

NORTH CAROLINA REGISTER

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July 01, 2011

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Contact List for Rulemaking Questions or Concerns

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

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

Office of Administrative Hearings
Rules Division
1711 New Hope Church Road (919) 431-3000
Raleigh, North Carolina 27609 (919) 431-3104 FAX

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Rule Review and Legal Issues

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

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

EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

GENERAL

The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:

- (1) temporary rules;
- (2) notices of rule-making proceedings;
- (3) text of proposed rules;
- (4) text of permanent rules approved by the Rules Review Commission;
- (5) notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165;
- (6) Executive Orders of the Governor;
- (7) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H;
- (8) orders of the Tax Review Board issued under G.S. 105-241.2; and
- (9) other information the Codifier of Rules determines to be helpful to the public.

COMPUTING TIME: In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.

FILING DEADLINES

ISSUE DATE: The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month after the first or fifteenth that is not a Saturday, Sunday, or holiday for State employees.

LAST DAY FOR FILING: The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.

NOTICE OF TEXT

EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days after the date a notice of the hearing is published.

END OF REQUIRED COMMENT PERIOD
An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.

DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION: The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.

FIRST LEGISLATIVE DAY OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY: This date is the first legislative day of the next regular session of the General Assembly following approval of the rule by the Rules Review Commission. See G.S. 150B-21.3, Effective date of rules.



EXECUTIVE ORDER NO. 93

**EXTEND UNEMPLOYMENT BENEFITS TO PROTECT THE SAFETY,
HEALTH, AND WELFARE OF NORTH CAROLINA'S LONG-TERM UNEMPLOYED**

WHEREAS, North Carolina continues to experience an economic crisis due to the economic recession experienced by our nation; and

WHEREAS, as a result of the recession and the economic crisis, approximately 400,000 North Carolinians are currently unemployed; and

WHEREAS, the State of North Carolina no longer qualifies to be in an extended benefit period in order to pay extended benefits to unemployed North Carolinians due to the state's unemployment rate; and

WHEREAS, many North Carolina citizens no longer have the safety net of unemployment benefits, thereby increasing the state's economic crisis; and

WHEREAS, through passage of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312), the federal government provided a temporary mechanism for states to amend the criteria used to determine whether the State may pay extended benefits to its unemployed citizens; and

WHEREAS, to be able to continue to provide such extended benefits for our state's long-term unemployed, North Carolina needs to modify its extended benefit trigger criteria to meet the applicable federal requirements; and

WHEREAS, providing such extended benefits will not create a cost to the unemployment fund of the State of North Carolina; and

WHEREAS, approximately 47,000 unemployed North Carolinians who would be eligible to receive extended benefits have not received such benefits since the week ending April 16, 2011; and

WHEREAS, these 47,000 citizens and their families are suffering great and undue harm,

including the loss of homes, health insurance, and property, as well as an inability to provide basic necessities for themselves and their families; and

WHEREAS, these families must depend on extended benefits to survive this historic economic downturn, and the extension of these benefits could provide immediate relief to these struggling families; and

WHEREAS, the availability of these extended benefit payments is critical to the State's economy, which is still recovering from a severe economic recession; and

WHEREAS, it is vital to the welfare and economic security of North Carolinians that they be eligible to receive extended benefits, and it is in the best interests of the State of North Carolina that these benefits be paid in a timely manner; and

WHEREAS, it is in the best interests of North Carolinians that unemployed citizens of our State be permitted to benefit from all existing unemployment programs; and

WHEREAS, as Governor of the State, I am responsible for ensuring the general health, safety, and welfare of the citizens of the State and for taking measures to adequately protect the lives of our citizens; and

WHEREAS, Article III, Section 1 of the State Constitution invests the executive power of the State in the Governor; and

WHEREAS, Article III, Section 5(4) of the State Constitution requires that the Governor take care that the laws be faithfully executed; and

WHEREAS, North Carolina General Statute § 143B-4 provides that the Governor, in accordance with Article III of the Constitution of North Carolina, is the Chief Executive Officer of the State and is responsible for formulating and administering the policies of the executive branch of the State government; and

WHEREAS, the Governor is the sole official liaison between the government of this State and the government of the United States; and

WHEREAS, the Governor is the sole signatory for the State on agreements and contracts with the United States Department of Labor; and

WHEREAS, the North Carolina Employment Security Commission is an agency of the executive branch of North Carolina state government and subject to the policies formulated and administered by the Governor, and is authorized by N.C. Gen. Stat. Chapter 96 to administer the extended benefits program in the State of North Carolina; and

WHEREAS, based upon the aforementioned provisions of the North Carolina Constitution and the North Carolina General Statutes, I hereby choose to exercise my authority to respond to the current economic crisis because of the unique nature of the issues addressed within this Executive Order and, in particular, that (1) absent this Executive Order, there will be

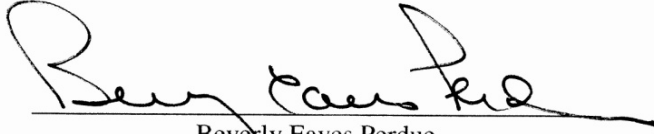
irreparable harm and substantial injury to thousands of North Carolinians who are in dire need of the benefits being provided by the federal government; and (2) the extended benefits addressed by this Executive Order are federal funds that are being made available to the State of North Carolina by the United States Department of Labor without the need for any appropriation of state funds by the North Carolina General Assembly.

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

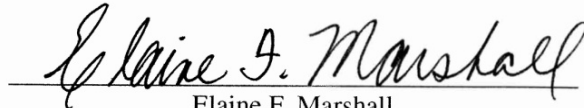
1. The Employment Security Commission shall use the following criteria to provide extended benefits to unemployed North Carolina citizens, pursuant to the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) as it existed on December 17, 2010, for weeks of unemployment beginning after December 17, 2010 and ending on or before December 31, 2011:
 - a. The state has an “on indicator” provided that:
 - 1) The average rate of insured unemployment, not seasonally adjusted, equaled or exceeded one hundred twenty percent (120%) of the average of such rates for the corresponding 13-week period ending in each of the preceding three calendar years and equaled or exceeded five percent (5%); or
 - 2) The average rate of total unemployment, seasonally adjusted, as determined by the United States Secretary of Labor, for the period consisting of the most recent three months for which data for all states are published before the close of the week equals or exceeds six and one-half percent (6.5%) and equals or exceeds one hundred ten percent (110%) of such average rate for any (or all) of the corresponding three-month periods ending in the three preceding calendar years.
 - b. The state is in a high unemployment period provided that the average rate of total unemployment, seasonally adjusted, as determined by the United States Secretary of Labor, for the period consisting of the most recent three months for which data for all states are published before the close of the week equals or exceeds eight percent (8%) and equals or exceeds one hundred ten percent (110%) of such average rate for any (or all) of the corresponding three-month periods ending in the three preceding calendar years.
2. The Employment Security Commission is hereby granted the authority to take any necessary actions to comply with the federal requirements for paying extended benefits.
3. This Executive Order is effective immediately and shall remain in effect until rescinded or until legislation has been enacted and signed into law that would achieve the results set out herein.

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 third day of June 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

Notice of Application for Innovative Approval of a Wastewater System for On-site Subsurface Use

Pursuant to NCGS 130A-343(g), the North Carolina Department of Environment and Natural Resources (DENR) shall publish a Notice in the NC Register that a manufacturer has submitted a request for approval of a wastewater system, component, or device for on-site subsurface use. The following applications have been submitted to DENR:

Application by: Mike Stidham
E-Z Treat Company
PO Box 176
Haymarket, NC 20168

For: Innovative Approval for E-Z Treat pretreatment wastewater system

DENR Contact: Ted Lyon
1-919-715-3274
Fax: 919-715-3227
ted.lyon@ncdenr.gov

These applications may be reviewed by contacting the applicant or at 2728 Capital Blvd., Raleigh, NC, On-Site Water Protection Section, Division of Environmental Health. Draft proposed innovative approvals and proposed final action on the application by DENR can be viewed on the On-Site Water Protection Section web site: http://www.deh.enr.state.nc.us/osww_new/new1//index.htm.

Written public comments may be submitted to DENR within 30 days of the date of the Notice publication in the North Carolina Register. All written comments should be submitted to Mr. Ted Lyon, Chief, On-site Water Protection Section, 1642 Mail Service Center, Raleigh, NC 27699-1642, or ted.lyon@ncdenr.gov, or fax 919.715.3227. Written comments received by DENR in accordance with this Notice will be taken into consideration before a final agency decision is made on the innovative subsurface wastewater system application.

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

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

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Social Services Commission intends to adopt the rules cited as 10A NCAC 10 .0311-.0313; amend the rules cited as 10A NCAC 10 .0102, .0203, .0308-.0310, .0506, .0803, .0910; and repeal the rules cited as 10A NCAC 10 .0401-.0402, .0603, .0703.

Proposed Effective Date: November 1, 2011

Public Hearing:

Date: August 9, 2011

Time: 10:00 a.m.

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

Reason for Proposed Action: Recommendations were made from a work group consisting of DCD staff, local agency staff and community partners to move responsibility for issuance of sanctions from the state to the county level. The rules did not include a clear appeals process, therefore language setting out that process is proposed. Also proposed are changes to the existing rules to ensure the health and safety of children by clarifying rules governing denial or termination of funding to facilities subject to administrative action under G.S. 110-85, et seq. Changes are also proposed to comport with the transfer of authority to regulate certified developmental day facilities from Division of Mental Health to the Division of Child Development.

The following rules are proposed for adoption:

10A NCAC 10 .0311 – Proposed new rule. This rule sets out the means for a provider to appeal adverse actions taken by local purchasing agencies.

10A NCAC 10 .0312 – Proposed new rule. This rule establishes an appeal panel to review local purchasing agency determinations.

10A NCAC 10 .0313 – Proposed new rule. This rule sets out the effect of administrative actions issued by the Division of Child Development with respect to the Subsidized Child Care Program.

The following rules are proposed for amendment:

10A NCAC 10 .0102 – This rule is being expanded to add the definition of "Owner" to correspond with Child Care Commission rules and to ensure that sanctioned owners of facilities are not able to reincorporate to avoid imposition of sanctions for fraud.

10A NCAC 10 .0203 – This rule will need modification to comply with legislative changes made in the last legislative session which moved the Developmental Day Rules from the Division of Mental Health to the Division of Child Development.

10A NCAC 10 .0308 – This rule has been modified in order to: (1) increase accessibility for eligible families; (2) protect the State's interest from fraud perpetrated by providers and recipients of child care; and (3) clarify the appeals procedure and afford individuals sanctioned under this Rule with due process.

10A NCAC 10 .0309 – This rule has been modified in order to: (1) protect recipients' and providers' interests in being reimbursed for underpayments by the local purchasing agencies; (2) clarify means of recouping funds from recipients and providers through court action for overpayments; (3) protect the State's interest in seeing that funds are properly expended; (4) require the local purchasing agencies to quickly reimburse for underpayments; and (5) clarify appeals process to afford recipients and providers with due process.

10A NCAC 10 .0310 – Need to amend Paragraph (a) to comply with requirements of all federal grants used to fund the Subsidized Child Care Program.

10A NCAC 10 .0506 – Need to change Paragraph (b) to comport with all federal grants' record retention requirements.

10A NCAC 10 .0803 – This rule is being expanded to require local purchasing agencies to deny or revoke approval to individuals who are placed on the State's Responsible Individuals List (RIL). This will ensure that children are cared for in a safe and healthy environment.

10A NCAC 10 .0910 – This rule needs modification now that the program for special needs children is no longer within the local mental health agencies.

The following rules are proposed for repeal:

10A NCAC 10 .0401, .0402 – These rules are no longer required as the grant funds are governed by their specific terms.

10A NCAC 10 .0603 – New rules (.0311 and .0312) are being proposed to clarify the appeal process for providers and/or recipients' termination or denial pursuant to 10A NCAC 10 .0602. The new rules will render this rule obsolete.

10A NCAC 10 .0703 – New rules (.0311 and .0312) are being proposed to clarify the appeal process for providers and/or recipients' termination or denial pursuant to 10A NCAC 10 .0702. These new rules will render this rule obsolete.

Procedure by which a person can object to the agency on a proposed rule: Anyone wishing to comment on these proposed rules or would like to request copies of the rules, should contact Dedra Alston, Rule-making Coordinator, NC Division of Child

Development, 2201 Mail Service Center, Raleigh, NC 27699-2201, at (919) 890-7060 or Dedra.Alston@dhhs.nc.gov.

Comments may be submitted to: Dedra Alston, 2201 Mail Service Center, Raleigh, NC 27699-2201; phone (919) 890-7060; fax (919) 662-4568; email Dedra.Alston@dhhs.nc.gov

Comment period ends: August 30, 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 (\geq \$3,000,000)
☒ None

CHAPTER 10 - SUBSIDIZED CHILD CARE RULES

SECTION .0100 - IDENTIFYING AND GENERAL INFORMATION

10A NCAC 10 .0102 DEFINITIONS

For the purpose of this Chapter, unless the context of the rule clearly indicates a different meaning, the terms listed in this Rule are defined as follows:

- (1) "Department" means the Department of Health and Human Services.
- (2) "Secretary" means the Secretary of the Department of Health and Human Services.
- (3) "Division" means the Division of Child ~~Development~~, Development and Early Education, Department of Health and Human Services, located at 319 Chapanoke Road, Suite 120, Raleigh, North Carolina 27603.
- (4) "Director" means the Director of the Division of Child ~~Development~~, Development and Early Education.
- (5) "Local Purchasing Agency" means the local agency responsible for administering the state's subsidized child care program.
- (6) "Owner" means any person with a five percent or greater equity interest in a child care center,

family child care home, or nonlicensed child care home.

~~(6)(7)~~ "Provider" means the ~~operator~~ owner of a child care center, family child care home, or nonlicensed child care home.

~~(7)(8)~~ "Recipient" means the parent or responsible adult approved for subsidized child care services.

~~(8)(9)~~ "Subsidized Child Care Program" means the administrative, programmatic and fiscal activities related to the use of public funds to pay for child care services for children of needy families.

Authority G.S. 143B-153(2a).

SECTION .0200 - REQUIREMENTS FOR THE PURCHASE OF CHILD CARE

10A NCAC 10 .0203 RATES FOR SUBSIDIZED CHILD CARE

- (a) The payment rate for child care centers, family child care homes, and nonlicensed child care homes shall be established by the Department in accordance with the annual appropriations act.
- (b) Centers, as defined in G.S. 110-86(3), which are certified as developmental day centers by the Division of Division of Child Development and Early Education ~~Mental Health/Developmental Disabilities/substance Abuse Services~~ and serve children who meet the definition of special needs set forth in 10A NCAC 10 .0910 shall be exempt from the provisions of Paragraph (a) of this Rule. These centers shall be paid the net cost study rates established by the ~~Division of Mental Health/Developmental Disabilities/Substance Abuse Services~~ Department of Health and Human Services' Rate Setting Oversight Committee for developmental day centers for children with special needs. For typically developing children enrolled in developmental day centers, the net cost study rates shall be established by the ~~Division of Mental Health/Developmental Disabilities/Substance Abuse Services~~ Department of Health and Human Services' Rate Setting Oversight Committee. These rates shall exclude those costs associated exclusively with serving children with special needs.
- (c) Any approved child care provider not included in Paragraph (b) of this Rule who provides care to children who meet the definition of special needs set forth in 10A NCAC 10 .0910 may be paid a supplemental rate above the provider's approved daily care rate for a particular age group. The supplemental rate shall be based on actual additional documented costs incurred by the provider in serving the child with special needs. The costs shall be determined by the early intervention specialist, the local education agency's exceptional children program specialist, the local purchasing agency, and the provider based on the plan developed to meet the child's individual needs.
- (d) The reimbursement of additional fees as charged by centers shall be limited to registration fees. The payment rate for registration fees shall be determined by the Department in accordance with the annual appropriations act. Registration fees may not be paid more than twice per year per child regardless of the type of center.

(e) Purchasing agencies may negotiate with child care center providers for purchase of child care services at payment rates lower than those prescribed by this Rule, only with approval from the Division. Approval shall be granted if it can be determined that a non-negotiated payment rate would have a negative impact on the purchasing agency's ability to purchase subsidized child care services, based on the following factors:

- (1) the number of children on the waiting list for subsidized child care services;
- (2) whether the non-negotiated rates exceed the rates for services paid by private paying families in the service area; and
- (3) the amount of subsidized child care funds available.

(f) Child care services funds shall not be used to pay for services provided by the Department of Health and Human Services, Division of Public Health Mental Health/Developmental Disabilities/Substance Abuse Services or the Department of Public Instruction, Division of Exceptional Children's Services for that portion of the service delivery costs which are reimbursed by the Division of Public Health Mental Health/Developmental Disabilities/Substance Abuse Services or Department of Public Instruction.

Authority G.S. 143B-153(8)a.

SECTION .0300 - REQUIREMENTS FOR CHILD CARE SERVICE FUNDS

10A NCAC 10 .0308 SANCTIONS AND APPEALS FOR FRAUDULENT MISREPRESENTATION

(a) The ~~Division may~~ local purchasing agency shall impose sanctions for fraudulent misrepresentation when a person, whether a provider or recipient of child care subsidies, or someone claiming to be a provider or recipient of child care subsidies, does the following:

- (1) With the intent to deceive, that person makes a false statement or representation regarding a material fact, or fails to disclose a material fact; and
- (2) As a result of the false statement or representation or the omission, that person obtains, attempts to obtain, or continues to receive a child care subsidy for himself or herself or for another person.

(b) The ~~Division may~~ local purchasing agency shall impose the following sanctions for fraudulent misrepresentation in addition to requiring the recipient or provider or recipient to repay the amount of child care subsidy for which they were ineligible to receive:

- (1) After the first incidence of fraudulent misrepresentation by a recipient, the recipient shall be ineligible to receive subsidized child care services ~~for 12 months; until overpayment is recouped in full or, if the recipient is not capable of paying in full the local purchasing agency shall enter into a voluntary repayment agreement with the recipient if the recipient so desires;~~

- (2) ~~After the first incidence of fraudulent misrepresentation by a provider, the provider shall not be reimbursed with subsidized child care funds for any new children that enroll in the provider's program for twelve months; and~~ After the second incidence of fraudulent misrepresentation by a recipient, the recipient shall be ineligible to participate in the subsidized child care program for three months; and

(A) shall repay the overpayment in full;

or

(B) if the recipient is not capable of paying in full, the local purchasing agency may enter into a new voluntary repayment agreement with the recipient.

- (3) After the third incidence of fraudulent misrepresentation by a recipient, the recipient shall be permanently ineligible to participate in the subsidized child care program and shall repay the overpayment in full;

- (4) After the first incidence of fraudulent misrepresentation by a provider, the provider shall not be paid with subsidized child care funds for any new children that enroll in the provider's program for 12 months; and

(A) the provider shall repay the overpayment in full; or

(B) if the provider cannot make full repayment, the local purchasing agency shall enter into a voluntary repayment agreement with the provider.

- ~~(3)(5)~~ After the second incidence of fraudulent misrepresentation by a provider, recipient or by a provider, the recipient or the provider shall repay the overpayment in full, shall be permanently ineligible to participate in the subsidized child care program, and shall not be reimbursed for any services provided to children enrolled in the provider's program from the date of notification of sanction in accordance with G.S. 150B-23(c).

(c) If a recipient or provider enters into a voluntary repayment agreement and fails to comply with terms of that agreement, eligibility to participate in the subsidized child care program shall cease until repayment is made in full or the recipient or provider and the local purchasing agency agree to modify the voluntary repayment agreement.

(d) Notwithstanding Subparagraphs (b)(4), (5), and (6) of this Rule, the recipient or provider shall be permanently ineligible to participate in the subsidized child care program if:

- (1) the total dollar amount of the fraudulent misrepresentation exceeds ten thousand dollars (\$10,000); or

- (2) the recipient or provider is convicted of fraudulent misrepresentation pursuant to G.S. 110-107.

(e) Sanctions pursuant to this Rule shall be effective 10 days from the date of notice of the sanction. Appeal of a sanction shall not stay the termination of payments under this Rule.

~~(e)(f)~~ A recipient child care provider may appeal any sanction imposed pursuant to in Paragraph (b) of this Rule pursuant to 10A NCAC 10 .0311 and 10A NCAC 10. 0312. A recipient may appeal any sanction imposed in Paragraph (b) of this Rule by following the appeals procedures used by the Division as codified in 10A NCAC 09 .2004 --2007, pursuant to G.S. 108A-79.

(g) When a court of competent jurisdiction finds a recipient or provider guilty of fraudulent misrepresentation pursuant to Subparagraph (d)(2) of this Rule, the sanction imposed is not subject to appeal under this Section.

~~(d)~~ A child care provider may appeal any sanction imposed in Paragraph (b) of this Rule by following the appeals procedures used by the Division pursuant to G.S. 150B-23.

(h) Nothing in this Rule should be construed as limiting child care services pursuant to 10A NCAC 10 .0906.

Authority G.S. 143B-153.

10A NCAC 10 .0309 CORRECTION OF OVERPAYMENTS AND UNDERPAYMENTS

(a) A local purchasing agency that makes an overpayment as a result of inadvertent error or fraudulent misrepresentation by the recipient or provider as described in Rule .0308(a) of this ~~Subchapter~~ Section may recoup the amount of the overpayment as follows:

- (1) The local purchasing agency may recoup the overpayment from the recipient if the recipient at the time the overpayment occurred was at least 18 years of age or older; and
- (2) Overpayments ~~due to fraudulent misrepresentation~~ shall be collected by collected by:
 - (A) voluntary repayment by the recipient or ~~provider or provider~~;
 - (B) ~~by~~ involuntary repayment by pursuing court ~~action~~- action; or
 - (C) wage garnishment as permitted by law.

(b) A local purchasing agency that makes an overpayment due to agency error in complying with program rules and statutes shall correct the overpayment by adjustment through the state's subsidized child care ~~reimbursement~~ payment system.

(c) A local purchasing agency that makes an underpayment due to agency or provider error in complying with program rules and statutes shall correct the underpayment within 30 days of discovery of the error, but in no event shall the local purchasing agency be required to correct the underpayment if it is discovered more than 45 days from the date of the error.

(d) Notwithstanding Paragraphs (b) and (c) of this Rule, a local purchasing agency shall correct an overpayment or underpayment at any time, as required by the Division of Child Development and Early Education.

(e) Appeals pursuant to this Rule shall be in accordance with 10A NCAC 10 .0311 and 10A NCAC 10 .0312.

Authority G.S. 143B-153.

10A NCAC 10 .0310 REQUIREMENTS FOR THE ADMINISTRATION OF THE SUBSIDIZED CHILD CARE PROGRAM

(a) Any agency that administers child care services funding through the state's subsidized child care program shall maintain records of administration of the program ~~for a period of three years~~, according to the DHHS Records Retention and Disposition Schedule for Grants set forth by the North Carolina Department of Health and Human Services Office of the Controller based on individual grant requirements, or until all audits begun within the ~~three-year~~ retention period are complete.

(b) Any agency that administers the state's subsidized child care program shall provide records of administration of the program upon request for review by local, state, or federal agency representatives.

(c) Upon review of agency records of administration of the state's subsidized child care program, if it is found that child care services funding was not spent in accordance with applicable state or federal regulations, the Division may require the agency to pay back funds improperly spent.

(d) Any agency that both administers the state's subsidized child care program and is a provider of subsidized child care services shall develop and implement a conflict of interest policy that shall include provision for:

- (1) parental choice for recipients of subsidized child care; and
- (2) separate management of the subsidized child care program and the child care facility owned or operated by the agency.

Authority G.S. 143B-153(2a).

10A NCAC 10 .0311 PROVIDER APPEAL TO LOCAL PURCHASING AGENCY

(a) Unless otherwise specified herein, any provider contesting an action by a local purchasing agency pursuant to this Chapter is entitled to an administrative hearing and judicial review in accordance with G.S. 150B-23, however, prior to filing a Petition for Contested Case Hearing, the provider or recipient wishing to contest such an action shall request an initial review with the local purchasing agency within 30 calendar days of effective date of the local purchasing agency action.

(b) The local purchasing agency must make a determination on the initial review within 10 calendar days of the request for an initial review. Within 30 calendar days of notice of the determination on the initial review by the local purchasing agency, the provider may request a local appeal hearing by the local purchasing agency.

(c) The local appeal hearing shall be held within five calendar days of when the request is received. The provider may petition the local purchasing agency, in writing, for a delay, but in no event shall the local appeal hearing be held more than 15 calendar days after the receipt of the request for hearing.

(d) The local purchasing agency must serve a written statement of decision within 10 calendar days following the local hearing.

(e) The local purchasing agency shall include with its written statement of decision instructions for appealing its decision.

(f) Notice under this Section shall be in accordance with G.S. 150B-23.

(g) A provider may appeal the written statement of decision of the local purchasing agency to the Division of Child Development and Early Education Subsidy Services Review Panel by filing a notice of appeal within 15 calendar days of receipt of the written statement of decision.

Authority G.S. 143B-153.

**10A NCAC 10 .0312 APPEAL TO DIVISION OF
CHILD DEVELOPMENT AND EARLY EDUCATION
SUBSIDY SERVICES REVIEW PANEL**

(a) Definitions. The following definitions apply in this Rule:

- (1) "Appealing Party" means the Provider or Recipient, as defined in 10A NCAC 10 .0102.
- (2) "File or Filing" means personal delivery, delivery by certified mail, or delivery by overnight express mail to the current Chief of Subsidy Services Section (Chief), North Carolina Division of Child Development and Early Education (Division), 2201 Mail Service Center, Raleigh, NC 27699-2201. A document or paper is deemed filed as of the date it is delivered to the Chief. Filings addressed to a person other than the Division Director, or which fail to be filed within the time periods established by this Rule, or which otherwise fail to be filed in conformity with the rules in this Section shall be considered as improper filings and denied.
- (3) "Subsidy Services Appeals Panel" means the North Carolina Division of Child Development and Early Education internal review panel established under this Rule.

(b) Appeals Panel. The State Subsidy Services Appeals Panel (Panel) is established. The Panel shall consist of five members appointed by the Chief. The Chief shall determine the qualifications of the Panel members. Panel members serve at the pleasure of the Chief.

(c) Who Can Appeal. The following persons may appeal to the Panel after having exhausted the appeals process at the appropriate Local Purchasing Agency:

- (1) A provider or recipient to whom a local purchasing agency has issued a sanction pursuant to 10A NCAC 10 .0308;
- (2) A provider whom a local purchasing agency has failed to approve for participation in or has terminated participation the subsidized child care program pursuant to Section .0600, of this Chapter;
- (3) A provider whom a local purchasing agency has failed to approve for participation in or has terminated participation the subsidized child care program pursuant to Section .0700, of this Chapter; and
- (4) A provider wishing to contest the determination of overpayment pursuant to 10A NCAC 10 .0309, of this Chapter.

(d) Hearing. All members of the Panel shall hear an appeal to the Panel. An appeal shall be filed with the Panel within 30 days of exhausting the appeals process at the local purchasing agency as described as follows:

- (1) The Chief shall notify the LPA that an appeal has been filed;
- (2) Upon notification of an appeal filed pursuant to this section, the LPA shall, within five days of the date of notification, forward to the Chief, with a copy to the appellant: a copy of its final decision; the signed agreement between the LPA and the provider or recipient, where applicable; and all supplementary documentation considered during the local appeals process; and
- (3) The Chief shall convene an impartial Panel, consisting of one representative for each Section of the Division and at least one alternate representative. Representatives will be chosen by the Section Chiefs of each Section of the Division.

(e) The Panel shall convene in closed session and shall maintain a record of their decision in the appeal and the reason(s) for their decision.

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

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

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

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

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

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

(l) The appellant may appeal the administrative review decision by filing a petition for contested case pursuant to G.S. 150B-23 and in accordance with G.S. 110-94. Appeals from the State Subsidy Appeals Panel must be filed within 30 days of mailing of the Panel's decision to the parties.

(m) Decision. The Panel shall make a written decision on each appeal to the Panel within the time set by the Secretary. A decision may direct an LPA to take an action or to refrain from taking an action.

(n) Chapter 150B Appeal. A person who is dissatisfied with a decision of the Panel may commence a contested case under Article 3 of G.S. 150B. Notwithstanding G.S. 150B-2(1a), an LPA is considered an agency for purposes of the limited appeal authorized by this Rule. The Director of the North Carolina Division shall make a final decision in the contested case.

Authority G.S. 143B-153.

10A NCAC 10 .0313 EFFECT OF ADMINISTRATIVE ACTION ISSUED AGAINST PROVIDER

(a) All child care subsidy payments made pursuant to a Provider Agreement will terminate 45 days after issuance of an administrative action revoking, summarily suspending, or denying a license to operate a child care facility issued pursuant to G.S. 110-85.

(b) An appeal of an administrative action revoking, summarily suspending, or denying a license shall not stay the termination of approval to participate in the state's Subsidized Child Care Program. If under appeal, the maximum time period during which payments from the state's Subsidized Child Care Program can be made is 45 days from the date on the notice of the administrative action. A provider subject to administrative action as described in this Paragraph cannot be paid with subsidized child care funds for any new children enrolled after the date on the notice of the administrative action.

(c) A child care provider who has received an administrative action revoking or denying a license by the Division of Child Development, or who is currently under summary suspension, shall be ineligible to participate in the state's Subsidized Child Care Program as a nonlicensed child care home.

Authority G.S. 143B-153.

SECTION .0400 – START-UP FUNDS

10A NCAC 10 .0401 DEFINITION OF START-UP FUNDS

~~The purpose of the state child care start-up funds is to provide funds, when available to existing and potential child care providers and service agencies for the upgrading or developing of programs from which services may be purchased or provided through state or federal funds.~~

Authority G.S. 143B-10; 143B-153(2a).

10A NCAC 10 .0402 REVIEW CRITERIA FOR START-UP FUNDS

~~(a) All proposals for start up funds shall be submitted on a form designated by the Division.~~

~~(b) A concurrent review process will be conducted by the Division's fiscal staff to assure that all budgetary requirements have been addressed in the proposal and that the requesting agency is operating in conformity with generally accepted accounting practices.~~

~~(c) All start up funding shall be subject to the availability of state and federal funds.~~

Authority G.S. 143B-153(2a).

SECTION .0500 - REQUIREMENTS FOR CONTRACTS WITH PRIVATE AGENCIES

10A NCAC 10 .0506 RECORDS

(a) If the private agency is organized as a corporation or unincorporated association, it shall upon request of the Department or other contractor, open its minute books of meetings of directors, shareholders, or members for inspection.

(b) Each private agency administering state child care funds shall maintain records of all receipts and disbursements ~~for a period of three years following final payment for the contract period,~~ according to the DHHS Records Retention and Disposition Schedule for Grants set forth by the North Carolina Department of Health and Human Services Office of the Controller based on individual grant requirements, or until all audits begun within the ~~three year~~ retention period are complete.

(c) If a private agency ceases operation, it shall provide the Department with copies of the records specified in this Rule.

(d) Each private agency administering state or federal child care services funds shall have a written policy for the inspection, examination, and copying of records maintained by the agency. The written policy shall comply with the provisions of Chapter 132 of the General Statutes.

Authority G.S. 143B-153(2a).

SECTION .0600 - REQUIREMENTS FOR CHILD CARE CENTERS

10A NCAC 10 .0603 APPEALS

~~Any appeal for denial or termination of approval shall be made according to the appeals procedures used by the Division pursuant to G.S. 150B-23.~~

Authority G.S. 143B-153(2a); 150B-23.

SECTION .0700 - REQUIREMENTS FOR FAMILY CHILD CARE HOMES

10A NCAC 10 .0703 APPEALS

~~Any appeal for denial or termination of approval shall be made according to the appeals procedures used by the Division pursuant to G.S. 150B-23.~~

Authority G.S. 143B-153(2a); 150B-23.

SECTION .0800 - REQUIREMENTS FOR NONLICENSED CHILD CARE HOMES

10A NCAC 10 .0803 LOCAL PURCHASING AGENCY RESPONSIBILITY

(a) The local purchasing agency shall review the application and parent/responsible adult-provider self-check list and shall determine compliance with the requirements established by the Social Services Commission for all nonlicensed child care homes from which care is purchased with funds administered by the local purchasing agency.

(b) The county director of social services may deny or revoke approval of an arrangement where the caregiver or an individual who resides in the home where care is provided was found by the county director to be the perpetrator of abuse or neglect in accordance with G.S. 7B-302 or G.S. 108A, Article 6, and where approval of the arrangement poses a threat to the child's health or safety. Approval may also be denied or revoked as described under the standard set forth in this Rule when an investigation of abuse or neglect is currently in process. Information regarding the fact that the prospective provider or individual in the home

has been reported or investigated for alleged abuse or neglect shall not be given to the parent or any other individual unless such information is a matter of public record.

(c) The local purchasing agency shall deny or revoke approval of an arrangement when the nonlicensed caregiver or an individual who resides in the home where care is provided is named on the Responsible Individuals List (RIL) as defined in G.S. 7B-311(b).

Authority G.S. 143B-153(2a); 45 C.F.R. 98.41; 45 C.F.R. 255.4(c); 45 C.F.R. 257.41.

SECTION .0900 - GENERAL POLICIES FOR PROVISION OF SUBSIDIZED CHILD CARE SERVICES

10A NCAC 10 .0910 DEFINITION OF SPECIAL NEEDS CHILD

(a) A special needs child is one who qualifies under one or more ~~than one~~ of the criteria listed in this Paragraph:

- (1) a child who is determined by the ~~area mental health/developmental disabilities/substance abuse program~~ Division of Public Health, Children's Developmental Service Agency, to meet the definition of be developmentally delayed or have an established condition special needs pursuant to ~~G.S. 122C and codified in 10A NCAC 26C .0302(1), (2), and (5);~~ 10A NCAC 43G .0110; including subsequent amendments; or
- (2) a child who is determined by the local educational agency (LEA) to have a disability as defined in G.S. 115C-106.3, to meet the definition of special needs pursuant to G.S. 115C as defined in the Department of Public Instruction's "Procedures Governing Programs and Services for Children With Disabilities," Section .1501A, except that the definition of an academically gifted child in .1501A is not considered a special needs child when determining the eligibility of a child for the subsidized child care program. This incorporation includes subsequent amendments and editions.

A copy of ~~10A NCAC 26C .0300~~ 10A NCAC 43G .0110 may be obtained from the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, North Carolina, 27699-6714, (919) 733-2678, ~~431-3000~~. A copy of "Procedures Governing Programs and Services for Children With Disabilities" may be obtained from the North Carolina Department of Public Instruction, Attention: Publications Section, 6306 Mail Service Center, Raleigh, NC 27699-6306, (919) 807-3301.

(b) The agency determining eligibility for the services shall have on file an Individualized Education Program (IEP) as defined in G.S. 115C-106.3, an Individualized Family Service Plan (IFSP) as defined in 10A NCAC 27G .0903, a Section 504 Plan as defined in 29 USC 794 or a Person Centered Plan (PCP) as defined in 10A NCAC 70G .0402 ~~a signed letter, statement, or summary from the person authorized to make the diagnosis to document the "special need" or "disability", condition and a~~

~~summary of the special services required to meet the child's needs as outlined in the child's individualized plan. An individualized plan is required to be developed by the area mental health program or the local educational agency for every child who is determined to meet the definition of a special needs child pursuant to PL 99-457, G.S. 122C-3 and G.S. 115C-146.1.~~

(c) Eligibility for the supplemental rate ~~shall be~~ is contingent upon the provider's compliance with the activities designated for the provider in the child's individualized plan.

Authority G.S. 143B-153(2a).

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 17 – NC BOARD OF DIETETICS/NUTRITION

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Board of Dietetics/Nutrition intends to amend the rules cited as 21 NCAC 17 .0101, .0103-.0104, .0107, .0109, .0201, .0203 and .0303.

Proposed Effective Date: *October 1, 2011*

Public Hearing:

Date: *September 7, 2011*

Time: *10:00 a.m.*

Location: *Law Offices of Jordan, Price, Wall, Gray, Jones & Carlton, 1951 Clark Avenue, Raleigh, NC 27605*

Reason for Proposed Action:

21 NCAC 17 .0101 – is amended to add the definition of "medical nutrition therapy" and to update other definitions because the presently referenced documents no longer need to be purchased and are now available online at no cost.

21 NCAC 17 .0103 – is amended to correct a statute reference.

21 NCAC 17 .0104 – is amended to make a technical correction and to update certain references to another rule.

21 NCAC 17 .0107 – is amended to make a technical correction and to update certain references to other rules.

21 NCAC 17 .0109 – is amended to allow renewal applications to be obtained electronically and to delete an outdated reference to materials that can now be obtained online.

21 NCAC 17 .0201 – is amended to update the definitions of "weight control program or service" and "reviewer," to define a "weight control provider" and to delete the term "certified reviewer."

21 NCAC 17 .0203 – is amended to delete the current weight control program review process and to provide a safe harbor for weight control providers seeking to comply with the exemption provided by G.S. 90-368(7).

21 NCAC 17 .0303 – is amended to provide an updated reference for a document that is now available online.

Procedure by which a person can object to the agency on a proposed rule: *Any person who objects to the adoption of a permanent rule may submit written comments to the agency or to*

its rule-making coordinator (by mail: NC Board of Dietetics/Nutrition, Attention: Charla M. Burill, Executive Director, 1000 Centre Green Way, Suite 200, Cary, NC 27513 or by email: director@ncbdn.org).

Comments may be submitted to: Charla M. Burill, NC Board of Dietetics/Nutrition, 1000 Centre Green Way, Suite 200, Cary, NC 27513; phone (919) 228-6390; fax (919) 882-1776; email director@ncbdn.org

Comment period ends: September 7, 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** ($\geq \$3,000,000$)
☒ **None**

SECTION .0100 - LICENSURE

21 NCAC 17 .0101 DEFINITIONS

As used in this Chapter, the following terms and phrases, which have not already been defined in the Practice Act, G.S. 90-350 through 90-369, have the meanings specified:

- (1) "Act" means Dietetics/Nutrition Practice Act.
- (2) "ADA" means The American Dietetic Association.
- (3) "Applicant" means any person who has applied to the Board for a license to practice dietetics/nutrition in the State of North Carolina.
- (4) "Application" means a written request directed to and received by the Board, on forms supplied by the Board, for a license to practice dietetics/nutrition in the State of North Carolina, together with all information, documents and other materials necessary for the Board to act on that application.
- (5) "CDR" means the Commission on Dietetic Registration which is a member of the National Commission for Health Certifying Agencies.

- (6) "CADE" means the Commission on Accreditation for Dietetics Education.
- (7) "Degree" means a degree received from a college or university that was regionally accredited at the time the degree was conferred.
- (8) "Dietitian/nutritionist" means one engaged in dietetics/nutrition practice.
- (9) "Executive Secretary" means the person employed to carry out the administrative functions of the Board.
- (10) "Health care practitioner" includes any individual who is licensed under G.S. 90.
- (11) "Nutrition assessment" means the evaluation of the nutrition needs of individuals and groups based upon biochemical, anthropometric, physical, and food intake and diet history data to determine nutritional needs and recommend appropriate nutrition intake including enteral and parenteral nutrition.
- (12) "Nutrition counseling" means the advice and assistance provided by licensed dietitians/nutritionists to individuals or groups on nutrition intake by integrating information from the nutrition assessment with information on food and other sources of nutrient and meal preparation consistent with cultural background, socioeconomic status and therapeutic needs.
- (13) "Provisionally licensed dietitian/nutritionist" means a person provisionally licensed under this act.
- (14) "Equivalent major course of study" means one which meets the knowledge requirements of the ADA-Approved Didactic Program in Dietetics as referenced in the most current edition of the "Accreditation/Approval Manual for Dietetic Education Programs". "Eligibility Requirements and Accreditation Standards for Didactic Programs in Dietetics (DPD)" which is hereby incorporated by reference including This standard includes any subsequent amendments and editions of the referenced material. Copies of this manual may be purchased from the ADA Sales Order Department, P.O. Box 97215, Chicago, IL 60678-7215 at a cost of twenty nine dollars and ninety five cents (\$29.95); are available at no charge through the ADA's website at: <http://www.eatright.org/CADE/content.aspx?id=57>.
- (15) "Supervised practice program" means one which meets the standards of the ADA-approved/accredited supervised practice program in dietetics ADA-accredited Dietetic Internship Program as referenced in the most current edition of the "Accreditation/Approval Manual for Dietetic Education Programs". "Eligibility Requirements and Accreditation

Standards for Dietetic Internship Programs (DI)" which is hereby incorporated by reference including any subsequent amendments and editions of the referenced material. Copies of this manual may be purchased from the ADA Sales Order Department, P.O. Box 97215, Chicago, IL 60678 7215 at a cost of twenty nine dollars and ninety five cents (\$29.95). are available at no charge through the ADA's website at: <http://www.eatright.org/CADE/content.aspx?id=57>.

- (16) "Medical nutrition therapy" (MNT) is an evidence-based application of the Nutrition Care Process, as currently defined by the ADA, focused on prevention, delay or management of diseases and conditions, and involves an in-depth assessment, periodic reassessment and intervention. The ADA's definition of "Nutrition Care Process," which is listed in the ADA's "Definition of Terms List," is hereby incorporated by reference including any subsequent amendments and editions of the referenced material. Copies of this publication can be found on the ADA's website at: <http://www.eatright.org/HealthProfessionals/content.aspx?id=6867>.

Authority G.S. 90-352; 90-356.

21 NCAC 17 .0103 QUALIFICATIONS FOR LICENSURE

Each applicant for an initial license as a licensed dietitian/nutritionist shall meet the qualifications as set for in ~~G.S. 90-352; G.S. 90-357.~~

Authority G.S. 90-356; 90-357.

21 NCAC 17 .0104 APPLICATIONS

- (a) Each applicant for initial licensure or renewal shall file a completed application with the Board.
- (b) Applications shall be typed or written in ink, signed under the penalty of perjury and accompanied by the appropriate nonrefundable fees and by such evidence, statements or documents showing to the satisfaction of the Board that applicant meets requirements.
- (c) Applications are to be submitted to the address designated by the Board.
- (d) Applications and all documents filed in support thereof shall become the property of the Board.
- (e) The Board shall not consider an application until the applicant pays the application fee.
- (f) ~~Applicant~~ Applicants seeking examination eligibility from the Board must submit the application at least 60 days prior to the date the applicant wishes to take the examination.
- (g) The Executive Secretary shall send a notice to an applicant who does not complete the application which lists the additional materials required.

(h) Applicants, who must provide evidence of current registration as a Registered Dietitian by the CDR in G.S. 90-357(3)a, shall submit a notarized photocopy of the applicant's signed registration identification card.

(i) Applicants, who must provide evidence of completing academic requirements in G.S. 90-357(3) b.1, c.1 and d, shall either:

- (1) Submit transcripts and a verification statement which includes the original signature of the Program Director of a college or university in which the course of study has been approved as meeting the current knowledge requirements of the ADA; or
- (2) Submit sufficient documentation for the Board to determine if the ~~supervised practice program~~ equivalent major course of study meets the ADA requirements as referenced in 21 NCAC 17 .0101(14).

(j) Applicants, who must provide evidence of completing supervised practice program in G.S. 90-357(3)b.2 and c.2, shall either:

- (1) Submit a verification statement which includes the original signature of the Program Director or Sponsor of a supervised practice program; or
- (2) Submit sufficient documentation for the Board to determine if the supervised practice program meets the ADA requirements as referenced in ~~21 NCAC 17 .0101(14); 21 NCAC 17 .0101(15).~~

(k) Applicants who have obtained their education outside of the United States and its territories must:

- (1) Have their academic degree evaluated by CDR, as equivalent to the baccalaureate or higher degree conferred by a U.S. college or university accredited by the regional accrediting agencies recognized by the Council on Postsecondary Accreditation and the U.S. Department of Education; and
- (2) Have any Board required documents submitted in a language other than English be accompanied by a certified translation thereof in English from World Education Services, Inc.

Authority G.S. 90-356.

21 NCAC 17 .0107 PROVISIONAL LICENSE

(a) Applicants for a provisional license shall provide evidence of completing academic requirements by:

- (1) Submitting transcripts and a verification statement which includes the original signature of the Program Director of a college or university in which the course of study has been approved as meeting the current knowledge requirements of the ADA; or
- (2) Submit sufficient documentation for the Board to determine if the ~~supervised practice program~~ equivalent major course of study

meets the ADA requirements as referenced in ~~21 NCAC 17 .0101~~, 21 NCAC 17 .0101(14).

(b) Applicants shall provide evidence of completing supervised practice program by:

- (1) Submitting a verification statement which includes the original signature of the Program Director or Sponsor of a supervised practice program which has been approved by CDR to meet the dietetic practice requirements of ADA; or
- (2) Submit sufficient documentation for the Board to determine if the supervised practice program meets the ADA requirements as referenced in ~~21 NCAC 17 .0101(14)~~, 21 NCAC 17 .0101(15).

(c) Applicants shall provide evidence of making application to take the examination.

(d) Provisional license may be issued for a period not exceeding one year upon completion of the following:

- (1) payment of issuance fees;
- (2) submission of completed application as prescribed by the Board; and
- (3) provision of evidence of being under the supervision of licensed dietitian(s)/nutritionist(s).

(e) Following the successful completion of the licensing examination, the provisionally licensed dietitian/nutritionist shall remit completed application for upgrading license, payment of fees, and evidence of passing examination referenced in 21 NCAC 17 .0105. If the provisionally licensed dietitian/nutritionist successfully completes the licensing examination and obtains a license pursuant to G.S. 90-357 within six months of the date that the provisional license became effective, the provisional license or renewal fee shall be deducted from the issuance fee.

Authority G.S. 90-356; 90-361.

21 NCAC 17 .0109 ISSUANCE AND RENEWAL OF LICENSE

(a) An applicant shall be issued a license based on compliance with requirements stated in G.S. 90-357 and the rules in this Chapter.

(b) Licensee shall notify the Board of any change in the licensee's personal or professional address within 30 days of that change.

(c) Licenses shall expire on March 31 of every year. Beginning in 1993, the licenses shall be issued for a period of one year beginning April 1 and ending March 31.

(d) At least 60 days prior to the expiration date of the license, the licensee shall be sent written notice of the amount of renewal fee due, and instructions on how to obtain a license renewal form which must be returned submitted with the required fee.

(e) Licensee's renewal application must be postmarked prior to the expiration date in order to avoid the late renewal fee. Failure to receive renewal notice shall not be justification for late renewal.

(f) The Board may not renew the license of a person who is in violation of the Act, or Board rules at the time of application for renewal.

(g) Applicants for renewal of licenses shall provide documentation of having met continuing education requirements by submitting either:

- (1) Evidence of completing continuing education hours to maintain certification as a Registered Dietitian by the Commission on Dietetic Registration. These standards are contained in the ~~"Professional Development Portfolio"~~, "Professional Development Portfolio Guide", which is hereby incorporated by reference including subsequent amendments or additions of reference material. Copies of this standard may be obtained at no charge from the Commission on Dietetic Registration, Registration's ~~the American Dietetic Association~~, 216 West Jackson Boulevard, Suite 800, Chicago, Illinois 60606-6995, at a ~~cost of twenty-five dollars (\$25.00)~~; website at: <http://www.cdrnet.org/pdrcenter/>; or

- (2) A summary of continuing education on the form provided by the Board documenting completion of 30 hours of continuing education for a two year ~~period as referenced in the "Professional Development Portfolio"~~ period. The continuing education hours must meet the standards contained in the "Professional Development Portfolio Guide."

(h) A renewal license shall be furnished to each licensee who meets all renewal requirements by the expiration date.

(i) The Board shall renew a license upon the payment of a late fee within 60 days of the expiration date of March 31. If the license has been expired for 60 days or less, the license may be renewed by returning the license renewal form with all appropriate fees and documentation to the Board, postmarked on or before the end of the 60-day grace period.

Authority G.S. 90-356; 90-362; 90-363.

SECTION .0200 - REVIEW AND APPROVAL OF WEIGHT CONTROL SERVICES

21 NCAC 17 .0201 DEFINITIONS

As used in G.S. 90-368(7) and this Section, the following terms and phrases, which have not already been defined in the Practice Act, G.S. 90-350 through 90-369, ~~shall~~ have the meanings specified:

- (1) A "weight control program or service" means a general program of instruction with food, supplements, food products or a food plan designed for one or more healthy population groups in order to achieve or maintain a healthy weight. A weight control program is not based on an individual nutrition assessment as referenced in G.S. 90-352 and ~~21 NCAC 17 .0101(9)~~ 21 NCAC 17 .0101(11) and is not individualized to provide medical

- nutrition therapy as defined in 21 NCAC 17 .0101(16) or nutrition care services as defined in G.S. 90-352 to manage, treat or rehabilitate a medical condition, illness, or injury for a specific person or ~~group~~ group; as referenced in G.S. 90-352 and 21 NCAC 17 .0101(10);
- (2) A "review" means the consideration and evaluation of a weight control program or service, in accordance with this Section, which results in either an approval or a disapproval of the program by a reviewer, as defined in this Rule;
- (3) "Reviewer" means a person who ~~shall be~~ is:
- (a) ~~be a dietitian/nutritionist currently licensed and in good standing according to G.S. 90, Article 25; a licensed dietitian/nutritionist;~~
 - (b) ~~be enrolled in or have completed training program as defined in this Rule; a dietitian/nutritionist licensed in another state that has licensure requirements that are at least as stringent as under G.S. 90, Article 25;~~ or
 - (c) ~~perform duties in compliance with G.S. 90, Article 25 and the rules of the Board; and a dietitian registered by the Commission on Dietetic Registration of the ADA;~~
 - (d) ~~review weight control programs to determine compliance with G.S. 90, Article 25 and the rules of the Board;~~
- (4) "Certified reviewer" means a person certified by the Board who shall:
- (a) ~~be a dietitian/nutritionist currently licensed and in good standing according to G.S. 90, Article 25;~~
 - (b) ~~submit a completed application as required by the Board;~~
 - (c) ~~submit any fees required by the Board;~~
 - (d) ~~have completed training program as defined in this Rule;~~
 - (e) ~~complete four hours of continuing education relative to the review of weight control programs approved by the board for a two year period as referenced in 21 NCAC 17 .0109;~~
 - (f) ~~renew his/her certification on a biennial basis with his/her license renewal on forms provided by the Board; and~~
 - (g) ~~perform no less than two reviews per two year certification period;~~
- (5) The Board approved "training program" for a reviewer shall be completed within 12 months of enrollment and shall include:
- (a) ~~12 hours of didactics on:~~
 - (i) ~~the Act and Rules governing the practice of dietetics/nutrition and the review of weight control programs;~~
 - (ii) ~~the requirements, components and procedures for a review as defined in this Section; and~~
 - (iii) ~~the roles of the reviewer, person providing a weight control program or service and the Board; and~~
 - (b) ~~subsequent 18 hours of supervised experience on but no limited to:~~
 - (i) ~~the application of the Act and Rules to simulated reviews and evaluations of weight control programs;~~
 - (ii) ~~the reporting of reviews; and~~
 - (iii) ~~the review of two weight control programs.~~
- (4) "Weight control provider" means a person who provides weight control services through a weight control program as referenced in G.S. 90-368(7).

Authority G.S. 90-356; 90-368.

- 21 NCAC 17 .0203 REVIEW AND BOARD ACTION**
- (a) The review shall consist of an assessment and a recommendation to the Board for approval or denial. The review of the program shall:
- (1) ~~be completed annually, occur at the location of the weight control program and include the following:~~
 - (A) ~~appropriateness of the screening process;~~
 - (B) ~~appropriateness of the weight control food plan, supplements, food, or food products for the program's clients;~~
 - (C) ~~assurance of nutritional adequacy;~~
 - (D) ~~appropriateness of materials, which include but are not limited to written nutrition education handouts, recorded education materials, lesson or instructional plans, food plans and screening tools;~~
 - (E) ~~appropriateness of rate of weight change promoted; and~~
 - (F) ~~provision and appropriateness of maintenance or follow up program;~~
 - (2) ~~be delivered in person to the authorized person(s) at the weight control program for signature indicating that the review and recommendation had been received and read; and~~
 - (3) ~~be submitted in writing to the Board by certified mail postmarked no later than five~~

work days after the date of the review on a Board review form. The form shall provide for but need not be limited to the following information:

- (A) legal name and mailing address of the program;
- (B) name of person to whom review results are issued;
- (C) ownership disclosure;
- (D) location of program;
- (E) list of person(s) exempt from G.S. 90, Article 25;
- (F) date of review;
- (G) recommendation for Board approval or denial;
- (H) original signature and license number of Licensed Dietitian/Nutritionist performing the review;
- (I) response to review by authorized person(s) from the weight control program;
- (J) original signature(s) of authorized person(s) from the weight control program indicating that the recommendation had been received and read; and
- (K) Board action for approval or denial.

(b) A response to the review, which may be filed by the authorized person(s) from the weight control program, shall be submitted in writing to the Board by certified mail postmarked no later than 10 days after the date of the review and shall be documented on a Board review form.

(c) The person providing the weight control program or service may have the program reviewed by a certified reviewer and represent that the program has been reviewed and approved by the Board. Only one Board approval card shall be issued to each weight control program site upon verification that the person(s) providing the program are in compliance with applicable laws and rules. The Board approval card shall be posted in a conspicuous place where it may be readily observed by the public upon entering the premises of the program. The owner or director shall be responsible for keeping the card posted at the location agreed upon by the reviewer of the program. Any approval card issued by the Board shall remain the property of the Board and shall be surrendered to the Board on demand.

(d) The written review of the weight control service shall be accessible to the public during normal business hours for inspection upon request. The program shall have reasonable opportunity to ensure that none of the following information will be disclosed during the inspection:

- (1) information on the client health screening or the physician release forms including but not limited to diagnosis, prognosis or treatment of a named person, unless that person consents in writing to the disclosure; or
- (2) any confidential medical information under G.S. 8, Article 53 regarding a named person, unless that person consents in writing to the disclosure.

(e) Upon a finding that the person does not comply with G.S. 90, Article 25 or the rules, the person(s) authorized by the weight control program shall have 60 days from the date of receipt of denial from the Board to:

- (1) remedy any noted deficiencies; and
- (2) have a second review by a reviewer as defined in 21 NCAC 17.0201(2).

(f) After three reviews in which approval is denied, or a maximum of 120 days of providing the weight control services without filed official approval from the Board, the person(s) who is (are) providing the weight control services shall be in violation of G.S. 90, Article 25.

(g) The approval from the Board shall remain in effect for 12 months unless any of the following occurs at which time the program shall be reviewed:

- (1) change of ownership;
- (2) change in program, the review may be limited to the program change;
- (3) termination of business operations;
- (4) failure to comply with G.S. 90, Article 25 or the rules of the Board.

(h) The weight control program shall be reviewed and approved by the expiration date on the approval card.

(i) The Board shall be notified in writing within 30 days after the occurrence of any of the following circumstances:

- (1) change in name;
- (2) change in mailing address;
- (3) change in manager, administrator or director of program;
- (4) change in ownership;
- (5) change in location;
- (6) change in person(s) exempt from G.S. 90, Article 25;
- (7) change in program; or
- (8) cessation of business operations for any other reason.

(j) Weight control programs currently in operation as of the effective date of this rule shall be reviewed and approved no later than January 31, 1996. After January 31, 1996, weight control programs shall be reviewed and approved within 120 days of starting to provide the weight control service.

(a) In order to create a presumption of compliance with the exemption provided in G.S. 90-368(7) a weight control provider may submit to the Board the information referenced in Paragraphs (b) and (c) of this Rule. Submission of such information is not a prerequisite for meeting the exemption.

(b) A weight control provider shall be presumed to be in compliance with the exemption if the provider submits to the Board:

- (1) a written statement that is signed and dated by the weight control provider that provides and certifies the following information:
 - (A) the name and address of the weight control provider and physical location of the weight control program;
 - (B) the name and address of a reviewer that has provided a written assessment and approval of the weight control program and weight

control services as provided by this Rule;

- (C) that a reviewer has provided an initial written assessment of the weight control program and weight control services and approved the program and services with respect to the following: the screening process; the weight control food plan, supplements, food, or food products for the program's clients; nutritional adequacy and scientific evidence-based nutrition practices; materials, which include written nutrition education handouts, recorded education materials, lesson or instructional plans, food plans and screening tools; rate of weight change promoted; and provision of a maintenance or follow up program;
- (D) that no program change can be initiated without prior approval of a reviewer;
- (E) that the weight control provider agrees to adhere to the weight control program, including program changes, that has been reviewed and approved by a reviewer; and
- (F) that the weight control provider agrees that if the program is changed in relation to any of the elements of the written assessment provided by a reviewer, pursuant to this rule, that the weight control provider shall submit to the Board a signed statement of a reviewer indicating a reviewer's approval of the program change;

- (2) a copy of a reviewer's initial written assessment and approval as provided by this Rule that is dated not more than 90 days prior to the date that the weight control provider's written statement referenced in Subparagraph (a)(1) of this Rule is submitted to the Board; and

- (3) a copy of a written statement signed by a reviewer that consultation is available to the weight control provider from the reviewer and that states the name and address of that person.

(c) If there is a program change, after a reviewer's initial written assessment and approval as provided by this Rule, a weight control provider is presumed to be in compliance with the exemption provided in G.S. 90-368(7) if the provider submits to the Board a written statement that provides and certifies the information required by Subparagraph (b)(1) of this Rule and a copy of a reviewer's written assessment and approval of the program change that is dated not more than 90 days prior to the date the weight control provider's written statement is submitted to the Board.

Authority G.S. 90-356; 90-368.

SECTION .0300 - DIETETIC/NUTRITION STUDENTS OR TRAINEES

21 NCAC 17 .0303 SUPERVISION

(a) A planned, continuous program in clinical practice pursuant to G.S. 90-357(3)b.2. shall designate a licensed dietitian/nutritionist who shall supervise a student or trainee; and

- (1) shall meet the qualifications of the current standards of education as referenced in the most current edition of the ~~"Accreditation/Approval Manual for Dietetic Education Programs"~~, "Eligibility Requirements and Accreditation Standards for Dietetic Internship Programs (DI)" which is hereby incorporated by reference including any subsequent amendments and editions of the referenced material. Copies of this manual ~~may be purchased from the ADA Sales Order Department, P.O. Box 97215, Chicago, IL 60678-7215;~~ are available at no charge through the ADA's website at: <http://www.eatright.org/CADE/content.aspx?id=57>; and

- (2) shall meet his/her employment qualifications of the sponsoring institution, if any.

(b) In accordance with the current standards of education referenced in this Rule, a Program Director shall:

- (1) provide student/trainee advisement, evaluation, counseling and supervision;
- (2) provide academic or supervised practice program assessment, planning, implementation and evaluation;
- (3) inform student(s)/trainee(s) of laws, regulations and standards affecting the practice of dietetics/nutrition, including but not limited to the Dietetics/Nutrition Practice Act and its Rules; and
- (4) advise student(s)/trainee(s) on meeting the requirements to be licensed to practice dietetics/nutrition.

Authority G.S. 90-356(2); 90-357.

CHAPTER 52 - BOARD OF PODIATRY EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Podiatry Examiners intends to amend the rule cited as 21 NCAC 52 .0208.

Proposed Effective Date: *November 1, 2011*

Public Hearing:

Date: *August 30, 2011*

Time: *10:00 a.m.*

Location: *1500 Sunday Drive, Suite 102, Raleigh, NC 27607*

Reason for Proposed Action: *Amend Rule to include more specific information on the Board's approval process for Continuing Education.*

Procedure by which a person can object to the agency on a proposed rule: *Any person wishing to object to a proposed rule shall address their request to: NC Board of Podiatry Examiners, 1500 Sunday Drive, Suite 102, Raleigh, NC 27607. The caption of the objection should bear the notation "RULEMAKING OBJECTION RE:" and then the subject area. The written objection should include the following information: (1) an indication of the subject area to which the objection is directed. For example: "This objection concerns the rulemaking hearing to amend Rule .0000"; (2) either a draft of the proposed rule or a summary of its contents; (3) reason for the objection; (4) the effect on existing rules; (5) any data supporting the objection; (6) effect of the proposed rule on existing practices in the area involved, including cost factors; (7) names of those most likely to be affected by the rule with addresses if reasonably known; and (8) name(s) and address(es) of objector(s).*

Comments may be submitted to: *Penney De Pas, Rulemaking Coordinator, NC Board of Podiatry Examiners, 1500 Sunday Drive, Suite 102, Raleigh, NC 27607; phone (919) 861-5583; fax (919) 787-4916; email info@ncbpe.org*

Comment period ends: *August 30, 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 (\geq \$3,000,000)
☒ None

SECTION .0200 - EXAMINATION AND LICENSING

21 NCAC 52 .0208 CONTINUING EDUCATION

(a) An additional requirement for issuance of the annual renewal certificate shall be certification to the board of proof of having complied with the continuing education provisions of the

General Statutes. The board shall notify all podiatrists that 25 hours are required annually.

(b) General CME policy – Minimum of 25 hours/year

- (1) Completion of 25 hours of Continuing Medical Education (CME) is required per year (July 1-June 30) for renewal of licensure. CME credits cannot be carried over from the previous licensure year.
- (2) It shall be the responsibility of the individual podiatrist to ascertain in advance that the courses which he/she attends have received proper approval of the certifying organizations. The Board shall respond in writing or by email with approval or denial to individuals requesting approval of CME courses and credit hours. All decisions by the Board are final.
- (3) Certificates of completion of courses other than that sponsored by the NC Foot and Ankle Society (NCF&AS) must be submitted to the Board along with the podiatrist's annual license renewal documents. Completion certificates must contain the following information:
 - (A) Podiatrist's name;
 - (B) Course name, location, and date;
 - (C) Number of hours CME completed;
 - (D) Signature of seminar chairperson; and
 - (E) Name of certifying/sponsored agency.

Handwritten certificates are not acceptable. It is the podiatrist's responsibility to contact the seminar organizer to secure a printed certificate before submitting to the Board for approval along with a renewal.

(c) Category 1: Minimum requirement 20 hours/year

- (1) Continuing medical education (CME) credit shall be allowed for attendance at educational seminars offered by the North Carolina Foot and Ankle Society (NCF&AS). The number of qualifying hours of continuing education shall be determined and approved by the Board in advance based on the standards in 90-202.11. NCF&AS shall provide the Board directly with a listing of individuals attending its CME events and credits earned.
- (2) Continuing medical education credit shall be recognized for attendance at educational seminars offered by other national, state and podiatric education providers, as certified by the Council on Podiatric Medical Education (CPME) of the American Podiatric Medical Association (APMA). The number of qualifying hours of continuing education shall be determined and approved by the Council on Podiatric Medical Education.
- (3) Lecturers may receive one hour of credit for each hour of CPME- or APMA- approved lectures given, but such credit shall be limited to one hour for each discrete topic. A brief

summary of the content of each lecture must be submitted for approval.

- (4) Category 1 is limited to educational seminars either offered by NCF&AS or by sponsors pre-approved by CPME: <http://www.apma.org/Members/Education/CPMEAccreditation/ContinuingEducation/CPME700.aspx?FT=.pdf>

- (5) (N.B. APMA- or CPME- approved online or journal courses are considered Category 2.)

(d) Category 2: Only a maximum of 5 of the total 25 CME hours will be allowed

- (1) Continuing medical education (CME) credit shall be allowed for educational programs approved for Category 1 credit by the American Medical Association (AMA) and the

American Osteopathic Association (AOA) or their affiliated organizations.

- (2) Continuing medical education (CME) credit shall be allowed for courses approved by North Carolina Area Health Education Center (AHEC).

- (3) Online or medical journal courses approved by CPME are permitted.

- (4) For courses not pre-approved by AHEC, AOA, or AMA, all requests for CME approval should contain a timeline and course description.

Authority G.S. 90-202.4(g); 90-202.11.

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

Rules approved by the Rules Review Commission at its meeting on May 19, 2011.

**REGISTER CITATION TO THE
NOTICE OF TEXT**

INSURANCE, DEPARTMENT OF

<u>Licensee Requirements</u>	11	NCAC 06A .0802	25:16 NCR
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CRIME CONTROL AND PUBLIC SAFETY, DEPARTMENT OF

<u>Safety of Operation and Equipment</u>	14A	NCAC 09J .0101*	25:15 NCR
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COSMETIC ART EXAMINERS, BOARD OF

<u>Re-examination</u>	21	NCAC 14N .0113*	25:11 NCR
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PODIATRY EXAMINERS, BOARD OF

<u>Name and Purpose</u>	21	NCAC 52 .0101*	25:16 NCR
<u>Membership</u>	21	NCAC 52 .0102	25:16 NCR
<u>Application</u>	21	NCAC 52 .0201*	25:16 NCR
<u>Examination</u>	21	NCAC 52 .0202*	25:16 NCR
<u>Re-Examination</u>	21	NCAC 52 .0204*	25:16 NCR
<u>Continuing Education</u>	21	NCAC 52 .0208*	25:16 NCR
<u>Specialty Credentialing Privileges</u>	21	NCAC 52 .0212	25:16 NCR
<u>Registration</u>	21	NCAC 52 .0301*	25:16 NCR
<u>Annual Renewal</u>	21	NCAC 52 .0302*	25:16 NCR
<u>Penalties</u>	21	NCAC 52 .0303*	25:16 NCR
<u>Application for Examination</u>	21	NCAC 52 .0601*	25:16 NCR
<u>Certificate of Licensure</u>	21	NCAC 52 .0602	25:16 NCR
<u>Application for Renewal</u>	21	NCAC 52 .0603	25:16 NCR
<u>Certificate of Continuing Education</u>	21	NCAC 52 .0604	25:16 NCR
<u>Certificate for Establishing a Professional Corporation</u>	21	NCAC 52 .0605	25:16 NCR
<u>Certificate of Registration of Professional Corporation</u>	21	NCAC 52 .0606	25:16 NCR
<u>Appl/Exam/Podiatrist Licensed/Other States (Reciprocity)</u>	21	NCAC 52 .0610	25:16 NCR
<u>Forms and Applications</u>	21	NCAC 52 .0611*	25:16 NCR
<u>Petition for Rulemaking Hearings</u>	21	NCAC 52 .0701	25:16 NCR
<u>Contents of Petition</u>	21	NCAC 52 .0702	25:16 NCR
<u>Dispositions of Petitions</u>	21	NCAC 52 .0703	25:16 NCR
<u>Notice Mailing List</u>	21	NCAC 52 .0804	25:16 NCR

RESPIRATORY CARE BOARD

<u>License Renewal</u>	21	NCAC 61 .0302*	25:10 NCR
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SUBSTANCE ABUSE PROFESSIONAL PRACTICE BOARD

<u>Definitions</u>	21	NCAC 68 .0101*	n/a G.S. 150B-21.5(a)(5)
<u>Supervised Practicum for Certified Substance Abuse...</u>	21	NCAC 68 .0204*	n/a G.S. 150B-21.5(a)(5)
<u>Continuing Education Required for Counselor, Criminal...</u>	21	NCAC 68 .0208*	n/a G.S. 150B-21.5(a)(5)
<u>Supervised Practicum for Criminal Justice Addictions...</u>	21	NCAC 68 .0217*	n/a G.S. 150B-21.5(a)(5)
<u>Armed Services Credential</u>	21	NCAC 68 .0226*	n/a G.S. 150B-21.5(a)(5)

ADMINISTRATIVE HEARINGS, OFFICE OF

<u>Definitions</u>	26	NCAC 02C .0102*	25:06 NCR
<u>Original and Duplicate Copy</u>	26	NCAC 02C .0103*	25:06 NCR
<u>Return Copy</u>	26	NCAC 02C .0104	25:06 NCR
<u>Electronic Version</u>	26	NCAC 02C .0105*	25:06 NCR
<u>General Format Instructions</u>	26	NCAC 02C .0108	25:06 NCR
<u>Illustrations/Notes</u>	26	NCAC 02C .0110	25:06 NCR
<u>Publication of Notice of Text</u>	26	NCAC 02C .0306	25:06 NCR
<u>Electronic Filing</u>	26	NCAC 02C .0308	25:06 NCR
<u>Publication of a Permanent Rule</u>	26	NCAC 02C .0402	25:06 NCR
<u>Body of the Rule</u>	26	NCAC 02C .0405	25:06 NCR
<u>History Note</u>	26	NCAC 02C .0406*	25:06 NCR
<u>Publication of a Temporary Rule</u>	26	NCAC 02C .0502	25:06 NCR
<u>Publication of an Emergency Rule</u>	26	NCAC 02C .0602*	25:06 NCR
<u>Publication of a Rule on the OAH Website</u>	26	NCAC 02C .0702	25:06 NCR

TITLE 11 – DEPARTMENT OF INSURANCE

11 NCAC 06A .0802 LICENSEE REQUIREMENTS

- (a) Each person holding a life, accident and health or sickness, property, casualty, personal lines, or adjuster license shall obtain 24 ICECs during each biennial compliance period. Each person holding one or more life, accident and health or sickness, property, casualty, personal lines, variable life and variable annuity products or adjuster license shall complete an ethics course or courses within two years after January 1, 2008, and every biennial compliance period thereafter as defined in this Section. The course or courses shall comprise three ICECs.
- (b) Each person holding one or more property, personal lines, or adjuster license, shall complete a continuing education course or courses on flood insurance and the National Flood Insurance Program, or any successor programs, within the first biennial compliance period after January 1, 2008, and every other biennial compliance period thereafter. The course or courses shall comprise three ICECs.
- (c) Each licensee shall, before the end of that licensee's biennial compliance year, furnish evidence as set forth in this Section that the continuing education requirements have been satisfied.
- (d) An instructor shall receive the maximum ICECs awarded to a student for the course.
- (e) Licensees shall not receive ICECs for the same course more often than one time in any biennial compliance period.

- (f) Licensees shall receive ICECs for a course only for the biennial compliance period in which the course is completed. Any course requiring an examination shall not be considered completed until the licensee passes the examination.
- (g) Licensees shall maintain records of all ICECs for five years after obtaining those ICECs, which records shall be available for inspection by the Commissioner.
- (h) Nonresident licensees who meet continuing education requirements in their home states meet the continuing education requirements of this Section. Nonresident adjusters who qualify for licensure by passing the North Carolina adjuster examination pursuant to G.S. 58-33-30(h)(2)a shall meet the same continuing education requirements as a resident adjuster including mandatory flood and ethics courses. Nonresident adjusters who qualify for licensure by passing an adjuster examination in another state pursuant to G.S. 58-33-30(h)(2)b and are in good standing in that state shall be credited with having met the same continuing education requirements as resident adjusters, including mandatory flood and ethics courses.
- (i) Only a licensed insurance producer who is unable to comply with continuing education requirements due to military service, or long-term medical disability may request a waiver for continuing education requirements. A long-term medical disability means that it is certified on an annual basis by an attending physician to the licensee. The Commissioner shall grant an exemption from Continuing Education requirements for up to one year if the producer submits the following:

- (1) Deployment orders from the United States Department of Defense; or
 - (2) A notarized statement from a licensed physician stating the producer is unable to do the work he is licensed to do.
- (j) A licensee who was granted an exemption from the requirements of this Section prior to October 1, 2010 continues to be exempt from continuing education requirements for as long as the licensee certifies to the Commissioner that he:
- (1) is age 65 or older;
 - (2) has been continuously licensed in the line of insurance for at least 25 years; and
 - (3) either:
 - (A) holds a professional designation specified in 11 NCAC 06A .0803; or
 - (B) certifies to the Commissioner annually that the licensee is an inactive agent who neither solicits applications for insurance nor takes part in the day to day operation of an agency.
- (k) Courses completed before the issue date of a new license do not meet the requirements of this Section for that new license.
- (l) No credit shall be given for courses taken before they have been approved by the Commissioner.
- (m) Each person with an even numbered birth year shall meet continuing education requirements in an even numbered compliance year. Each person with an odd numbered birth year

shall meet continuing education requirements in an odd numbered compliance year. The licensee shall complete 24 hours of continuing education by the last day of the licensee's birth month in the compliance year.

(n) An existing licensee requiring continuing education is an individual who holds any of the following licenses on or before December 31, 2007: life and health, property and liability, personal lines, or adjuster. The licensee's birth year determines if an individual must satisfy continuing education requirements in an even-numbered or odd-numbered year. (Example: 1960 is an even-numbered year; 1961 is an odd-numbered year.) The licensee's birth month determines the month that continuing education is due. (Example: An individual born in October would need to complete 24 hours of continuing education by the end of October in the licensee's compliance year.) The number of ICECs required by this Rule is prorated based on one ICEC per month, up to 24 months. This conversion shall be completed within four years. (Example: An individual with a birth date of February 16, 1960, would have the following two compliance periods during the continuing education conversion: 1st – two ICECs by the end of February 2008; the 2nd – 24 ICECs by the end of February 2010. An individual with a birth date of April 4, 1957, would have the following two compliance periods during the continuing education conversion: 1st – 16 ICECs by the end of April 2009; the 2nd – 24 ICECs by the end of April 2011.) The chart below reflects the number of hours an existing licensee requiring continuing education must have during the four-year conversion.

Compliance Year	EXISTING LICENSEE MONTH OF BIRTH EVEN/ODD YEAR OF BIRTH																								
	JAN		FEB		MAR		APR		MAY		JUN		JUL		AUG		SEPT		OCT		NOV		DEC		
	even	odd	even	odd	even	odd	even	odd	even	odd	even	odd	even	odd	even	odd	even	odd	even	odd	even	odd	even	odd	
	2008	1		2		3		4		5		6		7		8		9		10		11		12	
2009		13		14		15		16		17		18		19		20		21		22		23		24	
2010	24		24		24		24		24		24		24		24		24		24		24		24		
2011		24		24		24		24		24		24		24		24		24		24		24		24	

(o) A new licensee requiring continuing education is an individual who is issued any of the following licenses on or after January 1, 2008: life, accident and health or sickness, property, casualty, personal lines or adjuster. The licensee's birth year determines if an individual must satisfy continuing education requirements in an even-numbered or odd-numbered year. (Example: 1960 is an even-numbered year; 1961 is an odd-numbered year.) The licensee's birth month determines the month that continuing education is due. (Examples: An individual born in October would need to complete 24 hours of

continuing education by the end of October in the licensee's compliance year. An individual with a birth date of December 1, 1960, licensed in 2008, is required to meet 24 hours of continuing education by December 31, 2010. An individual with a birth date of October 1, 1957, licensed in 2008, is required to meet 24 hours of continuing education by October 31, 2011.) The chart below shows the first deadline by which a new licensee would be required to complete 24 hours of continuing education.

License Issue Year	NEW LICENSEE MONTH OF BIRTH EVEN/ODD YEAR OF BIRTH																							
	JAN		FEB		MAR		APR		MAY		JUN		JUL		AUG		SEPT		OCT		NOV		DEC	
	even	odd	even	odd	even	odd	even	odd	even	odd	even	odd	even	odd	even	odd	even	odd	even	odd	even	odd	even	odd
2008	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011	2010	2011
2009	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011
2010	2012	2013	2012	2013	2012	2013	2012	2013	2012	2013	2012	2013	2012	2013	2012	2013	2012	2013	2012	2013	2012	2013	2012	2013
2011	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013

(p) A member of a professional insurance association may receive no more than two ICECs during the biennial compliance period based solely on membership in the association. The professional insurance association shall be approved as a continuing education provider, shall have been in existence for at least five years, and shall have been formed for purposes other than providing continuing education. The professional insurance association shall:

- (1) Provide the Commissioner or the Administrator with the association's Articles of Incorporation on file with the N.C. Secretary of State;
- (2) Certify to the Commissioner or Administrator that the licensee's membership is active during the biennial compliance period;
- (3) Certify to the Commissioner or Administrator that the licensee attended 50 percent of the regular meetings;
- (4) Certify to the Commissioner or Administrator that the licensee attended a statewide or intrastate regional educational meeting on an annual basis, where the regional meeting covered an area of at least 25 counties of the State; and
- (5) Pay the one dollar (\$1.00) per ICEC to the Commissioner or Administrator.

History Note: Authority G.S. 58-2-40; 58-2-185; 58-2-195; 58-33-130; 58-33-133;
Temporary Adoption Eff. June 22, 1990, for a period of 180 days to expire on December 19, 1990;
ARRC Objection Lodged July 19, 1990;
Eff. December 1, 1990;
Temporary Amendment Eff. October 3, 1991 for a period of 180 days to expire on March 30, 1992;
Amended Eff. June 1, 2011; October 1, 2010; February 1, 2008; January 1, 2007; February 1, 1995; August 1, 1994; February 1, 1994; January 1, 1993.

TITLE 14A – DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

14A NCAC 09J .0101 SAFETY OF OPERATION AND EQUIPMENT

(a) The rules and regulations adopted by the U.S. Department of Transportation relating to safety of operation and equipment (49 CFR Parts 390 through 397 and amendments thereto) apply to all for-hire motor carriers and all for-hire motor carrier vehicles, and all private motor carriers and all private motor carrier vehicles engaged in interstate commerce over the highways of the State of North Carolina if such vehicles are commercial motor vehicle(s) as defined in 49 CFR Part 390.5.

(b) The rules and regulations adopted by the U.S. Department of Transportation relating to safety of operation and equipment (49 CFR Parts 390 through 397 and amendments thereto) apply to all for-hire motor carriers and all for-hire motor carrier vehicles, and all private motor carriers and all private motor carrier vehicles engaged in intrastate commerce over the highways of the State of North Carolina if such vehicle(s) is,

- (1) a vehicle having a gross vehicle weight rating (GVWR), gross combination weight rating (GCWR), gross vehicle weight (GVW), gross combination weight (GCW) of 26,001 pounds or more, whichever is greater;
- (2) designed or used to transport 16 or more passengers, including the driver; or
- (3) used in transporting a hazardous material in a quantity requiring placarding pursuant to 49 C.F.R. Parts 170 through 185.

(c) In addition, the following exceptions also apply to all intrastate motor carriers:

- (1) An intrastate motor carrier driver shall not drive more than 12 hours following eight consecutive hours off duty; for any period after having been on duty 16 hours following eight consecutive hours off duty; after having been on duty 70 hours in seven consecutive days; or more than 80 hours in eight consecutive days. An intrastate driver shall be

determined by his previous seven days of operation.

- (2) Persons who otherwise qualify medically to operate a commercial motor vehicle within the State of North Carolina are exempt from the provisions of Part 391.11(b)(1) and may be exempt from provisions of Part 391.41(b)(1) through (11) where applicable and therefore are authorized for intrastate operation if approved by an Exemption Review Officer appointed by the Commissioner of Motor Vehicles. These drivers shall continue to be exempt upon completion of a medical examination indicating the condition has not worsened or no new disqualifying conditions have been diagnosed and upon continued approval of an Exemption Review Officer. After a medical review by the Exemption Review Officer, a driver may be granted a waiver not to exceed a period of two years based on the type and severity of the condition. The Exemption Review Officer shall follow the guidelines established for variances from the Federal Motor Carrier Safety Regulations for intrastate commerce found in 49 CFR, Part 350.341.

(d) The rules and regulations adopted by the U. S. Department of Transportation relating to inspection, repair and maintenance of motor vehicles (49 CFR Part 396.17 through 396.23 and including Appendix G, and amendments thereto) apply to all for-hire motor carrier vehicles, and all private motor carrier vehicles engaged in intrastate commerce over the highways of the State of North Carolina if such vehicles have a GVWR of greater than 10,000 pounds.

(e) Every motor vehicle registered or required to be registered in North Carolina and subject to the inspection requirements of the Federal Motor Carrier Safety Regulations (49 CFR Part 396), must display a current approved federal inspection certificate when operated on the streets and highways of this State. On self-propelled vehicles the federal inspection certificate shall be displayed on the driver's side of the vehicle, exclusive of the window or rear view mirror. On trailers and semitrailers, the federal inspection certificate shall be located on the left side as near as possible to the outside lower front of the vehicle. The inspection certificate shall contain at least the following legible information:

- (1) The date of inspection;
- (2) Name and address of the motor carrier or other entity where the inspection report required by 49 CFR 396.21(a) is maintained;
- (3) Information uniquely identifying the vehicle-inspected; and
- (4) A certification that the vehicle has passed an inspection in accordance with 49 CFR 396.17.

(f) The Secretary shall fine violators for out-of-service criteria as allowed by G.S. 20-17.7. The Commercial Vehicle Safety Alliance (CVSA) out-of-service maximum civil fine schedule shall be maintained in the Office of the Secretary of Crime Control and Public Safety, be available for public inspection,

and be updated annually by the Secretary on the first day of April. The out-of-service maximum civil fine schedule does not apply to violations discovered during educational contacts. An educational contact for the purpose of this code means a pre-planned, public safety inspection activity, focusing on commercial motor vehicle safety awareness and compliance.

(g) Any fines assessed for a violation listed in the North American Standard out-of-service criteria shall be assessed against the motor carrier of the commercial motor vehicle.

(h) Whenever a motor carrier of a vehicle has a defense to the enforcement of a fine or fines for violation(s) of the out-of-service criteria by the Department of Crime Control and Public Safety, it must pay the penalty within 30 calendar days after the date the penalty was assessed or make a written request within this time limit to the Department for a Departmental review of the penalty. A person who does not submit a request for review within the required time waives the right to a review and hearing on the penalty.

(i) All Code of Federal Regulations (CFR) are available online without cost at <http://www.fmcsa.dot.gov/>.

History Note: Authority G.S. 20-17.7; 20-381;

Eff. December 1, 1983;

Amended Eff. November 1, 1991; October 1, 1991;

Temporary Amendment Eff. February 1, 1992 for a Period of 180 Days to Expire on July 30, 1992;

Temporary Amendment Eff. March 30, 1992 for a Period of 180 Days to Expire on September 26, 1992;

Amended Eff. August 3, 1992; July 1, 1992;

Temporary Amendment Eff. December 1, 1999;

Amended Eff. August 1, 2002; April 1, 2001;

Temporary Amendment Eff. August 6, 2002;

Amended Eff. August 1, 2004;

Transferred and recodified from 19A NCAC 03D .0801 Eff. March 23, 2009;

Amended Eff. June 1, 2011.

TITLE 21 – OCCUPATIONAL AND LICENSING BOARDS AND COMMISSIONS

CHAPTER 14 – BOARD OF COSMETIC ART EXAMINERS

21 NCAC 14N .0113 RE-EXAMINATION

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

- (1) Cosmetologist 200 hours,
- (2) Esthetician 80 hours,
- (3) Manicurist 40 hours,
- (4) Natural Hair Care Specialist 40 hours, and
- (5) Teacher:
 - (A) cosmetology 100 hours,
 - (B) esthetician 80 hours, and

(C) manicurist 40 hours.

(b) Teacher candidates with no prior cosmetic art teacher training program experience shall provide a written affidavit documenting a minimum of required work experience as outlined in 21 NCAC 14N .0115 or complete a minimum of the hours required for the teacher curriculum in the discipline in which they hold a license. The required minimums for teacher curriculums are 800 hours of a cosmetology teacher curriculum, 650 hours of an esthetician teacher curriculum, 320 hours of a natural hair care teacher curriculum or 320 hours of a manicurist teacher curriculum.

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

History Note: Authority G.S. 88B-4; 88B-18;

Eff. June 1, 1992;

Amended Eff. August 1, 1998; June 1, 1993;

Temporary Amendment Eff. January 1, 1999;

Amended Eff. June 1, 2011; July 1, 2010; May 1, 2007; January 1, 2006; February 1, 2004; August 1, 2000.

CHAPTER 52 - BOARD OF PODIATRY EXAMINERS

21 NCAC 52 .0101 NAME AND PURPOSE

(a) The office of the board shall be in Raleigh and the mailing address of the board is 1500 Sunday Drive, Suite 102, Raleigh, North Carolina 27607.

(b) The following terms have the following meanings:

- (1) "Application" shall mean the application form provided by the Board;
- (2) "American Podiatric Medical Licensing Examination" and "APMLE", shall mean the national examination in multiple parts, formerly known as (and referred in the statutes as) the "National Boards," as administered by the National Board of Podiatric Medical Examiners and including the examination formerly called "PM-Lexis;"
- (3) "Board" or "board" shall refer to the "Board of Podiatry Examiners" of North Carolina as defined in G.S. 90-202.4;
- (4) "Establishment" in G.S. 55B-10 shall mean any separate podiatry office, clinic, or branch location where podiatry services are provided. It does not include a corporate office located in a separate building or location where podiatry services are not performed; and
- (5) "Podiatry" has the same meaning as in G.S. 90-202.2.

History Note: Authority G.S. 55B-10; 90-202.4; 90-202.6; 90-202.8;

Eff. February 1, 1976;

Amended Eff. June 1, 2011; January 1, 2005; December 1, 1988.

21 NCAC 52 .0102 MEMBERSHIP

History Note: Authority G.S. 90-202.4;

Eff. February 1, 1976;

Amended Eff. December 1, 1988;

Repealed Eff. June 1, 2011.

21 NCAC 52 .0201 APPLICATION

(a) Anyone who meets the statutory requirements and wishes to apply for examination may do so by submitting a written application to the executive secretary of the board. Such Application for Examination or Application of Reciprocity shall be made on a form provided by the board.

(b) Applicants shall furnish the board with certification of graduation from a four-year high school, completion of at least two years of undergraduate college education, graduation from an accredited college of podiatric medicine, and passing scores on all parts of the APMLE, as provided in the statutes.

(c) The application must be accompanied by a non-refundable application fee of three hundred fifty dollars (\$350.00).

(d) Applications must also be notarized by a Notary Public in good standing.

History Note: Authority G.S. 90-202.5; 90-202.6; 90-202.7;

Eff. February 1, 1976;

Amended Eff. June 1, 2011; April 1, 2005; January 1, 2005; December 1, 1988.

21 NCAC 52 .0202 EXAMINATION

The board shall conduct an examination as set out in G.S. 90-202.6. The examination shall be scheduled so as not to conflict with the APMLE.

History Note: Authority G.S. 90-202.6;

Eff. February 1, 1976;

Amended Eff. June 1, 2011; December 1, 1988.

21 NCAC 52 .0204 RE-EXAMINATION

Unsuccessful candidates for licensure may apply to the board for re-examination within a period of one year and be entitled to re-examination upon the payment of the three hundred fifty dollar (\$350.00) examination fee. No more than two re-examinations shall be allowed any one applicant within that one-year period under this Rule.

History Note: Authority G.S. 90-202.6;

Eff. February 1, 1976;

Amended Eff. June 1, 2011; December 1, 1988.

21 NCAC 52 .0208 CONTINUING EDUCATION

An additional requirement for issuance of the annual renewal certificate shall be certification to the board of proof of having complied with the continuing education provisions of the General Statutes. The board shall notify all podiatrists that 25 hours are required annually.

History Note: Authority G.S. 90-202.4(g); 90-202.11;

Eff. February 1, 1976;

Amended Eff. June 1, 2011; December 1, 1988.

21 NCAC 52 .0212 SPECIALTY CREDENTIALING PRIVILEGES

(a) The Board shall grant surgical specialty privileges to podiatrists in the areas of amputation, ankle surgery, and club foot correction.

(b) Application for such privileges shall be made upon a form provided by the Board along with two copies of the applicants' surgery logs, both of which shall be highlighted in different colors (one color per specialty area, i.e. amputations, ankle surgeries, and club foot corrections).

*History Note: Authority G.S. 90-202.2;
Eff. June 1, 2011.*

21 NCAC 52 .0301 REGISTRATION

No podiatrist or group of podiatrists may operate in the State of North Carolina as a professional corporation without first obtaining from the board a certificate of registration as required by the General Statutes. Registration shall be as set forth in G.S. 55B-10:

http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_55B/GS_55B-10.html. Each corporate registrant must pay a separate registration fee of twenty-five dollars (\$25.00) per year for each separate establishment where podiatric services are performed.

*History Note: Authority G.S. 55B-10; 90-202.4(g);
Eff. February 1, 1976;
Amended Eff. June 1, 2011; December 1, 1988.*

21 NCAC 52 .0302 ANNUAL RENEWAL

Annual renewal of a professional podiatry corporate registration shall be as set forth in G.S. 55B-11:

http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_55B/GS_55B-11.html.

*History Note: Authority G.S. 55B-11; 90-202.4(g);
Eff. February 1, 1976;
Amended Eff. June 1, 2011; December 1, 1988.*

21 NCAC 52 .0303 PENALTIES

Penalties for non-renewal of a professional podiatry corporation certificate of registration shall be as set forth in G.S. 55B-11: http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_55B/GS_55B-11.html.

*History Note: Authority G.S. 55B-11; 90-202.4(g);
Eff. December 1, 1988;
Amended Eff. June 1, 2011.*

21 NCAC 52 .0601 APPLICATION FOR EXAMINATION

The application for examination shall be used by all applicants who wish to take the examination for licensure. It requires the applicant to furnish the board with information required or permitted by these Rules. The form may be obtained in hard-copy or electronic format from the office of the executive secretary or from the board's website at www.ncbpe.org.

*History Note: Authority G.S. 90-202.5;
Eff. February 1, 1976;
Amended Eff. June 1, 2011; April 1, 2005; January 1, 2005;
December 1, 1988.*

**21 NCAC 52 .0602 CERTIFICATE OF LICENSURE
21 NCAC 52 .0603 APPLICATION FOR RENEWAL
21 NCAC 52 .0604 CERTIFICATE OF
CONTINUING EDUCATION
21 NCAC 52 .0605 CERTIFICATE FOR
ESTABLISHING A PROFESSIONAL CORPORATION
21 NCAC 52 .0606 CERTIFICATE OF
REGISTRATION OF PROFESSIONAL CORPORATION**

*History Note: Authority G.S. 55B-10; 55B-11; 90-202.6;
90-202.10; 90-202.11;
Eff. February 1, 1976;
Amended Eff. December 1, 1988;
Repealed Eff. June 1, 2011.*

**21 NCAC 52 .0610 APPL/EXAM/PODIATRIST
LICENSED/OTHER STATES (RECIPROCITY)**

The application for examination for those already licensed in other states to practice podiatric medicine shall be used by applicants who request such consideration. The requirements shall be the same as for the applicant in Rule .0201 of this Chapter and as required by statute. Application forms may be obtained from the office of the executive secretary of the board or from the board's website at www.ncbpe.org.

*History Note: Authority G.S. 90-202.7;
Eff. December 1, 1988;
Amended Eff. June 1, 2011; January 1, 2005.*

21 NCAC 52 .0611 FORMS AND APPLICATIONS

(a) The Board shall issue the following items:

- (1) Certificate of Licensure,
- (2) Licensure Renewal Card,
- (3) Temporary License Certificate, and
- (4) Certificate of Corporate Registration.

(b) The Board shall provide and require use of its application forms for the following specific purposes which may be obtained from the Board's web site, <http://www.ncbpe.org>:

- (1) Licensure Renewal Application,
- (2) Disclaimer Form,
- (3) Corporate Registration Application,
- (4) Corporate Registration Renewal, and
- (5) Specialty Credentialing Application.

*History Note: Authority G.S. 55B-10; 55B-11; 90-202.4(g);
90-202.6; 90-202.7; 90-202.9; 90-202.10; 90-202.11;
Eff. June 1, 2011.*

**21 NCAC 52 .0701 PETITION FOR RULEMAKING
HEARINGS**

Any person wishing to submit a petition requesting the board to promulgate, amend or repeal a rule shall address a petition to the office of the Board of Podiatry Examiners. The caption of the

petition shall bear the notation: RULEMAKING PETITION RE: and then the subject area.

History Note: Authority G.S. 150B-20;
Eff. February 1, 1976;
Amended Eff. June 1, 2011; January 1, 2005; December 1, 1988.

21 NCAC 52 .0702 CONTENTS OF PETITION

The petition must include the following information:

- (1) an indication of the subject area to which the petition is directed. For example: "This petition is to hold a rulemaking hearing to amend Rule .0000;"
- (2) either a draft of the proposed rule or a summary of its contents;
- (3) reason for the proposal;
- (4) the effect on existing rules;
- (5) any data supporting the proposal;
- (6) effect of the proposed rule on existing practices in the area involved, including cost factors;
- (7) names of those most likely to be affected by the proposed rule with addresses if reasonably known; and
- (8) name(s) and address(es) of petitioner(s).

History Note: Authority G.S. 150B-20;
Eff. February 1, 1976;
Amended Eff. June 1, 2011; December 1, 1988.

21 NCAC 52 .0703 DISPOSITION OF PETITIONS

- (a) The board shall determine whether the public interest will be served by granting the request. Prior to making this determination, the board may request additional information from the petitioner(s); it may contact interested persons or persons likely to be affected by the proposed rule and request comments; and it may use any other appropriate method for obtaining information on which to base its determination. It shall consider the contents of the petition submitted plus any other information obtained by the means described herein.
- (b) The board shall make a determination for the institution of rulemaking proceedings or for the denial of the petition as provided by G.S. 150B-20.

History Note: Authority G.S. 150B-20;
Eff. February 1, 1976;
Amended Eff. June 1, 2011; December 1, 1988.

21 NCAC 52 .0804 NOTICE MAILING LIST

- (a) Upon a determination to hold a rulemaking proceeding, either in response to a petition or otherwise, the Board shall give notice to all interested parties of the proceedings in accordance with the requirements of G.S. 150B.
- (b) Mailing List. Any person desiring to be placed on the mailing list for the rulemaking notices may file a request in writing, furnishing his name and mailing address to the Board. The request shall state the subject areas within the authority of the Board for which notice is requested.

- (c) Fee Charged. The cost to be on the mailing list for rulemaking notices shall be fifteen dollars (\$15.00) per year. A notice and invoice shall be mailed no later than February 1 of each year to the last known address of persons on the mailing list. Persons who do not renew their request to remain on the mailing list by remitting the fee by March 1 of each year shall be deleted from the list.

History Note: Authority G.S. 150B-21.2(d); 90-20.4(g);
Eff. April 1, 2005;
Amended Eff. June 1, 2011.

CHAPTER 61 - NORTH CAROLINA RESPIRATORY CARE BOARD

21 NCAC 61 .0302 LICENSE RENEWAL

- (a) Any licensee desiring the renewal of a license shall apply for renewal and shall submit the fee established in this Chapter.
- (b) Any person whose license is lapsed or expired and who engages in the practice of respiratory care as defined in G.S. 90-648(10) is subject to the penalties prescribed in G.S. 90-659.
- (c) Each applicant for renewal shall provide proof of completion of continuing education requirements as established in this Chapter.
- (d) The licensee shall maintain current respiratory care credentials as issued by the National Board for Respiratory Care and shall provide proof of the credentials to the Board upon renewal and upon request.
- (e) Each applicant for renewal shall provide a copy of current certification in Basic Life Support (BLS) which includes Adult, Child and Infant Cardiopulmonary Resuscitation (CPR); the Heimlich Maneuver; and Automatic External Defibrillator (AED) use by the American Heart Association, the American Red Cross or the American Safety and Health Institute. The board shall accept a copy of the applicant's BLS Instructor certificate or Advanced Cardiac Life Support (ACLS) certificate in lieu of the BLS certificate.
- (f) Licenses lapsed in excess of 24 months shall not be renewable. Persons whose licenses have been lapsed in excess of 24 months and who desire to be licensed shall apply for a new license and shall meet all the requirements then existing.
- (g) Members of the armed forces whose licenses are in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return are granted that same extension of time to pay the license renewal fee and to complete the continuing education requirements prescribed in 21 NCAC 61 .0401. A copy of military orders or the extension approval by the Internal Revenue Service must be furnished to the Board. If approved, continuing education credits acquired during this extended time period shall not be utilized for future renewal purposes, but may be used for the current renewal.

History Note: Authority G.S. 90-652(1),(2),(4) and (13);
Temporary Adoption Eff. October 15, 2001;
Eff. August 1, 2002;
Amended Eff. June 1, 2011, September 1, 2010; November 1, 2004.

CHAPTER 68 - SUBSTANCE ABUSE PROFESSIONAL PRACTICE BOARD

21 NCAC 68 .0101 DEFINITIONS

As used in the General Statutes or this Chapter, the following terms have the following meaning:

- (1) "Applicant" means a person who submits documentation seeking Board status for registration or certification.
- (2) "Application packet" means a set of instructions and forms required by the Board for registration.
- (3) "Approved Supervisor" means a supervisor as set out in G.S. 90-113.31. This is a person who fulfills or is in the process of fulfilling the requirements for this Board designation pursuant to Rule .0211 of this Chapter by completing its academic, didactic and experiential requirements.
- (4) "Assessment" means identifying and evaluating an individual's strengths, weaknesses, problems and needs for the development of a treatment or service plan for alcohol, tobacco or drug abuse.
- (5) "Clinical Supervision" means clinical oversight required for all credentials with a minimum of 50 percent clinical supervision that shall accrue in person, face-to-face, while in the proximity of the same room whereas the balance of this requirement may be fulfilled electronically via video, face-to-face, if performed in real time.
- (6) "Clinical Supervision Specific Education" means training that directly covers the aspects of clinical supervision of a substance abuse professional or any of the 12 core functions in their clinical application.
- (7) "Client" means an individual who is in receipt of substance abuse counseling.
- (8) "Complainant" means a person who has filed a complaint pursuant to these Rules.
- (9) "Consultation" means a meeting for discussion, decision-making and planning with other service providers for the purpose of providing substance abuse services.
- (10) "Crisis" means a decisive, crucial event either directly or indirectly related to alcohol or drug use, in the course of treatment that threatens to compromise or destroy the rehabilitation effort.
- (11) "Deemed Status Group" means those persons who are credentialed as a clinical addictions specialist because of their membership in a deemed status discipline.
- (12) "Education" means a service which is designed to inform and teach various groups including clients, families, schools, businesses, churches, industries, civic and other community groups about the nature of substance abuse disorders and about available community resources. It also serves to improve the social functioning of recipients by increasing awareness of human behavior and providing alternative cognitive or behavioral responses to life's problems.
- (13) "Full Time" means 2,000 hours per year.
- (14) "General Professional Skill Building" means education provided to enhance general skills of a substance abuse professional.
- (15) "Hearing panel" means a body composed of members of a committee designated by the chairperson of the committee to conduct an informal hearing to determine that the applicant meets the standards required to be maintained for or awarded a credential.
- (16) "Impairment" means a mental illness, substance abuse or chemical dependency, physical illness, or aging problem.
- (17) "Letter of Reference" means a letter that recommends a person for certification.
- (18) "Membership In Good Standing" means a member's certification is not in a state of revocation, lapse, or suspension. However, an individual whose certification is suspended and the suspension is stayed is a member in good standing during the period of the stay.
- (19) "Passing score" means the score set by the entity administering the exam.
- (20) "Person served" means an individual who is not a client but is in receipt of substance abuse prevention counseling.
- (21) "Personal service" means the actual delivery of a document into the hands of the person to whom it is addressed.
- (22) "President" means the President of the Board.
- (23) "Prevention Consultation" means a service provided to other mental health, human service, and community planning/development organizations or to individual practitioners in other organizations to assist in the development of insights and skills of the practitioner necessary for prevention.
- (24) "Prevention performance domains" means areas of professional activities to include:
 - (a) planning and evaluations;
 - (b) education and skill development;
 - (c) community organization;
 - (d) public and organizational policy; and
 - (e) professional growth and responsibility.
- (25) "Referral" means identifying the needs of an individual that cannot be met by the counselor or agency and assisting the individual in utilizing the support systems and community resources available.

- (26) "Rehabilitation" means re-establishing the functioning needed for professional competency.
- (27) "Reinstatement" means an action where the Board restores certification or registration to an applicant after the applicant completes the requirements imposed by the Board.
- (28) "Relapse" means the return to the pattern of substance abuse as well as the process during which indicators appear prior to the person's resumption of substance abuse or a re-appearance or exacerbation of physical, psychological or emotional symptoms of impairment.
- (29) "Renewal" means an action by the Board granting a substance abuse professional a consecutive certification or registration based upon the completion of requirements for renewal as prescribed by the Board.
- (30) "Revival" means an action by the Board granting a substance abuse professional a certification or registration following a lapse of certification or registration wherein the professional must also meet the requirements for renewal as prescribed by the Board.
- (31) "Reprimand" means a written warning from the Board to a person making application for certification by the Board or certified by the Board.
- (32) "Respondent" means a person who is making application for certification by the Board or is certified by the Board against whom a complaint has been filed.
- (33) "Sexual activity" means:
- (a) Contact between the penis and the vulva or the penis and the anus;
 - (b) Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; or
 - (c) The penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- (34) "Sexual contact" means any of the following actions:
- (a) Vaginal intercourse, cunnilingus, fellatio, or anal intercourse, if initiated, agreed to, or not resisted by the substance abuse professional; or
 - (b) Kissing or the intentional touching of the other's lips, genital area, groin, inner thigh, buttocks, breasts, or any other body parts, as well as the clothing covering any of these body parts for the purpose of sexual stimulation or gratification of either the substance abuse professional or the client if initiated, agreed to, or not resisted by the substance abuse professional.
- (35) "Substance Abuse Counseling Experience" means approved supervised experience that may be full time or part-time, paid or voluntary, and must include all of the 12 core functions (Rule .0204 of this Chapter) as documented by a job description and supervisors evaluation.
- (36) "Substance Abuse Prevention Consultant Experience" means approved supervised experience that may be full time or part-time, paid or voluntary, and must include all of the prevention domains referenced by Rule .0206 of this Chapter and as documented by a job description and supervisor's evaluation.
- (37) "Substance Abuse Specific" means education focused upon alcohol and other drugs and the substance abusing population and is provided for a substance abuse professional by one whose education and experience is in the field of alcohol and other drugs.
- (38) "Supervised Practice" means supervision of the applicant in the knowledge and skills related to substance abuse professionals.
- (39) "Suspension" means a loss of certification or the privilege of making application for certification.

History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.40; 90-113.41; 90-113.41A;
Eff. August 1, 1996;
Temporary Amendment Eff. November 15, 1997;
Amended Eff. June 1, 2011; April 1, 2011; April 1, 2003; August 1, 2002; April 1, 2001; August 1, 2000; August 1, 1998.

21 NCAC 68 .0204 SUPERVISED PRACTICUM FOR CERTIFIED SUBSTANCE ABUSE COUNSELOR AND LICENSED CLINICAL ADDICTIONS SPECIALIST

(a) All applicants for the certified substance abuse counselor or the clinical addictions specialist credential shall complete a 300 hour practicum supervised by an applicant supervisor and the practicum shall cover all core functions of counseling. Verification of at least ten hours of this practicum shall be made in each of the core functions of this Rule. These 120 hours of the practicum shall be divided into one hour of supervision for every 10 hours of practice in each one of the 12 core functions. These core functions are:

- (1) Screening to determine a client is appropriate and eligible for admission to a particular program;
- (2) Intake to provide the administrative and initial assessment procedures for admission to a program;
- (3) Orientation of the client to the general nature and goals of the program, rules governing client conduct, notice of the hours during which services are available, treatment costs to

be borne by the client, if any, and client's rights;

- (4) An assessment to identify and evaluate for the purpose of the development of a treatment plan an individual's strengths, weaknesses, problems and needs;
- (5) The treatment planning process whereby the counselor and client identify and rank problems needing resolution, establish agreed upon immediate and long term goals, and decide on a treatment process and the resources to be utilized;
- (6) Counseling to assist individuals, families, or groups in achieving goals through exploration of a problem and its ramifications, examination of attitudes and feelings, consideration of alternative solutions, and making decisions;
- (7) Case management activities which bring services, agencies, resources or people together within a planned framework of action toward the achievement of established goals;
- (8) Providing those crisis intervention services which respond to an alcohol or other drug abuser's needs during acute emotional and physical distress;
- (9) Provision of client education information to individuals and groups describing alcohol and other drug abuse and the available services and resources;
- (10) Referring the client whose needs cannot be met by the counselor or agency to other support systems and community resources available;
- (11) Charting the results of the assessment and treatment plan while writing reports, progress notes, discharge summaries and other client-related data necessary for the compilation of necessary reports and recordkeeping; and
- (12) Consultation with substance abuse and other professionals to assure comprehensive, quality care for the client.

(b) The remaining 180 hours of this practicum shall be in the core function areas.

(c) Upon completion of the 300 hours, the supervisor shall complete an evaluation form reviewing the certified substance abuse counselor or clinical addictions specialist professional development and provide it to the Board, documenting the 300 hours of practice, including 30 hours of supervision on a form provided by the Board.

(d) Pursuant to G.S. 90-113.40(a)(7), the practicum may be completed as part of an academic course of study in a regionally accredited college or university or it may be developed in the work setting as long as it is supervised by an applicant supervisor.

(e) Pursuant to G.S. 90-113.40(c)(1), the 300 hours of practical training provided by an applicant supervisor shall be completed as part of the required two years postgraduate supervised substance abuse counseling experience.

History Note: Authority G.S. 90-113.30; 90-113.31; 90-113.33; 90-113.34; 90-113.39; 90-113.40; Eff. August 1, 1996; Amended Eff. June 1, 2011; April 1, 2011; January 1, 2010; August 1, 2002.

21 NCAC 68 .0208 CONTINUING EDUCATION REQUIRED FOR COUNSELOR, CRIMINAL JUSTICE ADDICTIONS PROFESSIONAL AND PREVENTION CONSULTANT RE-CREDENTIALING

(a) In order to be re-credentialed, a substance abuse professional shall:

- (1) Comply with the following:
 - (A) No more than 25 percent may be in-service education, received within your organization by staff of the same employment;
 - (B) No more than 25 percent of workshop presentation with one hour of presentation translating to one hour of education. Workshop presentation shall be a part of an event pre-approved by the Board as set out in these Rules;
 - (C) An applicant shall include documentation of each event submitted;
 - (D) All applicants shall include three hours of HIV/AIDS/STDS/TB/Bloodborne pathogens training and education, three hours of professional ethics training and education and three hours of education to be selected from the list appearing in Rule 21 NCAC 68 .0205(2)(e)(i) through (v) for each re-credentialing; and
 - (E) No more than 50 percent self-study, approved by the Board as set out in these Rules; and
- (2) Submit the following:
 - (A) A completed application form with continuing education documented;
 - (B) A non-refundable one hundred twenty-five dollar (\$125.00) recertification fee; and
 - (C) A signed and dated statement that the applicant shall follow the substance abuse professional's code of conduct.

(b) Each credentialed counselor, criminal justice addictions professional and prevention consultant shall receive 60 hours of Board approved, as set out in these Rules, education during the current re-credentialing period that shall be documented. No more than 25 percent may be in-service education. A minimum of 30 hours shall be substance abuse specific (SAS). The education may include a combination of hours including attending and conducting workshops.

(c) To be re-credentialed, a criminal justice addictions professional and a certified substance abuse counselor shall

submit a post-certification supervision contract signed by a practice supervisor and supervisee. The supervision required by this Rule shall be provided by the practice supervisor and set forth as follows:

- (1) The first 4,000 hours of practice shall be performed at the rate of one hour of supervision for every 40 hours of practice;
- (2) The second 4,000 hours of practice shall be performed at the rate of one hour of supervision for every 80 hours of practice;
- (3) All subsequent practice shall be performed at the rate of one hour of supervision for every 160 hours of practice.

History Note: Authority G.S. 90-113.30; 90-113.33; 90-113.37; 90-113.38; 90-113.39;

Eff. August 1, 1996;

Amended Eff. June 1, 2011; April 1, 2011; January 1, 2010; April 1, 2003; August 1, 2002; August 1, 2000.

21 NCAC 68 .0217 SUPERVISED PRACTICUM FOR CRIMINAL JUSTICE ADDICTIONS PROFESSIONAL CERTIFICATION

(a) All applicants for the criminal justice addictions professional certification shall complete 300 hours practicum. The applicant supervisor shall:

- (1) Train the criminal justice addictions professional and cover all criminal justice performance domains as set out in G.S. 90-113.31B(6);
- (2) Submit verification that at least 10 hours of practice was provided in each of the performance domains; and
- (3) Provide verification of at least one hour of supervision for every 10 hours of practice in each one of the performance domains on a supervisor evaluation form provided by the Board.

(b) The remaining hours of the practicum shall be in any of the performance domains.

(c) Upon completion of 300 hours, the applicant supervisor shall:

- (1) Complete an evaluation form reviewing criminal justice addictions professional's development as a professional;
- (2) Document the 300 hours of practice to include 30 hours of supervision by the applicant supervisor; and
- (3) Submit this information to the Board on a form provided by the Board.

(d) The practicum may be completed as part of an academic course of study in a regionally accredited college or university or it may be developed in the work setting as long as it is supervised by an applicant supervisor. The practicum shall take place within a criminal justice addiction professional setting to include a workplace for law enforcement, the judiciary, or corrections.

History Note: Authority G.S. 90-113.31A; 90-113.31B(6); 90-113.40; 90-113.40B;

Eff. January 1, 2010;

Amended Eff. June 1, 2011; April 1, 2011.

21 NCAC 68 .0226 ARMED SERVICES EXTENSION FOR CREDENTIAL

Upon receipt of a written request by or on behalf of a credentialed substance abuse professional who is currently in good standing with the Board, is serving in the armed forces of the United States, and to whom G.S. 105-249 authorizes an extension of time to file a tax return, the Board shall postpone renewal fees, renewal application deadlines, continuing education requirements and any other requirements or conditions related to the maintenance of the credential issued by the Board or to the renewal thereof for the same period of time as the extended period of time to file a tax return that is granted pursuant to G.S. 93B-15.

History Note: Authority G.S. 90-113.30; 90-113.33; 93B-15; Eff. April 1, 2011;

Amended Eff. June 1, 2011.

TITLE 26 – OFFICE OF ADMINISTRATIVE HEARINGS

26 NCAC 02C .0102 DEFINITIONS

The following definitions apply throughout this Chapter and to all forms prescribed pursuant to this Chapter unless the context indicates otherwise:

- (1) "Action" means the adoption, amendment, or repeal of a rule.
- (2) "Adoption" means a new rule with a new rule number.
- (3) "Adoption by agency" means the date that an agency takes final action on a rule.
- (4) "Amendment" means an existing rule with a deletion, addition or other change to that existing rule.
- (5) "Citation" means a reference to a rule by Title, Chapter or Subchapter, and Section or Rule number.
- (6) "Code" means the North Carolina Administrative Code.
- (7) "Commission" means the Rules Review Commission.
- (8) "Form" means an original form template provided by the OAH and completed by the submitting agency.
- (9) "OAH" means the Codifier of Rules at the Office of Administrative Hearings.
- (10) "Original" means a copy of the document marked or stamped as such.
- (11) "Publication" includes publication on the OAH website or in the Register or entry into the Code.
- (12) "Register" means the North Carolina Register.

- (13) "Repeal" means the deletion of the entire text of a rule. When a rule is repealed, that rule number shall not be used again. The number, rule name, and final history note remain in the Code permanently for publication and reference purposes.

History Note: Authority G.S. 150B-21.17; 150B-21.18;
Temporary Adoption Eff. November 1, 1995;
Eff. April 1, 1996;
Amended Eff. April 1, 1997;
Temporary Amendment Eff. July 1, 2003;
Amended Eff. June 1, 2011; April 1, 2004.

26 NCAC 02C .0103 ORIGINAL AND DUPLICATE COPY

- (a) An agency shall submit an original and one copy of any document and form for publication in the Register or Code or on the OAH website.
- (b) An agency shall include an additional copy of the rule with any rule that is submitted to the Commission.
- (c) An agency shall permanently mark or stamp the original rule and form as original and date it at the time of marking or stamping.
- (d) An agency shall submit documents in the following order:
- (1) the original submission form;
 - (2) the original of the rule;
 - (3) a copy of the submission form;
 - (4) a copy of the rule; and
 - (5) a copy of the rule for the RRC if the rule is subject to review by RRC.

History Note: Authority G.S. 150B-21.17; 150B-21.18;
 150B-21.19;
Temporary Adoption Eff. November 1, 1995;
Eff. April 1, 1996;
Amended Eff. June 1, 2011; April 1, 2004; August 1, 2000; April 1, 1997.

26 NCAC 02C .0104 RETURN COPY

History Note: Authority G.S. 150B-21.17; 150B-21.18;
 150B-21.19;
Temporary Adoption Eff. November 1, 1995;
Eff. April 1, 1996;
Temporary Amendment Eff. January 1, 2003;
Amended Eff. April 1, 2004 (this amendment replaces the amendment approved by RRC on October 16, 2003);
Repealed Eff. June 1, 2011.

26 NCAC 02C .0105 ELECTRONIC VERSION

- (a) Any electronic version required to be submitted must be compatible with or convertible to the most recent version of Microsoft Word. The OAH shall not accept for publication any file in which the electronic version does not comply with this requirement. The OAH shall not accept floppy disks.
- (b) The electronic version must be labeled with the date and name of each file.

- (c) The electronic version may contain multiple rules or other documents filed at the same time. Each rule must be saved as a separate file except repealed rules that are combined as set out in Rule .0406(b) of this Subchapter must be a single file. The name of the file must be the official rule citation.

(d) The electronic version must be received no later than the business day that the rule or document and its form are delivered to the OAH.

(e) Electronic versions submitted by email shall be sent to oah.rules@oah.nc.gov.

History Note: Authority G.S. 150B-21.17; 150B-21.18;
 150B-21.19;
Temporary Adoption Eff. November 1, 1995;
Eff. April 1, 1996;
Amended Eff. June 1, 2011; November 1, 2006; January 1, 2006; April 1, 2004; August 1, 2000.

26 NCAC 02C .0108 GENERAL FORMAT INSTRUCTIONS

An agency shall format each rule submitted to OAH for publication in the Register or Code as follows:

- (1) Paper Specifications:
 - (a) 8½ by 11 inch plain white paper;
 - (b) one side of the sheet only;
 - (c) black ink;
 - (d) 10 point font size;
 - (e) portrait print (8½ x 11);
 - (f) numbered lines on the left margin with each page starting with line 1;
 - (g) 1.5 line spacing;
 - (h) page numbers centered at the bottom of the page for each rule that has more than one page of text; and
 - (i) no staples.
- (2) Tab and Margin Settings:
 - (a) tab settings for all rules shall be set relative from the left margin at increments of 0.5; and
 - (b) text shall be with a one inch margin on all sides.
- (3) The Introductory Statement shall start on page 1, line 1 of each rule.
- (4) When a new chapter, subchapter, or section of rules is adopted, the Chapter, Subchapter, and Section names shall be provided in bold print with the first rule following the introductory statement. One line shall be skipped between the introductory statement and each chapter, subchapter, and section name.
- (5) One line shall be skipped before starting the line that provides the rule citation and rule name. The first digit of the title number shall be placed in position 1. One tab shall be between the rule number and rule name. The rule name shall be in capital letters and the rule number and name shall be in bold print.
- (6) Body of the Rule:

- (a) the body of the rule shall start on the line immediately following the rule name with the following markings:
 - (i) adoptions - new text shall be underlined;
 - (ii) amendments - any text to be deleted shall be struck through and new text shall be underlined; and
 - (iii) repeals - text of the rule shall not be included;
- (b) there shall be no lines skipped in the body of the rule except before and in tables;
- (c) the document shall not have automatic numbering or lettering of paragraphs or lists;
- (d) the first level of text shall be flush left and with two spaces after the closing parenthesis if the paragraph is identified by a letter;
- (e) the second level of text shall start with one tab and one hanging indent after the closing parenthesis;
- (f) the third level of text shall start with two tabs and one hanging indent after the closing parenthesis;
- (g) the fourth level of text shall start with three tabs and one hanging indent after the closing parenthesis;
- (h) the fifth level of text shall start with four tabs and one hanging indent after the closing parenthesis; and
- (i) the sixth level of text shall start with five tabs and one hanging indent after the closing parenthesis.
- (7) The smallest unit of text to be struck through or underlined shall be an entire word with any punctuation that is part of the word or block of characters separated from other text by a space on each side. Punctuation shall be considered part of the word when there is no space between the punctuation and the word.
- (8) History Note Specifications:
 - (a) shall be in italic font;
 - (b) shall start on the second line following the body of the rule;
 - (c) the first line of the History Note shall start in the first position; all lines following shall be two tabs;
 - (d) the first line shall start with the words "History Note:", followed by one tab and the word "Authority". The agency shall then cite the authority(ies) in numerical order for that rule;
 - (e) the effective date of the original adoption of the rule shall be the next line following the authority. The abbreviation "Eff." shall be followed by this date;
- (f) on the line following the "Eff." date, the amended dates shall be preceded with the words "Amended Eff." and the dates shall be listed in chronological order, with the most recent amended date listed first;
- (g) a temporary rule shall be listed as a separate item in the history note with the following words: "Temporary (Adoption, Amendment, or Repeal) Eff. (date)";
- (h) an emergency rule shall be listed as a separate item in the history note with the following words: "Emergency (Adoption, Amendment, or Repeal) Eff. (date)";
- (i) the repealed date of a rule shall be the last line of the history note and start with the words "Repealed Eff." followed by the date;
- (j) all items in the history note shall be separated by semicolons with the last line ending with a period;
- (k) all history of a rule shall be in chronological order following the authority for the rule; and
- (l) all dates in the history note shall be complete with the month spelled out, and shall not contain any abbreviations.
- (9) Numbers within the text shall be as follows:
 - (a) numbers from one to nine shall be spelled out;
 - (b) figures shall be used for numbers over nine; and
 - (c) if a phrase contains two numbers, only one of which is over nine, figures shall represent both.
- (10) Monetary figures within the text shall be spelled out followed by the numerical figure in parenthesis. Decimal and zeros shall be used only for even dollar amounts of sums less than one thousand dollars (\$1,000).

Note: Examples of proper formatting can be found on the OAH website located at www.ncoah.com/rules.

History Note: Authority G.S. 150B-21.17; 150B-21.18; 150B-21.19;
Temporary Adoption Eff. November 1, 1995;
Eff. April 1, 1996;
Amended Eff. August 1, 2000;
Temporary Amendment Eff. July 1, 2003;
Amended Eff. June 1, 2011; January 1, 2006; April 1, 2004.

26 NCAC 02C .0110 ILLUSTRATIONS/NOTES

An agency may include material in the text of a rule which is an illustration of something in the rule. Illustrations shall be merely examples or clarifications which, when not read, do not change the meaning of the rule. The material which is meant only as an illustration shall be set aside by preceding it with the word "Note:".

History Note: Authority G.S. 150B-21.18; 150B-21.19; 150B-21.20;
Temporary Adoption Eff. November 1, 1995;
Eff. April 1, 1996;
Amended Eff. June 1, 2011.

26 NCAC 02C .0306 PUBLICATION OF NOTICE OF TEXT

(a) The agency shall submit its Notice of Text on an OAH Notice of Text form. If the information contained in the notice exceeds the space provided on the form, the agency shall also submit an electronic version of the information.

(b) All rules submitted for publication by an agency at the same time, with the same proposed effective date, and with the same public hearing date and location if a hearing is scheduled, shall be listed on a single form.

(c) The agency shall submit the text of the proposed rule and an electronic version of the rule (Rule .0105 of this Subchapter).

(d) A rule proposed to be adopted or amended shall meet the following requirements:

- (1) The rule shall contain an introductory statement immediately preceding the text. The statement shall contain the rule citation and the action proposed to be taken.
- (2) Following the introductory statement, the rule number, name, text and history note shall be in the form specified in Rule 26 NCAC 02C .0108.

(e) A rule proposed to be repealed shall meet the following requirements:

- (1) The rule shall contain an introductory statement. The statement shall contain the rule citation and the action proposed to be taken.
- (2) Following the introductory statement, the rule shall contain the number and rule name of the rule proposed to be repealed.
- (3) A history note shall follow the rule number and name.

History Note: Authority G.S. 150B-21.17;
Temporary Adoption Eff. November 1, 1995;
Eff. April 1, 1996;
Amended Eff. August 1, 2000;
Temporary Amendment Eff. January 1, 2003;
Amended Eff. June 1, 2011; August 1, 2004.

26 NCAC 02C .0308 ELECTRONIC FILING

(a) An agency may file rules and other documents for publication in the Register by email. The email shall include an attached document(s) prepared and sent as set out in Rule .0105 of this Subchapter.

(b) The agency shall simultaneously send a facsimile (fax) copy of the attachment(s).

(c) Electronic submission shall be deemed submitted for publication pursuant to 26 NCAC 02C .0302 on the business day when both the email with attachment(s) and the faxed copy are received.

History Note: Authority G.S. 150B-21.17;
Eff. January 1, 2006;
Amended Eff. June 1, 2011; May 1, 2009.

26 NCAC 02C .0402 PUBLICATION OF A PERMANENT RULE

An agency must submit a permanent rule for publication in the Code with the following:

- (1) An original submission form and copy (Rule .0403 of this Section).
- (2) If applicable, a letter delegating authority for the signature on the submission form (Rule .0113 of this Subchapter).
- (3) An original and copies of the permanent rule (Rule .0103 of this Subchapter) prepared in accordance with Rule .0108 of this Subchapter containing:
 - (a) an introductory statement (Rule .0404 of this Section);
 - (b) the body of the rule (Rule .0405 of this Section);
 - (c) any changes in the rule (Rule .0405 of this Section);
 - (d) the history note (Rule .0406 of this Section).
- (4) An electronic version of the rule prepared in accordance with Rule .0105 of this Subchapter.

History Note: Authority G.S. 150B-21.19;
Temporary Adoption Eff. November 1, 1995;
Eff. April 1, 1996;
Amended Eff. June 1, 2011; November 1, 2006; April 1, 2004.

26 NCAC 02C .0405 BODY OF THE RULE

(a) An agency shall prepare for publication in the Code any permanent rule not published in the Register or that does not differ in any way from the proposed rule published in the Register according to the general format instructions in Rule .0108 of this Subchapter.

(b) If a permanent rule differs in any way from the proposed rule published in the Register, the following applies:

- (1) An agency shall identify changes in an adopted rule by striking through deleted portions, and underlining added portions. The unchanged text shall not be underlined.
- (2) An agency shall identify changes in an amended rule as follows:
 - (A) when text has been added, the text added shall be underlined and highlighted;

- (B) when existing text has been deleted, the text deleted shall be struck through and highlighted;
 - (C) when text that was proposed to be deleted has been restored, the restored text shall be highlighted, but not underlined or struck through;
 - (D) when text that was proposed to be added has been deleted, the deleted proposed text shall be enclosed in brackets, struck through and highlighted; and
 - (E) when text is required to be highlighted, the highlighting shall be by highlight marker or shall be computer generated. The text shall show through the highlight and be clear and legible when reproduced.
- (3) If the agency repeals a rule originally noticed to be amended, then the agency shall submit the rule as a permanent repeal.

*History Note: Authority G.S. 150B-21.19;
Temporary Adoption Eff. November 1, 1995;
Eff. April 1, 1996;
Amended Eff. June 1, 2011; January 1, 2006.*

26 NCAC 02C .0406 HISTORY NOTE

- (a) An agency shall include a history note for each rule submitted to the OAH for publication in the Code, containing the following information:
- (1) the authority for the rule;
 - (2) the effective date of the adoption of the rule;
 - (3) the effective date of the amendments to the rule including the proposed amendment listed in chronological order with the proposed amendment first;
 - (4) the effective date of the repeal; and
 - (5) any other history references pertaining to the rule.
- (b) Notwithstanding Paragraph (a) of this Rule, the agency shall combine repealed rules with a single history note if the rules are consecutive numerically in the same section and the effective dates and repealed dates are identical. The agency shall combine authority cites and any other dates.

*History Note: Authority G.S. 150B-21.19;
Temporary Adoption Eff. November 1, 1995;
Eff. April 1, 1996;
Amended Eff. June 1, 2011.*

26 NCAC 02C .0502 PUBLICATION OF A TEMPORARY RULE

An agency shall submit each temporary rule for publication in the Code with the following:

- (1) An original Temporary Rulemaking Findings of Need form and copies (Rule .0503 of this Section).

- (2) If applicable, a letter delegating the authority for the signature on the form (Rule .0113 of this Subchapter).
- (3) An original and copies of the temporary rule (Rule .0103 of this Subchapter) prepared in accordance with Rule .0108 of this Subchapter, containing:
 - (a) an introductory statement (Rule .0404 of this Subchapter);
 - (b) the body of the rule (Rule .0405 of this Subchapter);
 - (c) the history note (Rule .0406 of this Subchapter).
- (4) An electronic version of the rule (Rule .0105 of this Subchapter).

*History Note: Authority G.S. 150B-21.19;
Temporary Adoption Eff. November 1, 1995;
Eff. April 1, 1996;
Amended Eff. April 1, 1997;
Temporary Amendment Eff. July 1, 2003;
Amended Eff. June 1, 2011; April 1, 2004.*

26 NCAC 02C .0602 PUBLICATION OF AN EMERGENCY RULE

An agency shall submit an emergency rule for review by the OAH and publication in the Register and the Code with the following:

- (1) An original Emergency Rule Findings of Need form and copy (Rule .0603 of this Section).
- (2) If applicable, a letter delegating the authority for the signature on the form (Rule .0113 of this Subchapter).
- (3) An original and copies of the emergency rule (Rule .0103 of this Subchapter) prepared in accordance with Rule .0108 of this Subchapter, containing:
 - (a) an introductory statement (Rule .0404 of this Subchapter);
 - (b) the body of the rule (Rule .0405 of this Subchapter);
 - (c) the history note (Rule .0406 of this Subchapter).
- (4) An electronic version of the rule (Rule .0105 of this Subchapter).
- (5) A copy of any document supporting the reason for the emergency rule pursuant to G.S. 150B-21.1A(a). The agency shall highlight the information in the document that is pertinent to the need for the emergency rule.

*History Note: Authority G.S. 150B-21.19;
Temporary Adoption Eff. July 1, 2003;
Eff. April 1, 2004;
Amended Eff. June 1, 2011.*

**26 NCAC 02C .0702 PUBLICATION OF A RULE ON
THE OAH WEBSITE**

An agency shall submit a rule to be published on the OAH website with the following:

- (1) An original Publication on the OAH Website form and copy (Rule .0703 of this Section).
- (2) If applicable, a letter delegating authority for the signature on the form (Rule .0113 of this Subchapter).
- (3) An original and copies of the rule (Rule .0103 of this Subchapter) prepared in accordance with Rule .0108 of this Subchapter, containing:

- (a) an introductory statement (Rule .0404 of this Subchapter);
- (b) the body of the rule (Rule .0405 of this Subchapter);
- (c) the history note (Rule .0406 of this Subchapter).
- (4) An electronic version of the rule (Rule .0105 of this Subchapter).

*History Note: Authority G.S. 150B-21.19;
Temporary Adoption Eff. July 1, 2003;
Eff. April 1, 2004;
Amended Eff. June 1, 2011.*

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission on Thursday July 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 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

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

Appointed by House

Jennie J. Hayman - Chairman
Daniel F. McLawhorn
Curtis Venable
Ann Reed
George Lucier

COMMISSION COUNSEL

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

RULES REVIEW COMMISSION MEETING DATES

July 21, 2011 August 18, 2011
September 15, 2011 October 20, 2011

AGENDA

RULES REVIEW COMMISSION

Thursday, July 21, 2011 9:00 A.M.

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-Up Matters:
 - A. Department of Labor – 13 NCAC 13 .0211 (DeLuca)
 - B. Board of Chiropractic Examiners – 21 NCAC 10 .0211 (DeLuca)
 - C. Irrigation Contractors' Licensing Board – 21 NCAC 23 .0102, .0401, .0404, .0406 (Bryan)
 - D. Marriage and Family Therapy Licensure Board – 21 NCAC 31 .0201, .0501, .0801 (Bryan)
 - E. Board of Examiners for Speech and Language Pathologists and Audiologists – 21 NCAC 64 .0307 (DeLuca)
- IV. Review of Log of Filings (Permanent Rules) for rules filed between May 23, 2011 and June 20, 2011
- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days of the RRC Meeting
- VI. Commission Business
 - Next meeting: August 18, 2011

**Commission Review
Log of Permanent Rule Filings
May 23, 2011 through June 20, 2011**

ALCOHOLIC BEVERAGE CONTROL COMMISSION

The rules in Chapter 2 are from the Alcoholic Beverage Control Commission.

The rules in Subchapter 2R are organizational rules, policies and procedures including general provisions (.0100); structure (.0200); publications, records and copies (.0300); rule-making (.0400); emergency rules (.0500); declaratory rulings (.0600); personnel policies: commission (.0700); adjudication: contested cases (.0800); fiscal rules for local boards (.0900); local abc board: personnel policies (.1000); local ABC Boards: relationship with state commission (.1100); opening and discontinuance of stores (.1200); storage and distribution of spirituous liquors: commercial transportation (.1300); purchase of alcoholic beverages by local boards (.1400); pricing of spirituous liquor (.1500); warehouse storage of spirituous liquors (.1600); retail sales of alcoholic beverages (.1700); purchase-transportation permits for individuals and mix beverages for permittees (.1800); sales of liquor to mixed beverages permittees (.1900); local board training (.2000).

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

CHILD CARE COMMISSION

The rules in Chapter 9 concern child care rules and include definitions (.0100); general provisions related to licensing (.0200); procedures for obtaining a license (.0300); issuance of provisional and temporary licenses (.0400); age and developmentally appropriate environments for centers (.0500); safety requirements for child care centers (.0600); health and other standards for center staff (.0700); health standards for children (.0800); nutrition standards (.0900); transportation standards (.1000); building code requirements for child care centers (.1300); space requirements (.1400); temporary care requirements (.1500); requirements for voluntary enhanced program standards (.1600); family child care home requirements (.1700); discipline (.1800); special procedures concerning abuse/neglect in child care (.1900); rulemaking and contested case procedures (.2000); religious-sponsored child care center requirements (.2100); administrative actions and civil penalties (.2200); forms (.2300); child care for mildly ill children (.2400); care for school-age children (.2500); child care for children who are medically fragile (.2600); criminal records checks (.2700); voluntary rated licenses (.2800); and developmental day services (.2900).

<u>Application for a License for a Child Care Center</u> Amend/*	10A NCAC 09 .0302
<u>Application for a License for a Family Child Care Home</u> Amend/*	10A NCAC 09 .1702
<u>Centers Operating under G.S. 110-106</u> Amend/*	10A NCAC 09 .2101

SOCIAL SERVICES COMMISSION

The rules in Chapter 70 concern children's services.

The rules in Subchapter 70E concern licensing of family foster homes including foster mutual home assessment (.0100); forms (.0200); definitions (.0300); standards for licensing (.0400); licensing regulations and procedures (.0500); general (.0600); licensing regulations and procedures (.0700); mutual home assessment (.0800); forms (.0900); capacity (.1000); and standards for licensing (.1100).

<u>New Licenses</u> Amend/*	10A NCAC 70E .0703
<u>Relicensure and Renewal</u> Amend/*	10A NCAC 70E .0704
<u>Method of Mutual Home Assessment</u> Amend/*	10A NCAC 70E .0802
<u>Responsible Individual List</u>	10A NCAC 70E .1115

Amend/*

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

Licensure 10A NCAC 70F .0102

Repeal/*

Staff 10A NCAC 70F .0207

Amend/*

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

Licensure 10A NCAC 70G .0403

Adopt/*

Placement Services 10A NCAC 70G .0503

Amend/*

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

Licensure 10A NCAC 70H .0114

Adopt/*

Preplacement Assessment 10A NCAC 70H .0405

Amend/*

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

Licensing Actions 10A NCAC 70I .0101

Amend/*

Personnel Qualifications 10A NCAC 70I .0404

Amend/*

The rules in Subchapter 70J concern minimum licensing standards for specialized residential child care programs including children's foster care camps (.0100); and emergency shelter care program (.0200).

Buildings and Ground Equipment 10A NCAC 70J .0106

Amend/*

The rules in Subchapter 70K concern residential maternity homes including general provisions (.0100); minimum licensure standards (.0200); and physical plant (.0300).

Licensing Actions 10A NCAC 70K .0103

Amend/*

Personnel 10A NCAC 70K .0201

Amend/*

SHERIFFS EDUCATION AND TRAINING STANDARDS COMMISSION

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

<u>Basic Law Enforcement Training Course for Deputies</u> Amend/*	12	NCAC 10B .0502
<u>Detention Officer Certification Course</u> Amend/*	12	NCAC 10B .0601
<u>Evaluation for Training Waiver</u> Amend/*	12	NCAC 10B .0603
<u>Comp Written Exam - Detention Officer Certification Course</u> Amend/*	12	NCAC 10B .0606
<u>Background Investigation</u> Amend/*	12	NCAC 10B .1305

MASSAGE AND BODYWORK THERAPY, BOARD OF

The rules in Chapter 30 concern organization and general provisions (.0100); application for licensure (.0200); licensing (.0300); business practices (.0400); standards of professional conduct (.0500); massage and bodywork therapy schools (.0600); continuing education (.0700); rules (.0800); and complaints, disciplinary action and hearings (.0900).

<u>Standards of Professional Conduct</u> Amend/*	21	NCAC 30 .0624
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NURSING, BOARD OF

The rules in Chapter 36 include rules relating to general provisions (.0100); licensure (.0200); approval of nursing programs (.0300); unlicensed personnel and nurses aides (.0400); professional corporations (.0500); articles of organization (.0600); nurse licensure compact (.0700); and approval and practice parameters for nurse practitioners (.0800).

<u>Existing Nursing Program</u> Amend/*	21	NCAC 36 .0303
<u>Faculty</u> Amend/*	21	NCAC 36 .0318

ENGINEERS AND SURVEYORS, BOARD OF EXAMINERS FOR

The rules in Chapter 56 concern the organization of the board (.0100); instructional programs (.0300); records and reports of the board, retention and dispositions (.0400); professional engineer (.0500); professional land surveyor (.0600); rules of professional conduct (.0700); firm registration (.0800); general business entities (.0900); temporary permit (.1000); seal (.1100); rulemaking proceedings (.1200); board disciplinary procedures (.1300); contested cases (.1400); fees (.1500); standards of practice for land surveying in North Carolina (.1600); and continuing professional competency (.1700).

<u>Records of Board Proceedings</u> Amend/*	21	NCAC 56 .0401
<u>Requirements for Licensing</u> Amend/*	21	NCAC 56 .0501
<u>Expirations and Renewals of Certificates</u> Amend/*	21	NCAC 56 .0505

RULES REVIEW COMMISSION

<u>Waiver for Licensees Serving on Active Duty in the Armed ...</u> Adopt/*	21	NCAC 56	.0506
<u>Expirations and Renewals of Certificates</u> Amend/*	21	NCAC 56	.0606
<u>Waiver for Licensees Serving on Active Duty in the Armed ...</u> Adopt/*	21	NCAC 56	.0607
<u>Rules of Professional Conduct</u> Amend/*	21	NCAC 56	.0701
<u>Annual Renewal</u> Amend/*	21	NCAC 56	.0804
<u>Standard Certification Requirements</u> Amend/*	21	NCAC 56	.1103
<u>Improper Practice by a Licensee</u> Amend/*	21	NCAC 56	.1301
<u>Unlawful Practice by and Unlicensed Person</u> Amend/*	21	NCAC 56	.1302
<u>Surveying Procedures</u> Amend/*	21	NCAC 56	.1602
<u>Classification of Vertical Control Survey</u> Amend/*	21	NCAC 56	.1605
<u>Specifications for Topographic and Planimetric Mapping, I...</u> Amend/*	21	NCAC 56	.1606
<u>Global Positioning Systems Surveys</u> Amend/*	21	NCAC 56	.1607
<u>Classification/Land Information System/Geographic Informa...</u> Amend/*	21	NCAC 56	.1608
<u>Requirements</u> Amend/*	21	NCAC 56	.1703
<u>Determination of Credit</u> Amend/*	21	NCAC 56	.1705
<u>Exemptions</u> Amend/*	21	NCAC 56	.1707
<u>Sponsors</u> Amend/*	21	NCAC 56	.1713

CONTESTED CASE DECISIONS

This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 431-3000. Also, the Contested Case Decisions are available on the Internet at <http://www.ncoah.com/hearings>.

OFFICE OF ADMINISTRATIVE HEARINGS

Chief Administrative Law Judge
JULIAN MANN, III

Senior Administrative Law Judge
FRED G. MORRISON JR.

ADMINISTRATIVE LAW JUDGES

Beecher R. Gray
Selina Brooks
Melissa Owens Lassiter
Don Overby

Randall May
A. B. Elkins II
Joe Webster

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>DATE</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<u>DEPARTMENT OF HEALTH AND HUMAN SERVICES</u>			
Marchell Gunter, The Home of Marchell F Gunter v. DHHS	10 DHR 0557	06/03/11	
Alternative Life Programs, Inc. Marchell F Gunter v. DHHS	10 DHR 3583	06/03/11	
Carolyn Rucker v. DHHS, Division of Medical Assistance	10 DHR 3717	05/19/11	
Alternative Life Programs, Inc. Marchell F Gunter v. DHHS	10 DHR 6204	06/03/11	
Cherie L Russell v. DHHS, Division of Health Services Regulation	10 DHR 6240	05/17/11	
Grover L. Hunt v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry Section	10 DHR 6710	05/25/11	
Raymond Taylor Mabe Jr. v. OAH, Debbie Odette/Glana Surles	10 DHR 8094	05/26/11	
Angela Clark v. DHHS	11 DHR 1565	06/03/11	
Singleton Developmental Center Inc, dba In The Beginning Child Care #3 v. Division of Child Development, DHHS	11 DHR 2990	05/27/11	
Singleton Developmental Center Inc, dba In The Beginning Child Care #3 v. Division of Child Development, DHHS	11 DHR 2993	05/27/11	
Singleton Developmental Center Inc, dba In The Beginning Child Care #3 v. Division of Child Development, DHHS	11 DHR 2994	05/27/11	
Singleton Developmental Center Inc, dba In The Beginning Child Care #3 v. Division of Child Development, DHHS	11 DHR 2995	05/27/11	
Yolanda McKinnon v. DHHS, Division of Child Development	11 DHR 4117	06/09/11	
<u>DEPARTMENT OF JUSTICE</u>			
Aaron R Taylor v. Company Police Program	10 DOJ 5356	05/27/11	
Dustin Clark v. Department of Justice, Company Police Program	10 DOJ 5877	05/24/11	
<u>DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES</u>			
Jeff Snavely/Triad Siteworks Inc v. NCDENR	11 EHR 2475	06/06/11	
<u>OFFICE OF STATE PERSONNEL</u>			
Melissa A McLean v. Ms. Gerri Robinson, MSW Social Services Director, Durham County, Dept. of Social Services	11 OSP 1379	06/03/11	
Vickie D. Randleman v. NCSU	11 OSP 3838	06/09/11	
<u>OFFICE OF SECRETARY OF STATE</u>			
Christopher R. Eakin v. Department of Secretary of State	11 SOS 0139	06/08/11	