B-6, 55B-14(c) or 55B-16.

(b) The ~~Executive Director or Director of Finance/Operations/Human Resources~~ Board shall review the articles of incorporation for compliance with the laws relating to professional corporations and with these Rules. If they comply, the ~~Executive Director or Director of Finance/Operations/Human Resources~~ Board shall sign approve ~~N.C.M.B.-P.C. P.C. Form 2~~ and return the original articles of incorporation and the copy to the incorporators for filing with the Secretary of State. The executed copy of the articles of incorporation shall be retained in the office of the Board. If the articles of incorporation are subsequently changed before they are filed with the Secretary of State, they shall be re-submitted to the Board and shall not be filed with the Secretary of State until approved by the Board.

*Authority G.S. 55B-4; 55B-10; 55B-12.*

## **21 NCAC 32C .0104 CERTIFICATE OF REGISTRATION**

A Certificate of Registration for a professional corporation shall remain effective until December 31 of each ~~odd-numbered~~ year. A Certificate of Registration may be renewed ~~biennially~~ annually thereafter ~~for years in which licensees are required to register~~ upon written application (~~P.C.-N.C.M.B.-P.C. Form 4~~) to the ~~Executive Director, Board~~, certifying the names and addresses of all licensed officers, directors, shareholders and employees of the corporation and representing that the corporation has complied with the rules in this Subchapter and the Professional Corporation Act. The application shall be accompanied by a renewal fee, ~~fee of twenty five dollars (\$25.00) set by Rule .0008 of this Section.~~

*Authority G.S. 55B-10; 55B-11.*

## **21 NCAC 32C .0105 STOCK AND FINANCIAL MATTERS**

The regulation and control of stocks in a professional corporation shall be as follows:

- (1) The chief executive officer of the corporation shall be a person duly licensed to practice medicine in North Carolina.
- (2) The corporation may acquire and hold its own stock.

- (3) No person other than a licensee shall exercise any authority whatsoever over professional matters.
- (4) Subject to the provisions of G.S. 55B-7, the corporation may make such agreement with its shareholders or its shareholders may make such agreement between themselves as they deem just for the acquisition of the shares of a deceased or retiring shareholder or of a shareholder who becomes disqualified to own shares under the Professional Corporation Act or under these Rules.
- (5) There shall be prominently displayed on the face of all certificates of stock in the corporation a legend that any transfer of the shares of stock is subject to the provisions of the Professional Corporation Act and the Rules of the Board.
- (6) All shareholders must be licensed to practice medicine in North ~~Carolina.~~ Carolina or must otherwise be qualified to own shares pursuant to G.S. 55B-6, 55B-14(c) or 55B-16.
- (7) Any interest in the corporation belonging to a deceased shareholder shall be acquired by the corporation, or shall be acquired by one or more persons licensed by the Board. Failure to comply with this requirement within one year after the date of the death of a deceased shareholder shall be grounds for the suspension or revocation of the corporation's certificate of registration. The corporation shall report to the Board within 30 days after its occurrence the death of any shareholder.
- (8) The corporation shall render medical services only by or through individuals licensed by the Board.
- (9) The corporation shall not engage in any business other than rendering professional medical services and related services.

*Authority G.S. 55B-6 to 55B-8.*

## **21 NCAC 32C .0106 CHARTER AMENDMENTS AND STOCK TRANSFERS**

The following general provisions shall apply to all professional corporations to practice medicine:

- (1) All changes to the articles of incorporation of the corporation shall be filed with the Board for approval before being filed with the Secretary of State. A copy of the changes filed with the Secretary of State shall be sent to the Board within 10 days after filing with the Secretary of State.
- (2) The ~~Executive Director or Director of Finance/Operations/Human Resources~~ Board shall issue the certificate (~~P.C. (N.C.M.B.-P.C. Form 5)~~ required by G.S. 55B-6 when stock is transferred in the corporation. ~~P.C. N.C.M.B.-P.C. Form 5~~ shall be permanently retained by

the corporation. The stock books of the corporation shall be kept at the principal office of the corporation and shall be subject to inspection by the Executive Director or his designee during business hours.

*Authority G.S. 55B-6; 55B-12.*

**21 NCAC 32C .0107 DOCUMENTS**

The following documents regarding professional corporations may be obtained from or are issued by the Board:

- (1) Rules of the Board regarding Professional Corporations;
- (2) ~~P.C. N.C.M.B.-P.C.~~ Form 1 - Application for a Certificate of Registration for a Professional Corporation for the Practice of Medicine;
- (3) ~~P.C. N.C.M.B.-P.C.~~ Form 2 - Certification of Shareholders;
- (4) ~~P.C. N.C.M.B.-P.C.~~ Form 3 - Certificate of Registration of a Professional Corporation for the Practice of Medicine;
- (5) ~~P.C. N.C.M.B.-P.C.~~ Form 4 - Application for Biennial Renewal of Certificate of Registration;
- (6) ~~P.C. N.C.M.B.-P.C.~~ Form 5 - Certificate Authorizing Transfer of Stock in Professional Corporation Organized to Practice Medicine.

*Authority G.S. 150B-11.*

**21 NCAC 32C .0108 FEES**

The initial registration fee for a professional corporation is ~~fifty dollars (\$50.00). The fee for renewal of a Certificate of Registration is twenty five dollars (\$25.00).~~ and the renewal fee for renewal of a Certificate of Registration shall be the maximum allowable amount under G.S. 55B-10 and 55B-11.

*Authority G.S. 55B-10; 55B-11.*

**21 NCAC 32C .0109 REGISTRATION OF FOREIGN PROFESSIONAL CORPORATION**

In addition to the foregoing, foreign professional corporations applying for a Certificate of Authority to Transact Business must meet the following requirements:

- (1) provide proof that shareholders licensed in other states are currently licensed and in good standing with their respective licensing boards;
- (2) at least one shareholder must be currently licensed and in good standing with the Board;
- (3) no person other than a licensee of the Board shall exercise any authority whatsoever over professional matters within the State.

*Authority G.S. 55B-16.*

**SUBCHAPTER 32R - CONTINUING MEDICAL EDUCATION (CME) REQUIREMENTS**

**SECTION .0100 - CONTINUING MEDICAL EDUCATION (CME) REQUIREMENTS**

**21 NCAC 32R .0106 WAIVER FOR LICENSEES SERVING AS MEMBERS OF THE GENERAL ASSEMBLY**

The Board shall waive continuing education requirements set forth in Rule .0101 of the Section for an individual who is:

- (1) currently licensed by and in good standing with the Board;
- (2) serving as a member of the General Assembly;  
and
- (3) is engaged in activities as a member of the General Assembly requiring the study and analysis of issues related to the practice of medicine in North Carolina.

*Authority G.S. 90-5.1; 90-14(a)(15).*

\*\*\*\*\*

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Perfusionist Advisory Committee of the NC Medical Board intends to amend the rules cited as 21 NCAC 32V .0105 and .0115.*

**Proposed Effective Date:** *September 1, 2011*

**Public Hearing:**

**Date:** *July 15, 2011*

**Time:** *10:00 a.m.*

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

**Reason for Proposed Action:**

*21 NCAC 32V .0105 – To make Perfusionist CME rule consistent with PA CME rules.*

*21 NCAC 32V .0115 – To clarify Board authority to collect late fees for failing to register.*

**Procedure by which a person can object to the agency on a proposed rule:** *A person may submit objections to the proposed amendments, in writing by July 15, 2011, to the Rules Coordinator, NC Medical Board, 1203 Front Street, Raleigh, NC 27609 or email at rules@ncmedboard.org.*

**Comments may be submitted to:** *Rules Coordinator, NC Medical Board, P.O. Box 20007, Raleigh, NC 27619-0007; phone (919) 326-1100; fax (919) 326-0036; email rules@ncmedboard.org*

**Comment period ends:** *July 15, 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

**SUBCHAPTER 32V - PERFUSIONIST REGULATIONS**

**21 NCAC 32V .0105 CONTINUING EDUCATION**

(a) The licensed perfusionist must maintain documentation of 30 hours of continuing education (CE) completed for every two year period. Of the 30 hours, at least 10 hours must be Category I hours as recognized by the American Board of Cardiovascular Perfusion (ABCP), the remaining hours may be Category II or III hours as recognized by the ABCP. CE documentation must be available for inspection by the Committee or Board or an agent of the Committee or Board upon request.

(b) A perfusionist who possesses a current certification with the ABCP will be deemed in compliance with the requirement of Paragraph (a) of this Rule. The perfusionist must attest on his or her biennial renewal that he or she is currently certified by the ABCP.

*Authority G.S. 90-685(3) and (8).*

**21 NCAC 32V .0115 FEES**

(a) A fee of three hundred and fifty dollars (\$350.00) is due at the time of application for a perfusion license and a fee of one hundred and seventy five dollars (\$175.00) is due at the time of application for a provisional perfusion license. No portion of the application fee is refundable.

(b) A fee of three hundred and fifty dollars (\$350.00) shall be paid to the North Carolina Medical Board for biennial renewal of a perfusion license and a fee of one hundred and seventy five dollars (\$175.00) for annual renewal of a provisional perfusion license.

(c) A late fee of one hundred dollars (\$100.00) shall be charged to those who fail to renew ~~either a timely a perfusion license or a provisional perfusion license.~~ license within thirty days after the expiration date of the license.

*Authority G.S. 90-685(7); 90-688; 90-689; 90-690.*

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**CHAPTER 39 - ON-SITE WASTEWATER  
CONTRACTORS AND INSPECTORS CERTIFICATION  
BOARD**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the NC On-Site Wastewater Contractors and Inspectors Certification Board intends to adopt the rules cited as 21 NCAC 39 .0801 and .1001-.1006.*

**Proposed Effective Date:** September 1, 2011

**Public Hearing:**

**Date:** June 16, 2011

**Time:** 4:00 p.m.

**Location:** Sea Trails Convention Center, 211 Clubhouse Road, Sunset Beach, NC 28468

**Reason for Proposed Action:**

**21 NCAC 39 .0801** – To adopt a Code of Ethics for certified on-site wastewater system contractors and inspectors.

**21 NCAC 39 .1001-.1006** – To adopt rules establishing standards of practice for certified inspectors.

**Procedure by which a person can object to the agency on a proposed rule:** *Objections may be submitted in writing to the Board's Rulemaking Coordinator, Connie Stephens, during the public comment period, and additionally may be made verbally and/or in writing at the public hearing for these rules.*

**Comments may be submitted to:** Connie Stephens, NCOWCICB, P.O. Box 132, Lawsonville, NC 27022; phone (336) 202-3126; fax (866) 651-8102; email [csstephens@ncowcicb.info](mailto:csstephens@ncowcicb.info)

**Comment period ends:** July 15, 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

**SECTION .0800 - ONSITE WASTEWATER  
CONTRACTOR OR INSPECTORS CODE OF ETHICS**

**21 NCAC 39 .0801 CODE OF ETHICS**

- (a) Contractors and Inspectors shall discharge their duties with fidelity to the public, their clients, and with fairness and impartiality to all.
- (b) Opinions expressed by Contractors and Inspectors shall only be based on their education, experience, and honest convictions.
- (c) Neither a Contractor nor an Inspector shall disclose any information about the results of an inspection without the approval of the client for whom the inspection was performed, or the client's designated representative, except as required by law.
- (d) No Contractor or Inspector shall accept compensation or any other consideration from more than one interested party for the same service without the consent of all interested parties.
- (e) No Contractor or Inspector shall accept or offer commissions or allowances, directly or indirectly, from other parties dealing with the client in connection with work for which the licensee is responsible.
- (f) No Contractor or Inspector shall provide an appraisal nor express an opinion of the market value of the inspected property during an inspection or in the inspection report.
- (g) Before the execution of a contract to perform an on-site wastewater system inspection, an Inspector shall disclose to the client any interest the Inspector has in a business that may affect the client. No licensee shall allow his or her interest in any business to affect the quality or results of the inspection work that the Inspector may be called upon to perform.
- (h) Before the execution of a contract to perform an on-site wastewater system installation, a Contractor shall disclose to the client any interest a Contractor has in a business that may affect the client. No licensee shall allow his or her interest in any business to affect the quality or results of the installation work that the Contractor may be called upon to perform.
- (i) Contractors shall not knowingly or willfully install a non-permitted system.
- (j) Contractors shall not knowingly or willfully install a system or any part of a system other than what is specified in the permit by the local health department.
- (k) Contractors and Inspectors shall not engage in false or misleading advertising or otherwise misrepresent any matters to the public.
- (l) Contractors and Inspectors shall discharge their duties in accordance with Article 5 of Chapter 90A of the North Carolina General Statutes and the rules of the Board.

*Authority G.S. 90A-72; 90A-74.*

**SECTION .1000 - NC ON-SITE WASTEWATER  
INSPECTOR STANDARDS OF PRACTICE**

**21 NCAC 39 .1001 DEFINITIONS**

- (a) "Automatic safety controls" means devices designed and installed to protect systems and components from excessively high or low pressures and temperatures, excessive electrical current, loss of water, high water, fire, freezing, or other unsafe conditions.
- (b) "Component" means a readily accessible and observable part of an on-site wastewater system.

- (c) "Cross connection" means any physical connection or arrangement between potable water and the on-site wastewater system or any other source of contamination.
- (d) "Dangerous or adverse situations" means situations that pose a threat of injury to the inspector, or those situations that require the use of special protective clothing or safety equipment, such as personal protection equipment.
- (e) "Describe" means a written report of a condition found within the system or any observed component of the inspected system.
- (f) "Dismantle" means to take apart or remove any component, device or piece of equipment that is bolted, screwed, or fastened by other means and that would not be dismantled by a homeowner or operator in the course of normal household maintenance.
- (g) "Enter" means to go into an area to inspect all readily accessible, readily openable, and readily visible components.
- (h) "Functional drainage" means a drain that empties in a reasonable amount of time and does not overflow when another on-site wastewater system component is drained simultaneously.
- (i) "Inflow" means extraneous water directly entering a component, such as via a sump pump, foundation drain, condensate line, or infiltration.
- (j) "Normal operating controls" means certified operator or homeowner-operated devices.
- (k) "Normal wear and tear" means superficial blemishes or defects that do not interfere with the functionality of the component or system.
- (l) "Operate" means to cause systems or equipment to function.
- (m) "Readily accessible" means approachable or enterable for inspection without the risk of damage to any property or alteration of the accessible space, equipment, or opening.
- (n) "Readily openable access panel" means a panel provided for homeowner or certified operator maintenance and operation that has removable or operable fasteners or latch devices in order to be lifted off, swung open, or otherwise removed for inspection. This definition is limited to those wastewater system components not blocked by stored items, furniture, building components or landscaping.
- (o) "Readily visible" means seen by using natural or artificial light without the use of equipment or tools other than a probe, flashlight or mirror.
- (p) "Roof drainage systems" means gutters, downspouts, leaders, splash blocks, and similar parts used to carry water off a roof and away from a building.
- (q) "Shut down" means a condition or conditions wherein a piece of equipment or system cannot be operated by the device or control that a homeowner should normally use to operate it. If its safety switch or circuit breaker is in the "off" position, or its fuse is missing or blown, the inspector is not required to reestablish the circuit for the purpose of operating the equipment or system.
- (r) "Structural component" means a wastewater system component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads), such as a control panel support, septic tank, D-box, or manifold.

*Authority G.S. 90A-71; 90A-74.*

**21 NCAC 39 .1002 GENERAL REQUIREMENTS**

Inspectors shall:

- (1) Provide a written contract, signed by the client or client's representative, before the on-site wastewater system inspection is performed that shall:
  - (a) State that the on-site wastewater system inspection is in accordance with the Standards of Practice of the North Carolina On-site Wastewater Contractors and Inspectors Certification Board;
  - (b) Describe what services shall be provided and their cost.
- (2) Inspect readily openable and readily accessible installed systems and components listed in this Section; and
- (3) Submit a written report to the client or client representative within 10 business days of the inspection that shall:
  - (a) Describe those systems and components required to be described in Rules .1005 through .1006 of this Section;
  - (b) State which systems and components designated for inspection in this Section have been inspected, and state any systems or components designated for inspection that were not inspected, and the reason for not inspecting;
  - (c) State any systems or components inspected that do not function as intended or adversely affect the wastewater treatment system;
  - (d) State whether the condition reported requires repair or subsequent observation, or warrants further evaluation by the local health department. The statements shall describe the component or system and how the condition is defective, explain the consequences of the condition, and refer the recipient to the local health department or a certified on-site wastewater contractor; and
  - (e) State the name, license number, and signature of the certified inspector.

*Authority G.S. 90A-71; 90A-72; 90A-74.*

**21 NCAC 39 .1003 GENERAL LIMITATIONS**

On-site wastewater system inspections performed by a certified Inspector in accordance with this Section are inspections for the purposes of this Section only and are not to be held out as or considered to be inspections by a certified subsurface operator.

*Authority G.S. 90A-72; 90A-74.*

**21 NCAC 39 .1004 GENERAL EXCLUSIONS OF AN INSPECTION**

(a) Inspectors are not required to report on:

- (1) Life expectancy of any component or system;
- (2) The causes of the need for a repair;
- (3) The methods, materials, and costs of corrections;
- (4) The suitability of the property for any specialized use;
- (5) The market value of the property or its marketability;
- (6) The advisability or inadvisability of purchase of the property; or
- (7) Normal wear and tear to the system.

(b) Inspectors are not required to:

- (1) Identify property lines;
- (2) Offer warranties or guarantees of any kind;
- (3) Calculate the strength, adequacy, or efficiency of any system or component;
- (4) Operate any system or component that does not respond to normal operating controls;
- (5) Move excessive vegetation, structures, personal items, panels, furniture, equipment, snow, ice, or debris that obstruct access to or visibility of the system and any related components;
- (6) Determine the presence or absence of any suspected adverse environmental condition or hazardous substance, including toxins, carcinogens, noise, and contaminants in the building or in soil, water, and air;
- (7) Determine the effectiveness of any system installed to control or remove suspected hazardous substances;
- (8) Predict future condition, including failure of components;
- (9) Project operating costs of components;
- (10) Evaluate acoustical characteristics of any system or component; or
- (11) Inspect special equipment or accessories that are not listed as components to be inspected in this Section.

(c) Inspectors shall not:

- (1) Offer or perform any act or service contrary to law or rule; or
- (2) Offer or perform engineering, architectural, plumbing, electrical, pesticide or any other job function requiring an occupational license in the jurisdiction where the inspection is taking place, unless the on-site wastewater system inspector holds a valid occupational license in that field, in which case the inspector shall inform the client that the inspector is so licensed.

*Authority G.S. 90A-72; 90A-74.*

**21 NCAC 39 .1005 ON-SITE WASTEWATER SYSTEM COMPONENTS**

(a) The inspector shall inspect on-site wastewater system components including:

- (1) Any part of the system located more than five feet from the primary structure that is part of the operations permit;
- (2) Septic tank;
- (3) Pump tank;
- (4) Distribution device;
- (5) Dispersal field;
- (6) Treatment unit;
- (7) Control panel;
- (8) Other component(s) required as part of on-site wastewater system permit, including drainage; and
- (9) Vegetation and grading with respect only to their effect on the condition of the system or system components.

(b) The inspector shall describe:

- (1) Any part of the system located more than five feet from the primary structure that is part of the operations permit;
- (2) Septic tank;
- (3) Pump tank;
- (4) Distribution device;
- (5) Dispersal field;
- (6) Treatment unit;
- (7) Control panel; and
- (8) Other component(s) required as part of on-site wastewater system permit, including drainage;
- (9) Vegetation and grading with respect only to their effect on the condition of the system or system components.

(c) The inspector shall:

- (1) Uncover tank lids and distribution devices so as to gain access, unless blocked as described in Rule .1004 (b)(5) of this Section. The distribution box may remain uncovered if the Inspector has an alternate method of observing its condition.
- (2) Probe system components where deterioration is suspected;
- (3) Report the methods used to inspect the on-site wastewater system;
- (4) Open readily accessible and readily openable components except when access is obstructed or when access could damage the system or property; and
- (5) Report signs of abnormal or harmful water entry into or out of the system or components.

(d) The inspector is not required to:

- (1) Conduct dosing volume calculations;
- (2) Evaluate soil conditions beyond saturation or ponding;
- (3) Evaluate for the presence or condition of buried fuel storage tanks;
- (4) Evaluate the system for proper sizing, design, or use of proper materials; or

- (5) perform a hydraulic load test on the system.

*Authority G.S. 90A-72; 90A-74.*

**21 NCAC 39 .1006 MINIMUM ON-SITE WASTEWATER SYSTEM INSPECTION**

(a) The inspector shall attempt to obtain, evaluate, describe, or determine the following during the inspection:

- (1) Advertised number of bedrooms as stated in the realtor Multiple Listing Service information;
- (2) Designed system size (gallons per day or number of bedrooms) as stated in available local health department information, such as the current operation permit or the current repair permit;
- (3) Requirement for a subsurface operator, current operator's name, and most recent report (if applicable and available);
- (4) Type of water supply, such as well, spring, public water, or community water;
- (5) Location of septic tank and septic tank details:
  - (A) Distance from house or other structure;
  - (B) Distance from well, if applicable;
  - (C) Distance from water line, if applicable and readily visible;
  - (D) Distance from property line, if said property lines are known and/or marked;
  - (E) Distance from finished grade to top of tank or access riser;
  - (F) Presence and type of access risers;
  - (G) Condition of tank lids;
  - (H) Condition of tank baffle wall;
  - (I) Water level in tank relative to tank outlet;
  - (J) Condition of outlet tee;
  - (K) Presence and condition of outlet filter, if applicable;
  - (L) Presence and extent of roots in the tank;
  - (M) Evidence of tank leakage;
  - (N) Evidence of inflow non-permitted connections, such as from downspouts or sump pumps;
  - (O) Connection present from house to tank;
  - (P) Connection present from tank to next component;
  - (Q) Date tank was last pumped, if known;
  - (R) Percentage of solids (sludge and scum) in tank; and
- (6) Location of pump tank and pump tank details:
  - (A) Distance from house or other structure;
  - (B) Distance from well or spring, if applicable;



- (C) Distance from water line, if applicable;
  - (D) Distance from property line, if said property lines are known and/or marked;
  - (E) Distance from finished grade to top of tank or access riser;
  - (F) Distance from septic tank;
  - (G) Presence and type of access risers;
  - (H) Condition of tank lids;
  - (I) Location of control panel;
  - (J) Electrical connections in place and properly grounded;
  - (K) Audible and visible alarms (as applicable) work;
  - (L) Pump turns on, and effluent is delivered to next component.
  - (M) Lack of electricity at time of inspection prevented complete evaluation
  - (7) Location of dispersal field and dispersal field details:
    - (A) Type of dispersal field;
    - (B) Distance from property line, if said property lines are known and/or marked;
- (C) Distance from septic tank and/or pump tank;
  - (D) Number of lines;
  - (E) Length of lines;
  - (F) Evidence of past or current surfacing at time of inspection;
  - (G) Evidence of traffic over the dispersal field;
  - (H) Vegetation, grading, and drainage with respect only to their effect on the condition of the system or system components; and
  - (I) Confirmation that system effluent is reaching the drainfield.
  - (8) State conditions that prevented or hindered the inspection.
  - (b) The inspector is not required to:
    - (1) Insert any tool, probe, or testing device inside control panels;
    - (2) Dismantle any electrical device or control other than to remove the covers of the main and auxiliary control panels.

Authority G.S. 90A-72; 90A-74.

**Note from the Codifier:** The rules published in this Section of the NC Register are temporary rules reviewed and approved by the Rules Review Commission (RRC) and have been delivered to the Codifier of Rules for entry into the North Carolina Administrative Code. A temporary rule expires on the 270<sup>th</sup> day from publication in the Register unless the agency submits the permanent rule to the Rules Review Commission by the 270<sup>th</sup> day.

This section of the Register may also include, from time to time, a listing of temporary rules that have expired. See G.S. 150B-21.1 and 26 NCAC 02C .0500 for adoption and filing requirements.

## **TITLE 04 – DEPARTMENT OF COMMERCE**

**Rule-making Agency:** NC Alcoholic Beverage Control Commission

**Rule Citation:** 04 NCAC 02R .2001, .2002, .2003

**Effective Date:** May 2, 2011

**Date Approved by the Rules Review Commission:** April 21, 2011

### **Reason for Action:**

**04 NCAC 02R .2001, .2002, .2003** – Section 18 of Session Law 2010-122, effective May 1, 2011, requires local boards to follow more extensive procedures as it relates to financial operation requirements. Section 29 of Session Law 2010-122, effective July 21, 2010, requires the Commission to offer training and education to assist the local boards to comply with Section 18. These rules accomplish this.

Section 4 of Session Law 2010-122, effective October 1, 2010, gives the Commission the authority to promulgate rules to establish mandatory training requirements. Section 17 of Session Law 2010-122, October 1, 2010, requires local boards to comply with the training rules adopted by the Commission and provides for the penalty of removal from the local board for non-compliance. Section 19 of Session Law 2010-122, effective October 1, 2010, provides for an additional cause for removal within its list, which is "failure to complete training required by this Chapter or Commission." Section 21 of Session Law 2010-122, effective October 1, 2010, requires that each member of a local board shall receive a minimum of two hours of ethics education within 12 months after initial appointment and again within 12 months after each subsequent appointment. It allows for training by the Commission or another qualified source that is approved by the Commission.

## **CHAPTER 02 – ALCOHOLIC BEVERAGE CONTROL COMMISSION**

### **SUBCHAPTER 02R – ORGANIZATIONAL RULES: POLICIES AND PROCUDURES**

#### **SECTION .2000 – LOCAL BOARD TRAINING**

#### **04 NCAC 02R .2001 LOCAL BOARD MEMBERS AND EMPLOYEES**

(a) All board members, finance officers and general managers of local boards shall complete a Commission training course for local boards within three months of this Rule's effective date.

Completion of a Commission training course for local boards prior to the effective date of this Rule is acceptable. Thereafter:

- (1) All board members shall complete a Commission training course for local boards within 12 months of their initial appointment. All board members shall complete a Commission training course for local boards within 12 months of any subsequent appointment.
- (2) All finance officers and general managers shall complete a Commission training course for local boards within 12 months of their initial employment.
- (3) All finance officers and general managers shall complete a Commission training course for local boards every three years that they are employed by a local board.

(b) Non-Commission training courses are not acceptable forms of training and do not meet the requirements of this Rule.

(c) Board members, finance officers and general managers of local boards ~~that~~ who do not meet the requirements of this Section are subject to removal by the Commission as referenced by G.S. 18B-704(c)(iii).

Authority G.S. 18B-100; 18B-203(a)(21); 18B-701(b); 18B-704(c)(iii); 18B-706(b);  
Temporary Adoption Eff. May 2, 2011.

#### **04 NCAC 02R .2002 LOCAL BOARD TRAINING COURSES**

All Commission training courses for local boards shall consist of two hours of ethics as a subject matter and no more than two hours of other subject matter.

Authority G.S. 18B-100; 18B-203(a)(21); 18B-701(b); 18B-704(c)(iii); 18B-706(b);  
Temporary Adoption Eff. May 2, 2011.

#### **04 NCAC 02R .2003 PARTICIPATION STANDARDS AND ATTENDANCE REQUIREMENTS**

(a) Instructors shall require that participants comply with the following participation standards:

- (1) Attendees shall direct their attention to the instruction being provided and refrain from engaging in activities unrelated to the instruction.
- (2) Attendees shall refrain from engaging in any activities which are distracting to other participants or the instructor, or which otherwise disrupt the orderly conduct of a class.

(b) Instructors may dismiss from a training course any attendee who fails to comply with the participation standards prescribed in Paragraph (a) of this Rule.

(c) Instructors shall not issue a training course completion certificate to any attendee who fails to comply with the participation standards set forth in Paragraph (a) of this Rule, nor shall instructors include the name of such attendee on their reports verifying completion of a training course. Instructors shall submit to the Commission with their reports for the training course a written statement which includes the name of the attendee and the name of the attendee's local board for whom the instructor does not report course credit, details concerning the attendee's failure to comply with the participation standards, and

names of other persons in attendance at the class who witnessed the attendee's conduct.

(d) Attendees must complete at least 90 percent of a Commission local board training course to be issued a local board training course completion certificate. Attendees shall not be admitted to a scheduled local board training course after 10 percent of the allotted time has elapsed. Instructors may not make any exceptions to the attendance requirement.

*Authority G.S. 18B-100; 18B-203(a)(21); 18B-701(b); 18B-704(c)(iii); 18B-706(b);*

*Temporary Adoption Eff. May 2, 2011.*

*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 919-431-3000. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2<sup>nd</sup> 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**

May 19, 2011                      June 16, 2011  
July 21, 2011                      August 18, 2011

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**RULES REVIEW COMMISSION****April 21, 2011****MINUTES**

The Rules Review Commission met on Thursday, April 21, 2011, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners physically present were: Jim Funderburk, Jeff Gray, Dan McLawhorn, George Lucier, Ann Reed, David Twiddy, and Ralph Walker. Commissioners Jerry Crisp and Jennie Hayman joined via telephone conference. Commissioner Curtis Venable joined via Skype.

Staff members present were: Joe DeLuca and Bobby Bryan, Commission Counsel; Tammara Chalmers, Dana Vojtko and Julie Edwards

The following people were among those attending the meeting:

Bob Hamilton	ABC Commission
Andrew Morgan	Well Contractors Certification Commission
Jason Watkins	DENR/Division of Waste Management
Bobby D. White	NC Dental Board
David Kalback	NC Board of Nursing
Betsy West	State Board of Nursing
Sue Kornegay	NC Opticians Board
Casie Goode	NC Dental Board
Nancy Pate	Department of Environment and Natural Resources
Mary Boone	Department of Cultural Resources
Laura O'Donoghue	Department of Cultural Resources
Anna B. Choi	Allen and Pinnix
Robert Patterson	DENR/Division of Water Quality
Bradley Bennett	DENR/Division of Water Quality
Carlotta Dixon	DHHS/Division of Social Services
Nancy Scott	Attorney General's Office/Division of Waste Management

The meeting was called to order at 9:00 a.m. with Mr. Funderburk presiding. He reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts as required by NCGS 138A-15(e).

#### **APPROVAL OF MINUTES**

Vice-Chairman Funderburk asked for any discussion, comments, or corrections concerning the minutes of the March 17, 2011 meeting. There were none and the minutes were approved as distributed.

#### **FOLLOW-UP MATTERS**

07 NCAC 02H .0102, .0203, .0305 – Department of Cultural Resources. The Commission approved the rewritten rules submitted by the agency.

Prior to the review of the rule from the Commission for Public Health, Commissioner McLawhorn recused himself and did not participate in any discussion or vote concerning this rule because his employer's fiscal interests are impacted.

15A NCAC 13B .1635 – Commission for Public Health. The Commission approved the rewritten rule submitted by the agency.

15A NCAC 27 .0301, .0702 – Well Contractors Certification Commission. The Commission approved the rewritten rules submitted by the agency.

21 NCAC 14N .0113 – Board of Cosmetic Art Examiners. No rewritten rule was submitted by the agency and no action was taken.

21 NCAC 32F .0103 – Medical Board. The Commission approved the repeal submitted by the agency.

21 NCAC 40 .0214 – State Board of Opticians. The Commission approved the rewritten rule submitted by the agency.

21 NCAC 57D .0402 – Appraisal Board. No rewritten rule was submitted by the agency and no action was taken.

21 NCAC 68 .0101, .0204, .0208, .0217, .0226 – Substance Abuse Professional Practice Board. The agency requested that the RRC rescind its March approval of these rules since the rules that were filed and approved were not the rules adopted by the board. The RRC considered this request, reviewed prior examples of it, and decided that it had no authority to take any such action. It did agree that the agency should be able to file amendments to these rules without any prior notice or hearing based upon the typographical error that the approved rules were not the typed rules that were filed with the RRC for review.

#### **LOG OF FILINGS**

Vice-Chairman Funderburk presided over the review of the log of permanent rules.

#### **Social Services Commission**

10A NCAC 70B .0105 was approved unanimously.

#### **Environmental Management Commission**

Prior to the review of the rules from the Environment Management Commission, Commissioner McLawhorn recused himself and did not participate in any discussion or vote concerning these rules because his employer's fiscal interests are impacted.

These rules were submitted to the RRC to re-codify rules that were originally adopted by the Environmental Management Commission. They were then approved by the RRC (after considerable discussion and rewriting). The legislature disapproved the original set, but rewrote them in session laws and set them out as a note to the General Statutes. According to the session law the agency is free to adopt the session law provisions as rules but they must be "substantively identical to the provisions of Sections 2 through 13 of this act." It appears these rules have to be filed with the RRC in the course of this rulemaking. There was no action for the RRC to take on any of these rules except for 15A NCAC 02H .1002 which is an amendment to an existing definition rule. The Commission approved the amendments.

#### **Commission for Public Health**

All permanent rules were approved unanimously.

#### **Board of Dental Examiners**

All permanent rules were approved unanimously.

**Midwifery Joint Committee**

21 NCAC 33 .0108 was approved unanimously.

**Office of Administrative Hearings**

Commissioner Gray served as staff for review of the rules from the Office of Administrative Hearings; therefore he did not participate in any discussion or vote concerning these rules.

All permanent rules were withdrawn by the agency and refiled for the May meeting.

**TEMPORARY RULES**

Vice-Chairman Funderburk presided over the review of the log of temporary rules.

All temporary rules were approved unanimously.

**COMMISSION PROCEDURES AND OTHER BUSINESS**

The Staff informed the Commission of bills affecting rulemaking.

The Commission discussed the possibility of having lunch after the June meeting.

The meeting adjourned at 10:25 a.m.

The next scheduled meeting of the Commission is Thursday, May 19 at 9:00 a.m.

Respectfully Submitted,

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Julie Edwards  
Editorial Assistant

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**LIST OF APPROVED PERMANENT RULES**  
**April 21, 2011 Meeting****CULTURAL RESOURCES, DEPARTMENT OF**

Library Collections

07 NCAC 02H .0102

Depository Requirements for State Agencies

07 NCAC 02H .0203

Circulation

07 NCAC 02H .0305

**SOCIAL SERVICES COMMISSION**

Goals and Strategies

10A NCAC 70B .0105

**ENVIRONMENT AND NATURAL RESOURCES, DEPARTMENT OF**

Definitions

15A NCAC 02H .1002

**PUBLIC HEALTH, COMMISSION FOR**

General Requirements for MSWLF Facilities

15A NCAC 13B .1604

Operational Requirements for MSWLF Facilities

15A NCAC 13B .1626

Assessment of Corrective Measures

15A NCAC 13B .1635

**WELL CONTRACTORS CERTIFICATION COMMISSION**

<u>Application for Certification</u>	15A NCAC 27 .0301
<u>Requirements of Certification</u>	15A NCAC 27 .0702

**DENTAL EXAMINERS, BOARD OF**

<u>Definitions</u>	21 NCAC 16A .0101
<u>Corporate or Limited Liability Company Name</u>	21 NCAC 16F .0103
<u>Dentists</u>	21 NCAC 16M .0101

**MEDICAL BOARD**

<u>Fee</u>	21 NCAC 32F .0103
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**MIDWIFERY JOINT COMMITTEE**

<u>Suspension of Authority to Expend Funds</u>	21 NCAC 33 .0108
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**OPTICIANS, STATE BOARD OF**

<u>Complaints; Preliminary Determinations</u>	21 NCAC 40 .0214
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**LIST OF APPROVED TEMPORARY RULES**  
**April 21, 2011 Meeting**

**ALCOHOLIC BEVERAGE CONTROL COMMISSION**

<u>Local Board Members and Employees</u>	04 NCAC 02R .2001
<u>Local Board Training Courses</u>	04 NCAC 02R .2002
<u>Participation Standards and Attendance Requirements</u>	04 NCAC 02R .2003

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## CONTESTED CASE DECISIONS

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*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>
<b><u>ALCOHOLIC BEVERAGE CONTROL COMMISSION</u></b>			
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. AMR Bowling Centers, Inc. T/A AMF Winston-Salem Lanes 123	10 ABC 3716	04/13/11	
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. Partnership T/A La Poblana	10 ABC 4235	02/09/11	
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. Clifton Ballard T/A Club Phoenix 1	10 ABC 5543	03/11/11	
ABC Commission v. Lourdes, Inc, T/A, El Gavilan	10 ABC 6372	01/13/11	
ABC Commission v. Centro Cervesera La Zaona, LLC, T/A Centro Cervesera LA Saona	10 ABC 9704	03/31/11	
ABC Commission v. El Azteca Mexican Grill Inc, T/A Taqueria El Azteca	11 ABC 0358	04/19/11	
ABC Commission v. Michael and Michelle Inc, T/A Misundries	11 ABC 1454	04/20/11	
ABC Commission v. Kyle Thuy Nguyen	11 ABC 1784	04/19/11	
<b><u>BOARD OF SOCIAL WORK CERTIFICATION AND LICENSURE</u></b>			
Miriam Deborah Kahn Sichel v. Social Work Certification and Licensure Board	10 BSW 2454	06/25/10	
<b><u>DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY</u></b>			
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	



## CONTESTED CASE DECISIONS

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 (Flipstastic, 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	
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**

Stevie Lawrence v. DHHS, Division of Health Service Regulation	09 DHR 1462	04/20/11	
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	
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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	
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# CONTESTED CASE DECISIONS

Elizabeth Ann Holt v. DHHS, Division of Health Service Regulation	09 DHR 6347	03/31/10	
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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	
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	
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Jenny S. Thompson v. Department of SOS	09 SOS 2342	03/17/10	
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Donald R. Beason and Mark C. Beason v. Dept. of SOS	10 SOS 1913	11/22/10	25:16 NCR 1931

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**CONTESTED CASE DECISIONS**

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Alden Briscoe, Brakeley Briscoe, Inc v. Dept. of SOS  
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Leon Allen Hubbard v. SOS

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