

# ***NORTH CAROLINA REGISTER***

**VOLUME 26 • ISSUE 12 • Pages 911 - 941**

**December 15, 2011**

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**PUBLISHED BY**

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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.**

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Office of State Budget and Management  
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NC Association of County Commissioners  
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Raleigh, North Carolina 27603  
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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  
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**NORTH CAROLINA REGISTER**  
Publication Schedule for January 2011 – December 2011

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment period	Deadline to submit to RRC for review at next meeting	Earliest Eff. Date of Permanent Rule	Delayed Eff. Date of Permanent Rule 31st legislative day of the session beginning:	270 <sup>th</sup> day from publication in the Register
25:13	01/03/11	12/08/10	01/18/11	03/04/11	03/21/11	05/01/11	05/2012	09/30/11
25:14	01/18/11	12/22/10	02/02/11	03/21/11	03/21/11	05/01/11	05/2012	10/15/11
25:15	02/01/11	01/10/11	02/16/11	04/04/11	04/20/11	06/01/11	05/2012	10/29/11
25:16	02/15/11	01/25/11	03/02/11	04/18/11	04/20/11	06/01/11	05/2012	11/12/11
25:17	03/01/11	02/08/11	03/16/11	05/02/11	05/20/11	07/01/11	05/2012	11/26/11
25:18	03/15/11	02/22/11	03/30/11	05/16/11	05/20/11	07/01/11	05/2012	12/10/11
25:19	04/01/11	03/11/11	04/16/11	05/31/11	06/20/11	08/01/11	05/2012	12/27/11
25:20	04/15/11	03/25/11	04/30/11	06/14/11	06/20/11	08/01/11	05/2012	01/10/12
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
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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. 110**

**PROCLAMATION OF A STATE OF DISASTER FOR DAVIDSON AND  
RANDOLPH COUNTIES**

**WHEREAS**, the North Carolina Emergency Management Act, Chapter 166A of the North Carolina General Statutes authorizes the issuance of a proclamation defining an area as a disaster area as defined in N.C.G.S. § 166A-6 and categorizing the disaster as a Type I, Type II or Type III disaster; and

**WHEREAS**, on November 16, 2011, the counties of Davidson and Randolph in North Carolina were impacted by a series of severe storms, including high winds, strong rain, hail, flooding and tornadoes; and

**WHEREAS**, as a result of the severe weather and tornadoes, Davidson County proclaimed a local state of emergency on November 16, 2011; and

**WHEREAS**, as a result of the severe weather and tornadoes, Randolph County proclaimed a local state of emergency on November 17, 2011; and

**WHEREAS**, a joint preliminary damage assessment was done by local, state and federal emergency management officials on November 18, 2011; and

**WHEREAS**, I have determined that a State of Disaster, as defined in N.C.G.S. §166A-6, exists in the State of North Carolina specifically in the counties of Davidson and Randolph; and

**WHEREAS**, pursuant to N.C.G.S. § 166A-6, the criteria for a Type I disaster are met if: (1) the Secretary of Crime Control and Public Safety has provided a preliminary damage assessment to the Governor and the General Assembly; (2) the counties of Davidson and Randolph declared local states of emergency pursuant to N.C.G.S. § 166A-8; (3) the preliminary damage assessment has met or exceeded the criteria established for the Small Business Disaster Loan Program pursuant to 13 C.F.R. Part 123; and (4) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared; and

**WHEREAS**, pursuant to N.C.G.S. § 166A-6.01, if a State of Disaster is proclaimed, the Governor may make State funds available for disaster assistance in the form of individual assistance and public assistance for recovery from those disasters for which federal assistance under the Stafford Act is either not available or does not adequately meet the needs of the citizens of the State in the disaster area.

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

**Section 1.** Pursuant to N.C.G.S. § 166A-6, a Type I State of Disaster is hereby declared for Davidson County and Randolph County.

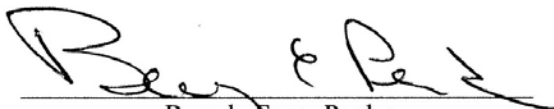
**Section 2.** I authorize state disaster assistance in the form of individual assistance grants to eligible entities located within the disaster area that meet the terms and conditions under N.C.G.S. § 166A-6.01(b)(1).

**Section 3.** I hereby order this proclamation: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) to be promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to ensure proper implementation of this proclamation.

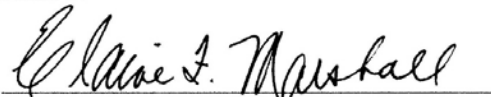
**Section 4.** This Type I Disaster Declaration shall expire 30 days after issuance unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date of first issuance.

**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 nineteenth day of November 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-sixth.



  
Beverly Haves Perdue  
Governor

ATTEST:

  
Elaine F. Marshall  
Secretary of State



U.S. Department of Justice  
Civil Rights Division

TCH:RSB:LB:RAK:par  
DJ 166-012-3  
2011-3839

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

November 17, 2011

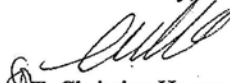
Deborah R. Stagner, Esq.  
Tharrington Smith  
P.O. Box 1151  
Raleigh, North Carolina 27602-1151

Dear Ms. Stagner:

This refers to the 2011 redistricting plan for the Union County School District in Union County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. We received your submission on September 21, 2011; additional information was received through November 8, 2011.

The Attorney General does not interpose any objection to the specified change. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41.

Sincerely,

  
T. Christian Herren, Jr.  
Chief, Voting Section

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

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

## **TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Notice** is hereby given in accordance with G.S. 150B-21.2 that the Division of Health Service Regulation intends to repeal the rules cited as 10A NCAC .0101-.0141, .0150, .0152-.0161, .0163-.0193, .0194-.0195, .0201-.0207, .0209-.0246, .0251-.0285, .0289, .0291-.0295.

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<http://www.ncdhhs.gov/dhsr/ruleactions.html>

**Proposed Effective Date:** April 1, 2012

### **Public Hearing:**

**Date:** February 7, 2012

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

**Location:** Room 131 Wright Building, NC Division of Health Service Regulation, Dorothea Dix Campus, 1201 Umstead Drive, Raleigh, NC 27603

**Reason for Proposed Action:** These rules are obsolete. Repeal of these rules is necessary because G.S. 150B excludes the State Medical Facilities Plan from within the definition of a rule.

**Procedure by which a person can object to the agency on a proposed rule:** An individual may object to the agency on the proposed rules by submitting written comments on the proposed rules. They may also object by attending the public hearing and personally voice their objections during that time.

**Comments may be submitted to:** Megan Lamphere, Division of Health Service Regulation, 2708 Mail Service Center, Raleigh, NC 27699-2708, fax (919)733-9379, email [DHSR.RulesCoordinator@dhhs.nc.gov](mailto:DHSR.RulesCoordinator@dhhs.nc.gov)

**Comment period ends:** February 13, 2012

**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 (check all that apply).**

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Date submitted to OSBM:
- ☐ Substantial economic impact (≥\$500,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

Note: The Codifier of Rules has determined that publication of the complete text of these rules proposed to be repealed is impractical (G.S. 150B-17(b)).

## **SUBCHAPTER 14B - SMFP**

### **SECTION .0100 - PLANNING POLICIES AND NEED DETERMINATIONS FOR 1999 AND 2000**

- 10A NCAC 14B .0101 APPLICABILITY OF RULES RELATED TO THE 1999 STATE MEDICAL FACILITIES PLAN**
- 10A NCAC 14B .0102 CERTIFICATE OF NEED REVIEW CATEGORIES**
- 10A NCAC 14B .0103 CERTIFICATE OF NEED REVIEW SCHEDULE**
- 10A NCAC 14B .0104 MULTI-COUNTY GROUPINGS**
- 10A NCAC 14B .0105 SERVICE AREAS AND PLANNING AREAS**
- 10A NCAC 14B .0106 REALLOCATIONS AND ADJUSTMENTS**
- 10A NCAC 14B .0107 ACUTE CARE BED NEED DETERMINATION (REVIEW CATEGORY A)**
- 10A NCAC 14B .0108 REHABILITATION BED NEED DETERMINATION (REVIEW CATEGORY E)**
- 10A NCAC 14B .0109 AMBULATORY SURGICAL FACILITIES NEED DETERMINATION (REVIEW CATEGORY E)**
- 10A NCAC 14B .0110 OPEN HEART SURGERY SERVICES NEED DETERMINATIONS (REVIEW CATEGORY H)**
- 10A NCAC 14B .0111 HEART-LUNG BYPASS MACHINES NEED DETERMINATION (REVIEW CATEGORY H)**
- 10A NCAC 14B .0112 FIXED CARDIAC**



**CATHETERIZATION EQUIPMENT AND FIXED CARDIAC ANGIOPLASTY EQUIPMENT NEED DETERMINATION (REVIEW CATEGORY J)**  
**10A NCAC 14B .0113 MOBILE CARDIAC CATHETERIZATION EQUIPMENT AND MOBILE CARDIAC ANGIOPLASTY EQUIPMENT NEED DETERMINATION (REVIEW CATEGORY J)**  
**10A NCAC 14B .0114 BURN INTENSIVE CARE SERVICES NEED DETERMINATION (REVIEW CATEGORY H)**  
**10A NCAC 14B .0115 POSITRON EMISSION TOMOGRAPHY SCANNERS NEED DETERMINATION (REVIEW CATEGORY H)**  
**10A NCAC 14B .0116 BONE MARROW TRANSPLANTATION SERVICES NEED DETERMINATION (REVIEW CATEGORY H)**  
**10A NCAC 14B .0117 SOLID ORGAN TRANSPLANTATION SERVICES NEED DETERMINATION (REVIEW CATEGORY H)**  
**10A NCAC 14B .0118 GAMMA KNIFE NEED DETERMINATION (REVIEW CATEGORY H)**  
**10A NCAC 14B .0119 LITHOTRIPTER NEED DETERMINATION (REVIEW CATEGORY H)**  
**10A NCAC 14B .0120 RADIATION ONCOLOGY TREATMENT CENTERS NEED DETERMINATION (REVIEW CATEGORY H)**  
**10A NCAC 14B .0121 MAGNETIC RESONANCE IMAGING SCANNERS NEED DETERMINATION (REVIEW CATEGORY H)**  
**10A NCAC 14B .0122 NURSING CARE BED NEED DETERMINATION (REVIEW CATEGORY B)**  
**10A NCAC 14B .0123 HOME HEALTH AGENCY OFFICE NEED DETERMINATION (REVIEW CATEGORY F)**  
**10A NCAC 14B .0124 DIALYSIS STATION NEED DETERMINATION**  
**10A NCAC 14B .0125 HOSPICE NEED DETERMINATION (REVIEW CATEGORY F)**  
**10A NCAC 14B .0126 HOSPICE INPATIENT FACILITY BED NEED DETERMINATION (REVIEW CATEGORY F)**  
**10A NCAC 14B .0127 PSYCHIATRIC BED NEED DETERMINATION (REVIEW CATEGORY C)**  
**10A NCAC 14B .0128 CHEMICAL DEPENDENCY (SUBSTANCE ABUSE) TREATMENT BED NEED DETERMINATION (REVIEW CATEGORY C)**  
**10A NCAC 14B .0129 INTERMEDIATE CARE BEDS FOR THE MENTALLY RETARDED NEED DETERMINATION (REVIEW CATEGORY C)**  
**10A NCAC 14B .0130 POLICIES FOR GENERAL ACUTE CARE HOSPITALS**  
**10A NCAC 14B .0131 POLICIES FOR INPATIENT REHABILITATION SERVICES**  
**10A NCAC 14B .0132 POLICY FOR AMBULATORY SURGICAL FACILITIES**  
**10A NCAC 14B .0133 POLICY FOR PROVISION OF HOSPITAL-BASED LONG-TERM NURSING CARE**  
**10A NCAC 14B .0134 POLICY FOR NURSING CARE**

**BEDS IN CONTINUING CARE FACILITIES**  
**10A NCAC 14B .0135 POLICY FOR DETERMINATION OF NEED FOR ADDITIONAL NURSING BEDS IN SINGLE PROVIDER COUNTIES**  
**10A NCAC 14B .0136 POLICY FOR RELOCATION OF CERTAIN NURSING FACILITY BEDS**  
**10A NCAC 14B .0137 POLICY FOR HOME HEALTH SERVICES**  
**10A NCAC 14B .0138 POLICY FOR END-STAGE RENAL DISEASE DIALYSIS SERVICES**  
**10A NCAC 14B .0139 POLICIES FOR PSYCHIATRIC INPATIENT FACILITIES**  
**10A NCAC 14B .0140 POLICY FOR CHEMICAL DEPENDENCY TREATMENT FACILITIES**  
**10A NCAC 14B .0141 POLICIES FOR INTERMEDIATE CARE FACILITIES FOR MENTALLY RETARDED**

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**10A NCAC 14B .0150 APPLICABILITY OF RULES RELATED TO THE 2000 STATE MEDICAL FACILITIES PLAN**

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**10A NCAC 14B .0152 CERTIFICATE OF NEED REVIEW SCHEDULE**  
**10A NCAC 14B .0153 MULTI-COUNTY GROUPINGS**  
**10A NCAC 14B .0154 SERVICE AREAS AND PLANNING AREAS**  
**10A NCAC 14B .0155 REALLOCATIONS AND ADJUSTMENTS**  
**10A NCAC 14B .0156 ACUTE CARE BED NEED DETERMINATION (REVIEW CATEGORY A)**  
**10A NCAC 14B .0157 REHABILITATION BED NEED DETERMINATION (REVIEW CATEGORY E)**  
**10A NCAC 14B .0158 AMBULATORY SURGICAL FACILITIES NEED DETERMINATION (REVIEW CATEGORY E)**  
**10A NCAC 14B .0159 OPEN HEART SURGERY SERVICES NEED DETERMINATIONS (REVIEW CATEGORY H)**  
**10A NCAC 14B .0160 HEART-LUNG BYPASS MACHINES NEED DETERMINATION (REVIEW CATEGORY H)**  
**10A NCAC 14B .0161 FIXED CARDIAC CATHETERIZATION EQUIPMENT AND FIXED CARDIAC ANGIOPLASTY EQUIPMENT NEED DETERMINATION (REVIEW CATEGORY J)**

*Authority G.S. 131E-176(25); 131E-177(1); 131E-177(I); 131E-183(b); 131E-183(1).*

**10A NCAC 14B .0163 BURN INTENSIVE CARE SERVICES NEED DETERMINATION (REVIEW CATEGORY H)**  
**10A NCAC 14B .0164 POSITRON EMISSION TOMOGRAPHY SCANNERS NEED DETERMINATION**

**(REVIEW CATEGORY H)**

10A NCAC 14B .0165 BONE MARROW TRANSPLANTATION SERVICES NEED DETERMINATION (REVIEW CATEGORY H)  
 10A NCAC 14B .0166 SOLID ORGAN TRANSPLANTATION SERVICES NEED DETERMINATION (REVIEW CATEGORY H)  
 10A NCAC 14B .0167 GAMMA KNIFE NEED DETERMINATION (REVIEW CATEGORY H)  
 10A NCAC 14B .0168 LITHOTRIPTER NEED DETERMINATION (REVIEW CATEGORY H)  
 10A NCAC 14B .0169 RADIATION ONCOLOGY TREATMENT CENTERS NEED DETERMINATION (REVIEW CATEGORY H)  
 10A NCAC 14B .0170 MAGNETIC RESONANCE IMAGING SCANNERS NEED DETERMINATION (REVIEW CATEGORY H)  
 10A NCAC 14B .0171 MAGNETIC RESONANCE IMAGING SCANNERS NEED DETERMINATION FOR PLANNING RADIATION ONCOLOGY TREATMENTS (REVIEW CATEGORY H)  
 10A NCAC 14B .0172 NURSING CARE BED NEED DETERMINATION (REVIEW CATEGORY B)  
 10A NCAC 14B .0173 DEMONSTRATION PROJECT FOR CONTINUING CARE OF ADULTS WITH DEVELOPMENTAL DISABILITIES AND THEIR AGING CAREGIVERS (REVIEW CATEGORY J)  
 10A NCAC 14B .0174 HOME HEALTH AGENCY OFFICE NEED DETERMINATION (REVIEW CATEGORY F)  
 10A NCAC 14B .0175 DIALYSIS STATION NEED DETERMINATION METHODOLOGY  
 10A NCAC 14B .0176 DIALYSIS STATION ADJUSTED NEED DETERMINATION (REVIEW CATEGORY G)  
 10A NCAC 14B .0177 HOSPICE NEED DETERMINATION (REVIEW CATEGORY F)  
 10A NCAC 14B .0178 HOSPICE INPATIENT FACILITY BED NEED DETERMINATION (REVIEW CATEGORY F)  
 10A NCAC 14B .0179 PSYCHIATRIC BED NEED DETERMINATION (REVIEW CATEGORY C)  
 10A NCAC 14B .0180 CHEMICAL DEPENDENCY (SUBSTANCE ABUSE) TREATMENT BED NEED DETERMINATION (REVIEW CATEGORY C)  
 10A NCAC 14B .0181 INTERMEDIATE CARE BEDS FOR THE MENTALLY RETARDED NEED DETERMINATION (REVIEW CATEGORY C)  
 10A NCAC 14B .0182 POLICIES FOR GENERAL ACUTE CARE HOSPITALS  
 10A NCAC 14B .0183 POLICIES FOR INPATIENT REHABILITATION SERVICES  
 10A NCAC 14B .0184 POLICY FOR AMBULATORY SURGICAL FACILITIES  
 10A NCAC 14B .0185 POLICY FOR PROVISION OF HOSPITAL-BASED LONG-TERM NURSING CARE  
 10A NCAC 14B .0186 POLICY FOR PLAN EXEMPTION FOR CONTINUING CARE RETIREMENT COMMUNITIES  
 10A NCAC 14B .0187 POLICY FOR DETERMINATION

**OF NEED FOR ADDITIONAL NURSING BEDS IN SINGLE PROVIDER COUNTIES**

10A NCAC 14B .0188 POLICY FOR RELOCATION OF CERTAIN NURSING FACILITY BEDS  
 10A NCAC 14B .0189 POLICIES FOR HOME HEALTH SERVICES  
 10A NCAC 14B .0190 POLICY FOR RELOCATION OF DIALYSIS STATIONS  
 10A NCAC 14B .0191 POLICIES FOR PSYCHIATRIC INPATIENT FACILITIES  
 10A NCAC 14B .0192 POLICY FOR CHEMICAL DEPENDENCY TREATMENT FACILITIES  
 10A NCAC 14B .0193 POLICIES FOR INTERMEDIATE CARE FACILITIES FOR MENTALLY RETARDED

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

10A NCAC 14B .0194 EQUIPMENT NEED DETERMINATIONS FOR 1996 SMFP (REVIEW CATEGORY H)  
 10A NCAC 14B .0195 OPEN HEART SURGERY SERVICES NEED DETERMINATIONS FOR 1996 SMFP (REVIEW CATEGORY H)

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**SECTION .0200 - PLANNING POLICIES AND NEED DETERMINATION FOR 2001 AND 2002**

10A NCAC 14B .0201 APPLICABILITY OF RULES RELATED TO THE 2001 STATE MEDICAL FACILITIES PLAN  
 10A NCAC 14B .0202 CERTIFICATE OF NEED REVIEW SCHEDULE  
 10A NCAC 14B .0203 MULTI-COUNTY GROUPINGS  
 10A NCAC 14B .0204 SERVICE AREAS AND PLANNING AREAS  
 10A NCAC 14B .0205 REALLOCATIONS AND ADJUSTMENTS  
 10A NCAC 14B .0206 ACUTE CARE BED NEED DETERMINATION (REVIEW CATEGORY A)  
 10A NCAC 14B .0207 REHABILITATION BED NEED DETERMINATION (REVIEW CATEGORY E)

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b); 131E-183(1).*

10A NCAC 14B .0209 OPEN HEART SURGERY SERVICES NEED DETERMINATIONS (REVIEW CATEGORY H)  
 10A NCAC 14B .0210 HEART-LUNG BYPASS MACHINES NEED DETERMINATION (REVIEW CATEGORY H)  
 10A NCAC 14B .0211 FIXED CARDIAC CATHETERIZATION EQUIPMENT AND FIXED CARDIAC ANGIOPLASTY EQUIPMENT NEED DETERMINATIONS (REVIEW CATEGORY H)  
 10A NCAC 14B .0212 SHARED FIXED CARDIAC

**CATHETERIZATION EQUIPMENT NEED DETERMINATION (REVIEW CATEGORY H)**  
**10A NCAC 14B .0213 BURN INTENSIVE CARE SERVICES NEED DETERMINATION (REVIEW CATEGORY H)**  
**10A NCAC 14B .0214 POSITRON EMISSION TOMOGRAPHY SCANNERS NEED DETERMINATION (REVIEW CATEGORY H)**  
**10A NCAC 14B .0215 BONE MARROW TRANSPLANTATION SERVICES NEED DETERMINATION (REVIEW CATEGORY H)**  
**10A NCAC 14B .0216 SOLID ORGAN TRANSPLANTATION SERVICES NEED DETERMINATION (REVIEW CATEGORY H)**  
**10A NCAC 14B .0217 GAMMA KNIFE UNIT NEED DETERMINATION (REVIEW CATEGORY H)**  
**10A NCAC 14B .0218 LITHOTRIPTER NEED DETERMINATION (REVIEW CATEGORY H)**  
**10A NCAC 14B .0219 RADIATION ONCOLOGY TREATMENT CENTERS NEED DETERMINATION (REVIEW CATEGORY H)**  
**10A NCAC 14B .0220 MAGNETIC RESONANCE IMAGING SCANNERS NEED DETERMINATION BASED ON FIXED MRI SCANNER UTILIZATION (REVIEW CATEGORY H)**  
**10A NCAC 14B .0221 MAGNETIC RESONANCE IMAGING SCANNERS NEED DETERMINATION BASED ON MOBILE MRI SCANNER UTILIZATION (REVIEW CATEGORY H)**  
**10A NCAC 14B .0222 NURSING CARE BED NEED DETERMINATION (REVIEW CATEGORY B)**  
**10A NCAC 14B .0223 MEDICARE-CERTIFIED HOME HEALTH AGENCY OFFICE NEED DETERMINATION (REVIEW CATEGORY F)**  
**10A NCAC 14B .0224 DIALYSIS NEED DETERMINATION METHODOLOGY FOR REVIEWS BEGINNING JANUARY 1, 2001**  
**10A NCAC 14B .0225 DIALYSIS STATION NEED DETERMINATION METHODOLOGY FOR REVIEWS BEGINNING SEPTEMBER 1, 2001**  
**10A NCAC 14B .0226 HOSPICE CARE NEED DETERMINATION (REVIEW CATEGORY F)**  
**10A NCAC 14B .0227 HOSPICE INPATIENT FACILITY BED NEED DETERMINATION (REVIEW CATEGORY F)**  
**10A NCAC 14B .0228 PSYCHIATRIC BED NEED DETERMINATION (REVIEW CATEGORY C)**  
**10A NCAC 14B .0229 CHEMICAL DEPENDENCY (SUBSTANCE ABUSE) TREATMENT BED NEED DETERMINATION (REVIEW CATEGORY C)**  
**10A NCAC 14B .0230 CHEMICAL DEPENDENCY (SUBSTANCE ABUSE) ADULT DETOX-ONLY BED NEED DETERMINATION (REVIEW CATEGORY C)**  
**10A NCAC 14B .0231 INTERMEDIATE CARE BEDS FOR THE MENTALLY RETARDED NEED DETERMINATION (REVIEW CATEGORY C)**  
**10A NCAC 14B .0232 POLICIES FOR GENERAL ACUTE CARE HOSPITALS**

**10A NCAC 14B .0233 POLICIES FOR CARDIAC CATHETERIZATION EQUIPMENT AND SERVICES**  
**10A NCAC 14B .0234 POLICIES FOR TRANSPLANTATION SERVICES**  
**10A NCAC 14B .0235 POLICY FOR MRI SCANNERS**  
**10A NCAC 14B .0236 POLICY FOR PROVISION OF HOSPITAL-BASED LONG-TERM CARE NURSING CARE**  
**10A NCAC 14B .0237 POLICY FOR PLAN EXEMPTION FOR CONTINUING CARE RETIREMENT COMMUNITIES**  
**10A NCAC 14B .0238 POLICY FOR DETERMINATION OF NEED FOR ADDITIONAL NURSING BEDS IN SINGLE PROVIDER COUNTIES**  
**10A NCAC 14B .0239 POLICY FOR RELOCATION OF CERTAIN NURSING FACILITY BEDS**  
**10A NCAC 14B .0240 POLICY FOR TRANSFER OF BEDS FROM STATE PSYCHIATRIC HOSPITAL NURSING FACILITIES TO COMMUNITY FACILITIES**  
**10A NCAC 14B .0241 POLICIES FOR RELOCATION OF NURSING FACILITY BEDS**  
**10A NCAC 14B .0242 POLICIES FOR MEDICARE-CERTIFIED HOME HEALTH SERVICES**  
**10A NCAC 14B .0243 POLICY FOR RELOCATION OF DIALYSIS STATIONS**  
**10A NCAC 14B .0244 POLICIES FOR PSYCHIATRIC INPATIENT FACILITIES**  
**10A NCAC 14B .0245 POLICY FOR CHEMICAL DEPENDENCY TREATMENT FACILITIES**  
**10A NCAC 14B .0246 POLICIES FOR INTERMEDIATE CARE FACILITIES FOR MENTALLY RETARDED**

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**10A NCAC 14B .0251 APPLICABILITY OF RULES RELATED TO THE 2002 STATE MEDICAL FACILITIES PLAN**  
**10A NCAC 14B .0252 CERTIFICATE OF NEED REVIEW SCHEDULE**  
**10A NCAC 14B .0253 MULTI-COUNTY GROUPINGS**  
**10A NCAC 14B .0254 SERVICE AREAS AND PLANNING AREAS**  
**10A NCAC 14B .0255 REALLOCATIONS AND ADJUSTMENTS**  
**10A NCAC 14B .0256 ACUTE CARE BED NEED DETERMINATION (REVIEW CATEGORY A)**  
**10A NCAC 14B .0257 INPATIENT REHABILITATION BED NEED DETERMINATION (REVIEW CATEGORY E)**  
**10A NCAC 14B .0258 OPERATING ROOM NEED DETERMINATIONS (REVIEW CATEGORY E)**  
**10A NCAC 14B .0259 OPEN HEART SURGERY SERVICES NEED DETERMINATION (REVIEW CATEGORY H)**  
**10A NCAC 14B .0260 HEART-LUNG BYPASS MACHINES NEED DETERMINATIONS (REVIEW CATEGORY H)**  
**10A NCAC 14B .0261 FIXED CARDIAC**

**CATHETERIZATION/ANGIOPLASTY EQUIPMENT  
NEED DETERMINATIONS  
(REVIEW CATEGORY H)**  
**10A NCAC 14B .0262 SHARED FIXED CARDIAC  
CATHETERIZATION/ANGIOPLASTY EQUIPMENT  
NEED DETERMINATION  
(REVIEW CATEGORY H)**  
**10A NCAC 14B .0263 BURN INTENSIVE CARE  
SERVICES NEED DETERMINATION (REVIEW  
CATEGORY H)**  
**10A NCAC 14B .0264 BONE MARROW  
TRANSPLANTATION SERVICES NEED  
DETERMINATION (REVIEW CATEGORY H)**  
**10A NCAC 14B .0265 SOLID ORGAN  
TRANSPLANTATION SERVICES NEED  
DETERMINATION (REVIEW CATEGORY H)**  
**10A NCAC 14B .0266 GAMMA KNIFE NEED  
DETERMINATION (REVIEW CATEGORY H)**  
**10A NCAC 14B .0267 LITHOTRIPTER NEED  
DETERMINATION (REVIEW CATEGORY H)**  
**10A NCAC 14B .0268 RADIATION ONCOLOGY  
TREATMENT CENTERS NEED DETERMINATION  
(REVIEW CATEGORY H)**  
**10A NCAC 14B .0269 POSITRON EMISSION  
TOMOGRAPHY SCANNERS NEED DETERMINATION  
(REVIEW CATEGORY H)**  
**10A NCAC 14B .0270 FIXED MAGNETIC  
RESONANCE IMAGING SCANNERS NEED  
DETERMINATION BASED ON FIXED MRI SCANNER  
UTILIZATION (REVIEW CATEGORY H)**  
**10A NCAC 14B .0271 MAGNETIC RESONANCE  
IMAGING SCANNERS NEED DETERMINATION FOR A  
DEDICATED FIXED BREAST MRI SCANNER (REVIEW  
CATEGORY H)**  
**10A NCAC 14B .0272 FIXED MAGNETIC  
RESONANCE IMAGING SCANNERS NEED  
DETERMINATION BASED ON  
MOBILE MRI SCANNER UTILIZATION (REVIEW  
CATEGORY H)**  
**10A NCAC 14B .0273 NURSING CARE BED NEED  
DETERMINATION (REVIEW CATEGORY B)**  
**10A NCAC 14B .0274 ADULT CARE HOME BED  
NEED DETERMINATION (REVIEW CATEGORY B)**  
**10A NCAC 14B .0275 MEDICARE-CERTIFIED HOME  
HEALTH AGENCY OFFICE NEED DETERMINATION  
(REVIEW CATEGORY F)**  
**10A NCAC 14B .0276 DIALYSIS STATION NEED  
DETERMINATION METHODOLOGY FOR REVIEWS  
BEGINNING APRIL 1, 2002**  
**10A NCAC 14B .0277 DIALYSIS STATION NEED  
DETERMINATION METHODOLOGY FOR REVIEWS  
BEGINNING OCTOBER 1, 2002**  
**10A NCAC 14B .0278 HOSPICE HOME CARE NEED  
DETERMINATION (REVIEW CATEGORY F)**  
**10A NCAC 14B .0279 SINGLE COUNTY HOSPICE  
INPATIENT BED NEED DETERMINATION (REVIEW  
CATEGORY F)**  
**10A NCAC 14B .0280 CONTIGUOUS COUNTY  
HOSPICE INPATIENT BED NEED DETERMINATION**

**(REVIEW CATEGORY F)**  
**10A NCAC 14B .0281 PSYCHIATRIC BED NEED  
DETERMINATION (REVIEW CATEGORY C)**  
**10A NCAC 14B .0282 CHEMICAL DEPENDENCY  
(SUBSTANCE ABUSE) TREATMENT BED NEED  
DETERMINATION (REVIEW CATEGORY C)**  
**10A NCAC 14B .0283 CHEMICAL DEPENDENCY  
(SUBSTANCE ABUSE) ADULT DETOX-ONLY BED  
NEED DETERMINATION (REVIEW CATEGORY C)**  
**10A NCAC 14B .0284 INTERMEDIATE CARE BEDS  
FOR THE MENTALLY RETARDED NEED  
DETERMINATION (REVIEW  
CATEGORY C)**  
**10A NCAC 14B .0285 POLICIES FOR GENERAL  
ACUTE CARE HOSPITALS**

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b); 131E-183(1).*

**10A NCAC 14B .0289 POLICIES FOR NURSING CARE  
FACILITIES**

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**10A NCAC 14B .0291 POLICIES FOR MEDICARE-  
CERTIFIED HOME HEALTH SERVICES**  
**10A NCAC 14B .0292 POLICY FOR RELOCATION OF  
DIALYSIS STATIONS**  
**10A NCAC 14B .0293 POLICIES FOR PSYCHIATRIC  
INPATIENT FACILITIES**  
**10A NCAC 14B .0294 POLICY FOR CHEMICAL  
DEPENDENCY TREATMENT FACILITIES**  
**10A NCAC 14B .0295 POLICIES FOR  
INTERMEDIATE CARE FACILITIES FOR MENTALLY  
RETARDED**

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

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## TITLE 12 – DEPARTMENT OF JUSTICE

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Private Protective Services Board intends to amend the rules cited as 12 NCAC 07D .0201, .0203, .0701, .0706, .0801, .0806, .0806, 0902.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
[www.ncdoj.gov](http://www.ncdoj.gov)

**Proposed Effective Date:** April 1, 2012

**Public Hearing:**

**Date:** December 30, 2011

**Time:** 2:00 p.m.

**Location:** 4901 Glenwood Avenue, Suite 200, Raleigh, NC 27612

**Reason for Proposed Action:** *These proposed changes are to update the photograph requirements to require digital photographs and to ensure that applicants are fiscally responsible.*

**Procedure by which a person can object to the agency on a proposed rule:** *Objections to the proposed rule changes shall be submitted before the end of the comment period in writing to Anthony Bonapart, Deputy Director, Private Protective Services Board, 4901 Glenwood Avenue, Suite 200, Raleigh, NC 27612.*

**Comments may be submitted to:** *Anthony Bonapart, PPSB Deputy Director, 4901 Glenwood Avenue, Raleigh, NC 27612*

**Comment period ends:** *February 13, 2012*

**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 (check all that apply).**

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected
- ☐ Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Date submitted to OSBM:
- ☐ Substantial economic impact (≥\$500,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

## SUBCHAPTER 07D - PRIVATE PROTECTIVE SERVICES BOARD

### SECTION .0200 - LICENSES: TRAINEE PERMITS

#### 12 NCAC 07D .0201 APPLICATION FOR LICENSES AND TRAINEE PERMITS

(a) Each applicant for a license or trainee permit shall submit an original and one copy of the application to the Board. The application shall be accompanied by:

- (1) two sets of classifiable fingerprints on an applicant fingerprint card;
- (2) one head and shoulders digital photograph of the applicant in JPG format of acceptable quality for identification, ~~one inch by one inch in size,~~ taken within six months prior to

~~submission;~~ submission and submitted preferably by e-mail to PPSASL-Photos@ncdoj.gov, by compact disc, or on a 3.5 floppy diskette;

- (3) certified statement of the result of a criminal history records search by the appropriate governmental authority housing criminal record information or clerk of superior court in each county where the applicant has resided within the immediately preceding 60 months;
- (4) the applicant's non-refundable application fee; ~~and~~
- (5) actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected by the Private Protective Services ~~Board;~~ Board; and
- (6) an Equifax credit check run within 30 days of the license application submission date.

(b) Applications for trainee permits shall be accompanied by a notarized statement on a form provided by the Board and signed by the applicant and his prospective supervisor, stating that the trainee applicant shall at all times work with and under the direct supervision of that supervisor.

(c) Private investigator trainees applying for a license must make available for inspection a log of experience on a form provided by the Board.

(d) Each applicant must provide evidence of high school graduation either by diploma, G.E.D. certificate, or other acceptable proof.

(e) Each applicant for a license shall meet personally with either a Board investigator, the Screening Committee; the Director, or a Board representative designated by the Director prior to being issued a license. The applicant shall discuss the provisions of G.S. 74C and the administrative rules during the personal meeting. The applicant shall sign a form provided by the Board indicating that they have reviewed the information with the Board's representative and that they have an understanding of G.S. 74C and the administrative rules.

*Authority G.S. 74C-2; 74C-5; 74C-8; 74C-8.1.*

#### 12 NCAC 07D .0203 RENEWAL OR RE-ISSUE OF LICENSES AND TRAINEE PERMITS

(a) Each applicant for a license or trainee permit renewal shall submit an original and one copy of a renewal form. This form shall be submitted to the administrator not less than 30 days prior to expiration of the applicant's current license or trainee permit and shall be accompanied by:

- (1) a head and shoulders digital color photograph of the applicant in JPG format of a quality sufficient for identification, ~~one inch by one inch in size and~~ taken within six months of the ~~application;~~ application and submitted preferably by e-mail to PPSASL-Photos@ncdoj.gov, by compact disc, or on a 3.5 floppy diskette;

- (2) statements of the result of a local criminal history records search by the city-county identification bureau or clerk of superior court in each county where the applicant has resided within the immediate preceding 12 months or a criminal record check from a third party criminal record check provider;
- (3) the applicant's renewal fee; and
- (4) proof of liability insurance as set out in G.S. 74C-10(e).

(b) If a licensee in good standing with the Board has maintained a license at least two years and then allows the license to expire, the license may be re-issued if application is made within three years of the expiration date and the following documentation is submitted to the Board:

- (1) an Application For Reinstatement of an Expired License;
- (2) one set of classifiable fingerprints on an applicant fingerprint card;
- (3) one head and shoulders photograph(s) of the applicant of a quality sufficient for identification, one inch by one inch in size and taken within six months of the application;
- (4) statements of the result of a local criminal history records search by the city-county identification bureau or clerk of superior court in each county where the applicant has resided within the immediate preceding 60 months or a criminal record check from a third party criminal record check provider;
- (5) the applicant's non-refundable application fee;
- (6) proof of liability insurance as set out in G.S. 74C-10(e); and
- (7) a separate check or money order made payable to the State Bureau of Investigations to cover criminal record checks performed by the State Bureau of Investigations.

(c) Members of the armed forces whose license is 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 any continuing education requirements prescribed by the Board. A copy of the military order or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue must be furnished to the Board.

*Authority G.S. 74C-5; 74C-8; 74C-9.*

## **SECTION .0700 - SECURITY GUARD REGISTRATION (UNARMED)**

### **12 NCAC 07D .0701 APPLICATION FOR UNARMED SECURITY GUARD REGISTRATION**

(a) Each employer or his designee shall submit and sign an application form for the registration of each employee to the Board. This form shall be accompanied by:

- (1) two sets of classifiable fingerprints on an applicant fingerprint card;

- (2) two head and shoulders color digital photographs of the applicant in JPG format of acceptable quality for identification, ~~one-inch by one-inch in size,~~ taken within six months prior to ~~submission;~~ submission and submitted preferably by e-mail to PPSASL-Photos@ncdoj.gov, by compact disc, or on a 3.5 floppy diskette;

- (3) certified statement of the result of a criminal records search from the appropriate governmental authority housing criminal record information or clerk of superior court in each area where the applicant has resided within the immediately preceding 48 months;
- (4) the applicant's non-refundable registration fee; and
- (5) actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected by the Private Protective Services Board.

(b) The employer of each applicant for registration shall give the applicant a copy of the application and shall retain a copy of the application in the individual's personnel file in the employers' office.

(c) The applicant's copy of the application shall serve as a temporary registration card which shall be carried by the applicant when he is within the scope of his employment and which shall be exhibited upon the request of any law enforcement officer or authorized representative of the Board.

(d) A statement signed by a certified trainer that the applicant has successfully completed the training requirements of 12 NCAC 7D .0707 shall be submitted to the Director with the application.

(e) A copy of the statement specified in Paragraph (d) of this Rule shall be retained by the licensee in the individual applicant's personnel file in the employer's office.

*Authority G.S. 74C-5; 74C-8.1; 74C-11.*

### **12 NCAC 07D .0706 RENEWAL OR REISSUE OF UNARMED SECURITY GUARD REGISTRATION**

(a) Each applicant for renewal of a registration identification card or his employer, shall complete a form provided by the Board. This form shall be submitted not less than 30 days prior to the expiration of the applicant's current registration and shall be accompanied by:

- (1) two recent head and shoulders color digital photographs of the applicant in JPG format of acceptable quality for identification, ~~one-inch by one-inch in size,~~ taken within six months prior to ~~submission and submitted preferably by e-mail to PPSASL-Photos@ncdoj.gov, by compact disc, or on a 3.5 floppy diskette;~~
- (2) statements of any criminal record obtained from the appropriate authority in each area where the applicant has resided within the immediate preceding 12 months or a criminal

record check from a third party criminal record check provider;

- (3) the applicant's renewal fee; and
- (4) actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected by the Private Protective Services Board.

(b) Each applicant for reissue of a registration identification card shall complete, and his employer shall sign a form provided by the Board. This form shall be submitted to the Board and accompanied by:

- (1) two recent head and shoulders color digital photographs of the applicant in JPG format of acceptable quality for identification, ~~one inch by one inch in size; and taken within six months prior to submission and submitted preferably by e-mail to PPSASL-Photos@ncdoj.gov by compact disc, or on a 3.5 floppy diskette; and~~
- (2) the applicant's reissue fee.

(c) The employer of each applicant for a registration renewal or reissue shall give the applicant a copy of the application which will serve as a record of application for renewal or reissue and shall retain a copy of the application in the individual's personnel file in the employer's office.

(d) Members of the armed forces whose registration is 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 registration renewal fee and to complete any continuing education requirements prescribed by the Board. A copy of the military order or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue must be furnished to the Board.

*Authority G.S. 74C-5; 74C-11.*

## **SECTION .0800 - ARMED SECURITY GUARD FIREARM REGISTRATION PERMIT**

### **12 NCAC 07D .0801 APPLICATION/ARMED SECURITY GUARD FIREARM REGISTRATION PERMIT**

(a) Each armed security guard employer or his designee shall submit and sign an application form for the registration of each armed security guard applicant to the Board. This form shall be accompanied by:

- (1) two sets of classifiable fingerprints on an applicant fingerprint card;
- (2) two head and shoulders color digital photographs of the applicant in JPG format of sufficient quality for identification, ~~one inch by one inch in size; taken within six months prior to submission and submitted preferably by e-mail to PPSASL-Photos@ncdoj.gov, by compact disc, or on a 3.5 floppy diskette;~~
- (3) certified statement of the result of a criminal records search from the clerk of superior court

in each county where the applicant has resided within the immediate preceding 48 months. If the applicant has resided out of state within the immediate preceding 48 months, the applicant shall provide a certified statement of the result of a criminal records search from the appropriate governmental authority housing criminal record information in each area where the applicant has resided within the immediate preceding 48 months;

- (4) the applicant's non-refundable registration fee; and
- (5) a statement signed by a certified trainer that the applicant has successfully completed the training requirements of 12 NCAC 07D .0807;
- (6) a certification by the applicant that he or she is at least 21 years of age.

(b) The employer of each applicant for registration shall give the applicant a copy of the application and shall retain a copy of the application in the individual's personnel file in the employer's office.

(c) The applicant's copy of the application shall serve as a temporary registration card which shall be carried by the applicant when he is within the scope of his employment and which shall be exhibited upon the request of any law enforcement officer or authorized representative of the Board.

(d) Applications submitted without proof of completion of a Board approved firearms training course shall not serve as temporary registration cards unless the contract security company or proprietary security organization has obtained prior approval from the Director. The Director shall grant prior approval if the contract security company or proprietary security organization provides proof satisfactory to the Director that the applicant has received prior firearms training.

(e) The provisions of Paragraphs (a), (b), and (c) of this Rule also apply to any employee whose employment is terminated within 30 days of employment.

*Authority G.S. 74C-5; 74 C-9; 74C-13.*

### **12 NCAC 07D .0806 RENEWAL OF ARMED SECURITY GUARD FIREARM REGISTRATION PERMIT**

(a) Each applicant for renewal of an armed security guard firearm registration permit identification card or his employer shall complete a form provided by the Board. This form shall be submitted not more than 90 days nor less than 30 days prior to expiration of the applicant's current armed registration and shall be accompanied by:

- (1) two ~~recent~~ head and shoulders color digital photographs of the applicant in JPG format of acceptable quality for identification, ~~one inch by one inch in size; taken within six months prior to submission and submitted preferably by e-mail to PPSASL-Photos@ncdoj.gov, by compact disc, or on a 3.5 floppy diskette;~~
- (2) statements of any criminal record obtained from the appropriate area where the applicant has resided within the immediate preceding 12

- months or a criminal record check from a third party criminal record check provider;
- (3) the applicant's renewal fee; and
- (4) actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected by the Private Protective Services Board.

(b) The employer of each applicant for a registration renewal shall give the applicant a copy of the application which will serve as a record of application for renewal and shall retain a copy of the application in the individual's personnel file in the employer's office.

(c) Applications for renewal shall be accompanied by a statement signed by a certified trainer that the applicant has successfully completed the training requirements of 12 NCAC 07D .0807.

(d) Members of the armed forces whose registration is 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 registration renewal fee and to complete any continuing education requirements prescribed by the Board. A copy of the military order or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue must be furnished to the Board.

*Authority G.S. 74C-5; 74C-11; 74C-13.*

#### **12 NCAC 07D .0902 APPLICATION FOR FIREARMS TRAINER CERTIFICATE**

Each applicant for a firearms trainer certificate shall submit an original and one copy of the application to the Board. The application shall be accompanied by:

- (1) two sets of classifiable fingerprints on an applicant fingerprint card;
- (2) one ~~recent~~ head and shoulders color digital photograph of the applicant in JPG format of adequate quality for identification, ~~one inch by one inch in size; taken within six months prior to submission and submitted preferably by e-mail to PPSASL-Photos@ncdoj.gov, by compact disc, or on a 3.5 floppy diskette;~~
- (3) certified statement of the result of a criminal history records search by the appropriate governmental authority housing criminal record information or clerk of superior court in each county where the applicant has resided within the immediate preceding 60 months;
- (4) actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected by the Private Protective Services Board;
- (5) the applicant's non-refundable registration fee;
- (6) a certificate of successful completion of the training required by 12 NCAC 07D .0901(3) and (4). This training shall have been

- completed within 60 days of the submission of the application; and
- (7) actual cost charged to the Private Protective Services Board by the North Carolina Justice Academy to cover the cost of the firearms training course given by the N.C. Justice Academy and collected by the Private Protective Services Board.

*Authority G.S. 74C-5; 74C-13.*

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

### **CHAPTER 29 - LOCKSMITH LICENSING BOARD**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Locksmith Licensing Board intends to amend the rules cited as 21 NCAC 29 .0503, .0802 and repeal the rule cited as 21 NCAC 29 .0405.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
[www.nclocksmithboard.org](http://www.nclocksmithboard.org)

**Proposed Effective Date:** April 1, 2012

#### **Public Hearing:**

**Date:** February 13, 2012

**Time:** 11:00 A.M.

**Location:** 11 Glenwood Ave., Raleigh, NC 27603

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

**21 NCAC 29 .0405** – The Board seeks to eliminate exam exemptions.

**21 NCAC 29 .0503** – The Board seeks to remove redundant requirement not applying to modern locks.

**21 NCAC 29 .0802** – The Board seeks to amend requirements of the older locksmiths.

#### **Procedure by which a person can object to the agency on a proposed rule:**

(1) Submit comment via website [www.nclocksmithboard.org](http://www.nclocksmithboard.org). (2) Contact Board in writing to P. O. Box 10972, Raleigh, NC 27605.

**Comments may be submitted to:** Barden Culbreth, P. O. Box 10972, Raleigh, NC 27605; phone (919) 838-8782; email [barden@recanc.com](mailto:barden@recanc.com)

**Comment period ends:** February 13, 2012

#### **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 (check all that apply).**

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected
- ☐ Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Date submitted to OSBM:
- ☐ Substantial economic impact ( $\geq$ \$500,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

**SECTION .0400 - LICENSING REQUIREMENTS**

**21 NCAC 29 .0405 EXEMPTION FROM EXAMINATION**

~~Any applicant who has achieved at least a Certified Registered Locksmith (CRL) designation from the Associated Locksmiths of America (ALOA), upon submitting proof to the Board of such qualification, shall be deemed to have passed the competency portion of the qualifying examination administered by the Board. Such applicants are required to pass the portion of the examination testing understanding of the Statute and the obligations of licensed locksmiths.~~

*Authority G.S. 74F-6.*

**SECTION .0500 - CODE OF ETHICS**

**21 NCAC 29 .0503 PROTECTION OF THE PUBLIC INTEREST**

- (a) Locksmiths shall refrain from allowing their specialized skills, knowledge, or access to tools and information to be used in any manner that puts the safety and security of the public at risk.
- (b) In the event that the locksmith suspects wrongful intent or misrepresentation by a potential client, the locksmith shall refuse service and shall immediately notify the law enforcement agency with jurisdiction.
- (c) Locksmiths shall not knowingly infringe a restricted key system.
- (d) Locksmiths shall record the identity of the customer for all service calls in which the locksmith opens a vehicle, building, room or secured container, or originates a key or in any other fashion provides the customer with access to any such property.
- ~~(e) Locksmiths shall not supply an existing key or combination for an architectural lock without verifying the identity and authority of the client to have it. This Paragraph applies to off-site (shop) service as well as on site service. Unless the locksmith can verify the origin of the lock and the authority of the client to obtain the requested key or combination, the~~

~~locksmith shall refuse to supply an original key or combination to the lock.~~

~~(f)(e)~~ Locksmiths shall endeavor to install all locking devices in compliance with all relevant codes, such as Uniform Building Code, National Fire Protection Association, and Americans with Disabilities Act and any local codes or ordinances which regulate architectural hardware. Locksmiths shall in all cases refuse to install a locking device which produces a threat to life safety. If such a (pre-existing) condition is encountered, the locksmith shall immediately inform the client and recommend appropriate remedial action.

~~(g)(f)~~ Locksmiths shall not become a party to disputes of ownership or authority. When an authorization dispute is deemed likely to arise, the locksmith shall advise the law enforcement agency having jurisdiction and request the presence of a uniformed officer. The locksmith shall refuse to provide service when there is an unresolved dispute of ownership or authority. Only Instructions from a uniformed law enforcement officer or a court order shall be accepted as resolution of any such dispute.

~~(h)(g)~~ Locksmiths shall not knowingly interfere with the maintenance of a master key system. When master keyed cylinders are encountered, the key presented without its corresponding master key shall be presumed to be a subordinate key until otherwise determined. An attempt must be made to determine the holder of the master key and seek authorization for cylinder changes or key origination before such service is performed.

~~(i)(h)~~ Locksmiths shall keep key biting arrays, file keys and all client information confidential. Locksmiths shall not release any information or security device, such as a master key or safe combination, to any person without verifying that the recipient is entitled to receive it.

*Authority G.S. 74F-6.*

**SECTION .0800 - CONTINUING EDUCATION**

**21 NCAC 29 .0802 REQUIREMENTS**

(a) Every licensee shall obtain 24 contact hours during each 3-year renewal cycle, except:

- (1) Persons exempted from eight contact hours in Rule .0805 of this Section; and
- ~~(2) Persons applying for renewal of licenses which expire on or before June 30, 2006 shall have at least eight contact hours of continuing education;~~
- ~~(3) Persons applying for renewal of licenses which expire between July 1, 2006 and June 30, 2007 shall have at least 16 contact hours of continuing education.~~
- (2) Persons who:
  - (A) are 62 years of age;
  - (B) have 15 years of experience as locksmiths;
  - (C) have been a North Carolina licensed locksmith for at least nine years; and
  - (D) are not subject to an investigation by the Locksmith Licensing Board.

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***PROPOSED RULES***

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(b) The contact hours shall be in technical and professional subjects directly related to the practice of locksmithing.

(c) Licensees shall not carry forward any contact hours into the subsequent renewal period.

(d) Licensees shall verify completion of the contact hours for the previous license period with their application for license renewal.

*Authority G.S. 74F-6.*

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

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

## **TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Rule-making Agency:** *Commission for Public Health*

**Rule Citation:** *10A NCAC 41A .0106*

**Effective Date:** *November 30, 2011*

**Date Approved by the Rules Review Commission:** *November 17, 2011*

**Reason for Action:** *The effective date of a recent act of the General Assembly or of the U.S. Congress. On June 27, 2011, Governor Purdue signed into law House Bill 809 (G.S. 130A-150) which requires the Department of Health and Human Services, in collaboration with the state Healthcare-Associated Infections Advisory Group, to implement a mandatory statewide surveillance system for healthcare-associated infections by December 31, 2011. The Statute authorizes the Commission for Public Health to adopt rules for the implementation of the mandatory statewide HAI reporting system.*

### **CHAPTER 41 – HEALTH: EPIDEMIOLOGY**

#### **SUBCHAPTER 41A – COMMUNICABLE DISEASE CONTROL**

##### **SECTION .0100 – REPORTING OF COMMUNICABLE DISEASES**

##### **10A NCAC 41A .0106 REPORTING OF HEALTH-CARE- ASSOCIATED INFECTIONS**

(a) The following definitions apply throughout this Rule:

- (1) "Hospital" means any facility designated as such in G.S. 131E-76(3).
- (2) "National Healthcare Safety Network" is an internet-based surveillance system managed by the Centers for Disease Control and Prevention. This system is designed to be used for the direct, standardized reporting of healthcare quality information, including health care-associated infections, by health care facilities to public health entities.
- (3) "Health care-associated infection" means a localized or systemic condition resulting from an adverse reaction to the presence of an infectious agent(s) or its toxin(s) with no evidence that the infection was present or incubating at the time of admission to the health care setting.

(4) "Electronic surveillance system" means an electronic platform which has the ability to collect, manipulate, store, analyze or transmit electronic health data which may be used for surveillance of health care-associated infections.

(5) "Denominator or summary data" refers to referent or baseline data required to generate meaningful statistics for communicating health care-associated infection rates.

(6) "The Centers for Medicare and Medicaid Services - Inpatient Prospective Payment System (CMS – IPPS) rules" are regulations promulgated for the disbursement of operating costs by the Centers for Medicare and Medicaid Services for acute care hospital stays under Medicare Part A based on prospectively set rates for care.

~~(b) — The department shall encourage hospitals to implement electronic surveillance systems to monitor and collect information on health care-associated infections within their facilities for use in periodic reporting.~~

~~(c) — Hospitals shall electronically report all health care-associated infections required by Paragraph (d) of this Rule through the National Healthcare Safety Network and shall make these data available to the Department.~~

~~All specified health care-associated infections shall be reported within 30 days following the end of every calendar month during which the infection occurred.~~

~~All required health care-associated infection denominator or summary data for healthcare-associated infections shall be reported within 30 days following the end of every calendar month.~~

~~Hospitals shall comply with all reporting requirements for general participation in the National Healthcare Safety Network.~~

(b) Hospitals shall electronically report all health care-associated infections required by Paragraph (c) of this Rule through the National Healthcare Safety Network and shall make the data available to the Department. Hospitals also shall:

(1) Report all specified health care-associated infections within 30 days following the end of every calendar month during which the infection occurred;

(2) Report all required health care-associated infection denominator or summary data for healthcare-associated infections within 30 days following the end of every calendar month; and,

(3) Comply with all reporting requirements for general participation in the National Healthcare Safety Network.

(c) Except as provided in rules of this Section, hospitals shall report the healthcare-associated infections required by the Centers for Medicare and Medicaid Services listed in the CMS-IPPS rules beginning on the dates specified therein. The CMS-IPPS rules are hereby incorporated by reference including subsequent amendments and editions. A current copy of the CMS-IPPS rules may be obtained through the CMS-IPPS website at <http://www.cms.gov/AcuteInpatientPPS/>. A copy of the current CMS-IPPS rules, applicable to this section, is available for inspection in the Division of Public Health, 225 N. McDowell Street, Raleigh NC 27601.

(d) Beginning October 1, 2012 and quarterly thereafter, the Department shall release reports to the public on health care-associated infection(s) in North Carolina.

*History Note: Authority G.S. 130A-150;  
Temporary Adoption Eff. November 30, 2011.*

## TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

**Rule-making Agency:** *Commission for Public Health*

**Rule Citation:** *15A NCAC 18A .2528*

**Effective Date:** *November 30, 2011*

**Date Approved by the Rules Review Commission:** *November 17, 2011*

**Reason for Action:** *The effective date of a recent act of the General Assembly or of the U.S. Congress. S.L. 2011-39 requires that Rule .2528 FENCES be amended to relieve owners of public swimming pools of the potential expense of upgrading existing pool fences to meet current safety standards.*

### CHAPTER 18 - ENVIRONMENTAL HEALTH

#### SUBCHAPTER 18A - SANITATION

#### SECTION .2500 - PUBLIC SWIMMING POOLS

##### **15A NCAC 18A .2528 FENCES**

(a) Public Swimming pools shall be completely enclosed by a fence, wall, building, or other enclosure, or any combination thereof, which encloses the swimming pool area such that all of the following conditions are met:

- (1) The top of the barrier shall be at least 48 inches above grade measured on the side of the barrier that faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be two inches measured on the side of the barrier that faces away from the swimming pool;
- (2) Openings in the barrier shall not allow passage of a four-inch-diameter sphere and shall

provide no external handholds or footholds. Solid barriers that do not have openings shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints;

- (3) Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches or more, spacing between the vertical members shall not exceed four inches. Where there are decorative cutouts within the vertical members, spacing within the cutouts shall not exceed 1.75 inches in width;
- (4) Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches, the horizontal members shall be located on the swimming pool side of the fence. Spacing between the vertical members shall not exceed 1.75 inches in width. Where there are decorative cutouts within the vertical members, spacing within the cutouts shall not exceed 1.75 inches in width;
- (5) Maximum mesh size for chain link fences shall be a 2.25 inch square unless the fence is provided with slats fastened at the top or the bottom that reduce the openings to no more than 1.75 inches;
- (6) Where the barrier is composed of diagonal members, the maximum opening formed by the diagonal members shall be no more than 1.75 inches;
- (7) Access gates shall comply with the dimensional requirements for fences and shall be equipped to accommodate a locking device. Effective April 1, 2011, pedestrian access gates shall open outward away from the pool and shall be self-closing and have a self-latching device except where a gate attendant and lifeguard are on duty. Gates other than pedestrian access gates shall have a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches from the bottom of the gate, the release mechanism shall require the use of a key, combination or card reader to open or shall be located on the pool side of the gate at least three inches below the top of the gate, and the gate and barrier shall have no openings greater than 0.5 inch within 18 inches of the release mechanism; and
- (8) Ground level doors and windows opening from occupied buildings to inside the pool enclosure shall be self-closing or child protected by means of a barrier or audible alarm.

(b) Public swimming pool fences constructed prior to May 1, 2010 may vary from the provisions of Paragraph (a) of this Rule as follows:

- (1) the maximum vertical clearance between grade and the bottom of the barrier may exceed two inches, but shall not exceed four inches;
- (2) where the barrier is composed of vertical and horizontal members and the space between vertical members exceeds 1.75 inches, the distance between the tops of the bottom horizontal member and the next higher horizontal member may be less than 45 inches, but shall not be less than 30 inches;
- (3) gates other than pedestrian access gates are not required to have self-latching devices if the gates are kept locked; and
- (4) gates may swing towards a pool where natural topography, landscape position or emergency egress requirements prevent gates from swinging away from the pool.

(c) Public swimming pools permitted prior to April 1, 2010 with existing fences that do not comply with the dimensional requirements of Subparagraphs (a)(1) through (a)(6) and (b)(1) through (b)(2) of this Rule shall not be denied an operation permit solely due to the preexisting non-compliance. Operation permits shall be denied to an owner or operator that fails to comply with these provisions when:

- (1) at least 50 percent of the fence has been damaged or destroyed; or
- (2) the owner or operator elects to replace the fence.

*History Note: Authority G.S. 130A-282;*

*Eff. May 1, 1991;*

*Amended Eff. April 1, 2012; May 1, 2010; February 1, 2004; April 1, 1999; January 1, 1996; July 1, 1992.*

*Temporary Amendment Eff. November 30, 2011.*

*This Section contains information for the meeting of the Rules Review Commission on Thursday December 15, 2011 10:00 a.m. at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-431-3000. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2<sup>nd</sup> business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.*

#### **RULES REVIEW COMMISSION MEMBERS**

##### **Appointed by Senate**

Addison Bell  
Margaret Currin  
Pete Osborne  
Bob Rippy  
Faylene Whitaker

##### **Appointed by House**

Ralph A. Walker  
Curtis Venable  
George Lucier  
Garth K. Dunklin  
Stephanie Simpson

#### **COMMISSION COUNSEL**

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

#### **RULES REVIEW COMMISSION MEETING DATES**

December 15, 2011      January 19, 2012  
February 16, 2011      March 15, 2012

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#### **RULES REVIEW COMMISSION**

**November 17, 2011**

#### **MINUTES**

The Rules Review Commission met on Thursday, November 17, 2011, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Margaret Currin, George Lucier, Pete Osborne, Stephanie Simpson, Ralph Walker and Faylene Whitaker. Commissioner Venable joined via Skype.

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

#### **RULES REVIEW COMMISSION PUBLIC HEARING**

The meeting was called to order at 10:02 a.m. with Judge Walker presiding.

Chairman Walker immediately opened a portion of the meeting for a public hearing on the proposed amendment to Rule 26 NCAC 05 .0108 and the proposed adoption of Rule .0114. Chairman Walker called on anyone present who wished to comment on or object to the adoption of 26 NCAC 05 .0114 and the amendment of 26 NCAC 05 .0108 as they were noticed in the NC Register. Tom Miller, Carolyn Bakewell and Nick Fountain made their comments before the Commission. The Rules Review Commission has thus far received two written comments on Rule .0108. These comments will become part of the rulemaking record. The period to receive comments will expire at 5:00 p.m., January 3, 2012. The Commission may vote on the adoption of 26 NCAC 05 .0114 and the amendment of 26 NCAC 05 .0108 at its regularly scheduled meeting in January.

The public hearing portion of the meeting was closed about 10:15 a.m.

Chairman Walker then reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts as required by NCGS 138A-15(e).

#### **APPROVAL OF MINUTES**

Chairman Walker asked for any discussion, comments, or corrections concerning the minutes of the October 20, 2011 meeting. There were none and the minutes were approved as distributed.

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

04 NCAC 02R .1711 – Alcoholic Beverage Control Commission. The Commission approved the rewritten rule submitted by the agency.

04 NCAC 03C .0807, .1001; 16A .0101, .0105, .0201, .0202, .0401, .0402, .0403, .0405, .0407, .0409; 16C .0102, .0103, .0202, .0203, .0304, .0305; 16D .0103, .0301, .0407, .0901, .0902; 16E .0104, .0301, .0405, .0702; 16F .0105, .0108, .0109, .0111, .0112, .0113 – Office of the Commissioner of Banks. The Commission approved the rules submitted by the agency with the technical changes.

04 NCAC 16A .0301, .0302 – Office of Commissioner of Banks. The Commission approved the rewritten rules submitted by the agency.

10A NCAC 10 .0102, .0308, .0309, .0310, .0311, .0312, .0506 – Social Services Commission. The Commission approved the rewritten rules submitted by the agency. Kim Miller addressed the Commission.

10A NCAC 10 .0203 – Social Services Commission. No action was taken

21 NCAC 25 .0209 – Interpreter and Transliterator Licensing Board - The Commission approved the rewritten rule submitted by the agency.

21 NCAC 32R .0106 – Medical Board. The rule was returned to the agency at the agency's request.

2012 Fuel Gas Code – Sections 311.1 and 311.2 – Building Code Council. The Commission objected to these rules based on lack of authority. There is no authority to require carbon monoxide alarms in all the new construction and existing dwellings covered by this rule. The scope or coverage of this rule is too broad. The statutory authority extends to only dwellings “having a fossil-fuel burning heater, appliance, or fireplace, and in any dwelling unit having an attached garage” (G.S. 143-138(b2)). These two rules appear to extend that requirement to all dwellings covered under this portion of the building code, including those who do not have either a fossil-fuel burning heater, appliance, fireplace or an attached garage.

2012 Mechanical Code – Sections 313.1 and 313.2 – Building Code Council. The Commission objected to these rules for the same reasons it objected to the previous rule.

2012 Plumbing Code – Sections 315.1 and 315.2 – Building Code Council. The Commission objected to these rules for the same reasons it objected to the previous rules.

2009 Residential Code – Sections 313.1.1 and 313.1.2 – Building Code Council. The Commission objected to these rules for the same reasons it objected to the previous rules.

2012 Residential Code – Sections 311.1 and 311.2 – Building Code Council. The Commission objected to these rules for the same reasons it objected to the previous rules.

Barry Gupton with the Building Code Council addressed the Commission.

## **LOG OF FILINGS**

Chairman Walker presided over the review of the log of permanent rules.

### **Board of Agriculture**

02 NCAC 43H .0102 – The rule was approved unanimously.  
Commissioner Osborne was not present during the vote.

### **Plant Conservation Board**

02 NCAC 48F .0305 – The Commission approved the technical change to this rule in paragraph (c)(4) and took no action concerning the change to paragraph (d)(6) which was a legislatively mandated change and outside the scope of the Commission’s reviewing action. The rule is legislatively subject to legislative review with a delayed effective date. Ray Starling from Department of Agriculture addressed the Commission.

### **Child Care Commission**

10A NCAC 09 .0102 - The Commission objected to this Rule based on ambiguity. In item (16)(b) page 2 line 35 it is unclear what constitutes “healthy air quality.” The rule refers to the “Air Quality Color Guide” found on the division’s web site. However it is not clear whether the agency means only weather color coded as “good” (green) in the far left hand column or would also include the category of “moderate” or even “unhealthy for certain groups.” In item (20) page 3 it is unclear what constitutes the “equivalent” of

the N.C. Early Educator Certification. There are other rules, e.g. Rule .2819(b)(3)(A), that require having this certification “or its equivalent.” Since that equivalency occurs in more than one place it seems as if the standard(s) should be provided here. Note that in item (3) of this rule on page 1 at lines 15-16 the agency did define what would establish an equivalency standard for “‘Basic School-Age Care’ training (BSAC training).” It seems they should do the same here. It is likewise unclear if there is any definition at all for the “N.C. Early Childhood Administration Credential” or the standard for “its equivalent,” both of which are referred to in Rule .2819(b)(1)(A); or for “early childhood” as referred to in Rule .2819(b)(1)(B).

10A NCAC 09 .2819 - The Commission objected to this Rule based on ambiguity. The rule is difficult to follow and unclear in determining the standards that set each “point level” apart. [The rule establishes seven “point levels” to distinguish the level to which the various child care centers can aspire.] The rule is especially difficult to follow in the last sub-sub-paragraphs and the requirements are unclear because they are formatted as lengthy run-on sentences with confusing semicolons and commas rather than formatted as lists. To cite one example: In (d)(5)(B) page 4 lines 20 – 31 it is not clear what the varying alternatives are for the program coordinator to satisfy, especially the hours of experience that are required to meet each alternative. As in the previous rule it is also unclear if there is any definition at all for the “N.C. Early Childhood Administration Credential” or the standard for “its equivalent,” both of which are referred to in Rule .2819(b)(1)(A); or for “early childhood” as referred to in Rule .2819(b)(1)(B).

10A NCAC 09 .2820 - The Commission objected to this Rule based on ambiguity for the same reasons as in the previous rule. The rule is difficult to follow and unclear in determining the standards that set each “point level” apart. As in the previous rule it is also unclear if there is any definition at all for the “N.C. Early Childhood Administration Credential” or the standard for “its equivalent,” as used throughout this rule beginning in (c)(1).

10A NCAC 09 .2822 - The Commission objected to this Rule based on ambiguity in that the rule is too difficult to follow because of the lack of lists further breaking down and making clear the requirements in the sub-sub- paragraphs. The rule is also ambiguous in paragraph (b)(3). It is not clear if the requirement in (b)(3) for “eight additional clock hours of annual in-service training” requires eight hours for each of the five years or a total of eight hours over the five years.

The Commission received more than 10 written letters of objection to the four rules. If they are approved these rules will be subject to legislative review and a delayed effective date.

#### **Environmental Management Commission**

15A NCAC 02B .0304 was approved unanimously.

#### **Board of Cosmetic Art Examiners**

The agency has withdrawn all the rules and plans to refile them for the December meeting.

#### **Board of Dietetics/Nutrition**

All rules were approved unanimously.

#### **Medical Board**

The agency has withdrawn all the rules and refiled them for the December meeting.

#### **Board of Examiners for Plumbing, Heating and Fire Sprinkler Contractors**

Nick Fountain attorney for the Board addressed the Commission.

All rules were approved unanimously with the following exceptions:

21 NCAC 50 .0107 – The Commission objected to this Rule based on lack of necessity. This rule deals only with the internal management of the agency and is not necessary to be included in the N.C. Administrative Code. G.S. 150B-2(8a)a. exempts from the definition of “rule” for purposes of the Administrative Procedure Act “[s]tatements concerning only the internal management of an agency...if the statement does not affect the procedural or substantive rights or duties of a person not employed by the agency...” This rule appears to affect only Board members and would be more appropriately included in a set of bylaws.

21 NCAC 50 .0301 – The Commission objected to this Rule based on lack of statutory authority and ambiguity. There does not appear to be authority for the provisions in Paragraphs (d), (f) and (i) that allow a person to obtain a license without passing an examination. G.S. 87-21(b)(3) requires the Board to give an examination and issue a license as a result of the examination. G.S. 87-21(b)(4) does make an exception and allows the Board to either provide an examination for fire sprinkler contracting or accept a current certification of the National Institute for Certification in Engineering Technologies for Fire Protection Engineering Technicians, Level III, subfield of Automatic Sprinkler System Layout. None of these paragraphs require that certification. In Paragraph (i), it is not clear what is meant by “an Authority Hearing Jurisdiction.”



21 NCAC 50 .0306 – The Commission objected to this Rule based on lack of statutory authority. There does not appear to be authority for the provision in Paragraph (h) that applicants for licensure in the Residential Fire Sprinkler Installation Contractor classification must hold an active Plumbing Class I or Class II Contractor license for a minimum of three years. G.S. 87-21(b)(3) limits experience that can be required to two years.

21 NCAC 50 .0505 – The Commission objected to this Rule based on lack of statutory authority. In Paragraphs (e) and (f), there is no authority cited for this board to determine what a Licensed Professional Engineer is required to do.

21 NCAC 50 .0516 – The Commission objected to this Rule based on lack of statutory authority. There is no authority cited for this board to determine what a Licensed Professional Engineer is required to do.

21 NCAC 50 .1401 – The Commission objected to this Rule based on ambiguity. It is not clear what standards the Board will use in approving continuing education classes. There do not appear to be any standards in the rules. It is not clear what standards the Board will use in approving continuing education classes. There do not appear to be any standards in the rules.

The Commission received more than 10 written letters of objection to 21 NCAC 50 .1102, .1402, .1403, .1404, .1405, .1407, .1408, .1409, .1410. These rules are now subject to legislative review and a delayed effective date. The Commission also received more than 10 written letters of objection to Rules .0301, .0306, .0505 and .1401. If they are approved these rules will be subject to legislative review and delayed effective date.

#### **Psychology Board**

21 NCAC 54 .1605 was approved unanimously.

#### **Real Estate Commission**

Prior to the review of the rules from the Real Estate Commission, Commissioner Currin recused herself and did not participate in any discussion or vote concerning these rules because she possesses an (inactive) real estate license.

Tom Miller and Curtis Aldendifer from the Real Estate Commission addressed the Commission.

All rules were approved unanimously.

#### **TEMPORARY RULES**

Chairman Walker presided over the review of the log of temporary rules.

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

10A NCAC 41A .0106 was approved unanimously.

Commissioner Simpson was not present during the vote.

Jim Hayes from the Division of Public Health addressed the Commission regarding 15A NCAC 18A .2528.

15A NCAC 18A .2528 was approved unanimously.

#### **COMMISSION PROCEDURES AND OTHER BUSINESS**

The meeting adjourned at 12:14 p.m.

The next scheduled meeting of the Commission is Thursday, December 15 at 10:00 a.m.

Respectfully Submitted,

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Julie Edwards  
Editorial Assistant

Minutes approved by the Rules Review Commission.

Rules Review Commission

Meeting

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**NOVEMBER 17, 2011**

Name	Agency
Charla Burill	NC Board of Dietetics/Nutrition
Henry Jones	"
LEVI <del>NOBLE</del>	NC - DHAS
Bob Hamilton	ABC Commission
Ray Starling	NC Dept of Ag + CS
BARRY GUPTON	NCPOI - NCBEC
Carolyn Bakewell	Dental Board
Nick Fountain	PAH Bd
Reed Fountain	(11)
Constance W. Jones	DPH
Susan C. Batts	NC Psychology Board
Jim Hayes	NC DITHS
Kimmiller	Dir Child Development
Zack Moore	NC DPH
Diana PIA	DCDEE
Sherry Young	DCDEE
Jani Kozlowski	DCDEE
Longie Christopher	KOB
Daniel Gainer	"
FR <del>SHAW</del>	dcf
Curtis Alden <del>cler</del>	NC REC

Rules Review Commission  
Meeting  
Please Print Legibly

Name	Agency
Jamie McNees	NC DENR
Anca Gerozav	OSBM
Miller	NCREC
David Mc Bowman	NC Realtors
Jim Wellons	NCITLB
Bob Manta	NC DPH
Virginia Niehaus	UNC Law student
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**LIST OF APPROVED PERMANENT RULES**  
**November 17, 2011 Meeting**

**AGRICULTURE, BOARD OF**

Loose Egg Displays 02 NCAC 43H .0102

**PLANT CONSERVATION BOARD**

Collection and Sale of Ginseng 02 NCAC 48F .0305

**ALCOHOLIC BEVERAGE CONTROL COMMISSION**

Shelf Management 04 NCAC 02R .1711

**BANKS, OFFICE OF THE COMMISSIONER OF**

Subsidiary Investment Approval 04 NCAC 03C .0807

Loan Documentation 04 NCAC 03C .1001

Savings Institution Division 04 NCAC 16A .0101

Restrictions: Payment of Dividends and Repurchase of Stock 04 NCAC 16A .0105

Petition for Adoption, Amendment or Repeal of Rules 04 NCAC 16A .0201

Notice of Rule-Making Hearings 04 NCAC 16A .0202

Petition for Declaratory Ruling 04 NCAC 16A .0301

Response of Commissioner of Banks to Petition 04 NCAC 16A .0302

Right to Hearing 04 NCAC 16A .0401

Informal Settlement 04 NCAC 16A .0402

Request for Hearing 04 NCAC 16A .0403

Intervention in an Administrative Hearing 04 NCAC 16A .0405

Subpoenas 04 NCAC 16A .0407

Objection to Subpoena 04 NCAC 16A .0409

Charter Application Restrictions 04 NCAC 16C .0102

Corporate Name 04 NCAC 16C .0103

Branch Office Application Restrictions 04 NCAC 16C .0202

Forfeiture of Branch Office Final Approval 04 NCAC 16C .0203

Temporary Closing of Office 04 NCAC 16C .0304

Purchase of Branch 04 NCAC 16C .0305

Bylaws 04 NCAC 16D .0103

General Policies 04 NCAC 16D .0301

Loans to One Borrower 04 NCAC 16D .0407

Securities 04 NCAC 16D .0901

Stock in Other Depository Institutions 04 NCAC 16D .0902

Bylaws 04 NCAC 16E .0104

General Policies 04 NCAC 16E .0301

Loans to One Borrower 04 NCAC 16E .0405

Stock in Other Depository Institutions 04 NCAC 16E .0702

Amendments to Articles of Incorporation or Bylaws 04 NCAC 16F .0105

Finance Subsidiary Transactions with Parent 04 NCAC 16F .0108

Issuance of Securities by Finance Subsidiaries 04 NCAC 16F .0109

Holding Company Subsidiaries and Financial Subsidiaries 04 NCAC 16F .0111

<u>Notification to the Commissioner of Banks</u>	04	NCAC 16F .0112
<u>Examination of Financial Subsidiaries</u>	04	NCAC 16F .0113
<b>SOCIAL SERVICES COMMISSION</b>		
<u>Definitions</u>	10A	NCAC 10 .0102
<u>Sanctions and Appeals for Fraudulent Misrepresentation</u>	10A	NCAC 10 .0308
<u>Correction of Overpayments and Underpayments</u>	10A	NCAC 10 .0309
<u>Requirements for the Administration of the Subsidized Chi...</u>	10A	NCAC 10 .0310
<u>Provider Appeal to Local Purchasing Agency</u>	10A	NCAC 10 .0311
<u>Appeal to Division of Child Development and Early Educati...</u>	10A	NCAC 10 .0312
<u>Records</u>	10A	NCAC 10 .0506
<b>ENVIRONMENTAL MANAGEMENT COMMISSION</b>		
<u>French Broad River Basin</u>	15A	NCAC 02B .0304
<b>DIETETICS/NUTRITION, BOARD OF</b>		
<u>Definitions</u>	21	NCAC 17 .0101
<u>Qualifications for Licensure</u>	21	NCAC 17 .0103
<u>Applications</u>	21	NCAC 17 .0104
<u>Provisional License</u>	21	NCAC 17 .0107
<u>Issuance and Renewal of License</u>	21	NCAC 17 .0109
<u>Definitions</u>	21	NCAC 17 .0201
<u>Review and Board Action</u>	21	NCAC 17 .0203
<u>Supervision</u>	21	NCAC 17 .0303
<b>INTERPRETER AND TRANSLITERATOR LICENSING BOARD</b>		
<u>Persons Who Are Ineligible to Apply for a License</u>	21	NCAC 25 .0209
<b>PLUMBING, HEATING AND FIRE SPRINKLER CONTRACTORS, BOARD OF EXAMINERS FOR</b>		
<u>Visitors</u>	21	NCAC 50 .0303
<u>Review of Examination</u>	21	NCAC 50 .0308
<u>Permits</u>	21	NCAC 50 .0402
<u>Use of License</u>	21	NCAC 50 .0403
<u>Active Employment</u>	21	NCAC 50 .0404
<u>Multiple Licenses</u>	21	NCAC 50 .0405
<u>Responsibility of Licensed Person Employed by Firm</u>	21	NCAC 50 .0406
<u>Corporations, Partnerships and Trade Names</u>	21	NCAC 50 .0407
<u>Guidelines on Disciplinary Actions</u>	21	NCAC 50 .0412
<u>Employees Exempted From Licensure</u>	21	NCAC 50 .0512
<u>Plumbing, Heating and Fuel Piping Technician License</u>	21	NCAC 50 .0517
<u>Request for Hearing</u>	21	NCAC 50 .1002
<u>Notice of Hearing</u>	21	NCAC 50 .1004
<u>Who Shall Hear Contested Cases</u>	21	NCAC 50 .1005
<u>License Fees</u>	21	NCAC 50 .1102
<u>Annual Reports</u>	21	NCAC 50 .1105
<u>Exemptions and Credits</u>	21	NCAC 50 .1402

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**RULES REVIEW COMMISSION**

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<u>Computation of Continuing Education Hours</u>	21	NCAC 50	.1403
<u>Course Requirements and Limitations</u>	21	NCAC 50	.1404
<u>Approval of Courses</u>	21	NCAC 50	.1405
<u>Certification of Course Completion by Licensees and Provi...</u>	21	NCAC 50	.1407
<u>Advertisements by Course Providers or Instructors</u>	21	NCAC 50	.1408
<u>Termination of Course or Provider Approval</u>	21	NCAC 50	.1409
<u>Petitions for Reinstatement of License</u>	21	NCAC 50	.1410

**PSYCHOLOGY BOARD**

<u>Fees</u>	21	NCAC 54	.1605
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**REAL ESTATE COMMISSION**

<u>Handling and Accounting of Funds</u>	21	NCAC 58A	.0107
<u>Residential Property and Owners' Association Disclosure S...</u>	21	NCAC 58A	.0114
<u>Examination Subject Matter, Format, and Passing Scores</u>	21	NCAC 58A	.0402
<u>Re-Applying for Examination</u>	21	NCAC 58A	.0403
<u>Confidentiality of Examinations</u>	21	NCAC 58A	.0405
<u>Examination Review</u>	21	NCAC 58A	.0406
<u>Active and Inactive License Status</u>	21	NCAC 58A	.0504
<u>Reinstatement of Expired License, Revoked, Surrendered or...</u>	21	NCAC 58A	.0505
<u>Licensing of Persons Licensed in Another Jurisdiction</u>	21	NCAC 58A	.0511
<u>Procedures for Requesting Hearings When Applicant's Chara...</u>	21	NCAC 58A	.0616
<u>Postlicensing Education Requirement</u>	21	NCAC 58A	.1902
<u>Extensions of Time to Complete Postlicensing Education</u>	21	NCAC 58A	.1903
<u>Facilities and Equipment</u>	21	NCAC 58C	.0207
<u>Application and Criteria for Original Approval</u>	21	NCAC 58C	.0603
<u>Renewal of Approval</u>	21	NCAC 58E	.0204
<u>Classroom Facilities</u>	21	NCAC 58E	.0507

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**LIST OF APPROVED TEMPORARY RULES**  
**November 17, 2011 Meeting****PUBLIC HEALTH, COMMISSION FOR**

<u>Reporting of Healthcare Associated Infections</u>	10A	NCAC 41A	.0106
<u>Fences</u>	15A	NCAC 18A	.2528

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## CONTESTED CASE DECISIONS

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

### OFFICE OF ADMINISTRATIVE HEARINGS

*Chief Administrative Law Judge*  
JULIAN MANN, III

*Senior Administrative Law Judge*  
FRED G. MORRISON JR.

### ADMINISTRATIVE LAW JUDGES

Beecher R. Gray  
Selina Brooks  
Melissa Owens Lassiter  
Don Overby

Randall May  
A. B. Elkins II  
Joe Webster

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>DATE</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<u><b>ALCOHOLIC BEVERAGE CONTROL COMMISSION</b></u>			
Elm Street Connection LLC, DBA Bella Mea Coal Fired Pizza v. ABC Commission	10 ABC 06298	11/07/11	26:06 NCR 509
ABC Commission v. TruVisions Enterprises, LLC, T/A Touch	10 ABC 7025	06/29/11	
ABC Commission v. Universal Entertainment, LLC T/A Zoo City Saloon	11 ABC 2294	07/05/11	
ABC Commission v. Quick Quality Inc., T/A Quick Quality	11 ABC 2543	07/19/11	
ABC Commission v. Lead C. Corp v. T/A Burger King/Shell Convenience Store	11 ABC 5066	10/19/11	
ABC Commission v. GK Mart Inc., T/A GK Mart	11 ABC 02647	07/22/11	
ABC Commission v. Universal Entertainment, LLC T/A Zoo City Saloon (name changed to El Patron Night Club and Bar)	11 ABC 06892	11/04/11	
ABC Commission v. Triangle Food and Fun LLC, T/A Six Forks Pub	11 ABC 07107	09/16/11	
ABC Commission v. CH Pub LLC, T/A Kildares Irish Pub	11 ABC 07109	08/16/11	
ABC Commission v. MBM of NC Inc, T/A Super Mart 3	11 ABC 10549	11/15/11	
<u><b>BOARD OF MASSAGE AND BODYWORK THERAPY</b></u>			
Byung Yoon Kim v. Board of Massage and Bodywork Therapy	11 BMT 09241	09/30/11	
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Donnie R. Holbrook, Susan R Holbrook v. Victim and Justice Service	09 CPS 0449	08/19/11	
Felicia G. Awaritoma v. Crime Victims Compensation Commission	10 CPS 01451	09/01/11	
Larry Overby v. Department of Crime Control Victim Compensation Division	10 CPS 06106	10/14/11	
Dianne Moody Costello v. Victim and Justice Services	11 CPS 05780	06/20/11	
Judy D. Hinson v. Department of Crime Control and Public Safety	11 CPS 08984	11/14/11	
Gregory Keith Moseley v. Crime Victim Compensation	11 CPS 09309	11/14/11	
Rosalena Merriam v. Victims Compensation	11 CPS 09780	09/19/11	
<u><b>DEPARTMENT OF HEALTH AND HUMAN SERVICES</b></u>			
Gail Taylor-Hilliard v. DHHS	09 DHR 2455	11/02/11	26:04 NCR 274
Scott M. Jensen, DMD v. DHHS, Division of Medical Assistance	09 DHR 3252	06/21/11	
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Patricia Anne Edwards v. DHHS, Division of Child Development	10 DHR 0292	06/06/11	
Marchell Gunter, The Home of Marchell F Gunter v. DHHS	10 DHR 0557	06/03/11	
Qingxia Chen and Chen Family Child Care Home Inc v. Division of Child Development	10 DHR 0790	07/29/11	
Theracare Home Health and Staffing, LLC v. DHHS, Division of Medical Assistance Program Integrity	10 DHR 1455	06/01/11	
Ronnie Newton v. DHHS, Division of Health Service Regulation	10 DHR 2172	08/22/11	
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	
Qingxia Chen and Chen Family Child Care Home Inc v. Division of Child Development	10 DHR 4182	07/29/11	
WakeMed v. DHHS, Division of Health Service Regulation, CON Section and Rex Hospital, Inc, d/b/a Rex Healthcare, Holly Springs Surgerv Center, LLC and Novant Health, Inc	10 DHR 5274	05/17/11	

# CONTESTED CASE DECISIONS

Rex Hospital Inc d/b/a Rex Healthcare v. DHHS, Division of Health Service Regulation, CON Section And WakeMed, Springs Surgery Center, LLC and Novant Health, Inc	10 DHR 5275	05/17/11	26:04 NCR 274
Angela Mackey v. DHHS, Division of Health Service Regulation	10 DHR 5499	06/01/11	
Cynthia Dawn Sloope v. DHHS	10 DHR 5500	06/07/11	
Carteret Family Practice Clinic, P.A., v. DHHS, DMA, Program Integrity Section	10 DHR 5859	07/13/11	26:06 NCR 516
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Grover L. Hunt v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry Section	10 DHR 6710	05/25/11	
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Raymond Taylor Mabe Jr. v. OAH, Debbie Odette/Glana Surles	10 DHR 8094	05/26/11	
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Geraldine Highsmith, Pediatric Therapy Associates v. DHHS	10 DHR 8735	07/08/11	
Randall Ephraim v. DHHS, Division of Health Service Regulation	10 DHR 9278	09/12/11	
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Marcell Gunter, Alternative Life Programs Inc. v. DHHS, Durham Center LME and DMA (CSCEVC NC Medicaid Provider)	10 DHR 03827	06/23/11	
Cherry's Family Care #2, Albert Dominique Cherry v. DHHS, Regulations Adult Care License Section	10 DHR 04057	11/01/11	
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Tonya M. Faison v. DHHS, Division of Health Service Regulation	10 DHR 05355	11/07/11	
Angela E. Bynum v. DHHS, Division of Health Service Regulation	10 DHR 05654	11/07/11	
American Human Services Inc, v. DHHS, Division of Medical Assistance	10 DHR 05575	08/19/11	26:06 NCR 540
Chera L Dargan v. Department of Health and Human Services Registry	10 DHR 05796	09/01/11	
Yourlinda Farrish v. DHHS, Division of Health Service Regulation	10 DHR 06107	11/07/11	
Gwendolyn Fox, Trinity III v. DMA Program Integrity DMA Controller's Section	10 DHR 06499	09/01/11	
Carter Behavior Health Services Inc. Terry Speller v. DMA/Program Integrity	10 DHR 06715	10/14/11	
WakeMed v. DHHS, Division of Health Service Regulation, CON Section	10 DHR 08008	08/19/11	26:08 NCR 705
Terry Melvin v. Health Care Personnel Registry	10 DHR 08545	10/26/11	
Edna Lee v. DHHS, Division of Health Service Regulation	10 DHR 08938	07/22/11	
Yolanda M. Brown v. Health Care Registry Personnel	10 DHR 09708	07/14/11	
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Geraldine Highsmith, Pediatric Therapy Associates v. DHHS	10 DHR 0762	07/08/11	
Geraldine Highsmith, Pediatric Therapy Associates v. DHHS	10 DHR 0763	07/08/11	
Angela Clark v. DHHS	11 DHR 1565	06/03/11	
Geraldine Highsmith, Pediatric Therapy Associates v. DHHS	11 DHR 2021	07/08/11	
April G. Cooper v. Edgecombe County, Dept. of Social Services (DHHS) Food Stamps	11 DHR 2146	06/15/11	
Patricia Anne Edwards v. DHHS, Division of Child Development	11 DHR 2149	06/06/11	
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Koisey Lorlu Dahn v. DHHS, Division of Health Service Regulation	11 DHR 2443	09/08/11	
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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	
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Hee Soon Kwon d/b/a Beatties Ford Mart v. DHHS	11 DHR 3168	07/18/11	
Nellie v. Mitchell, Little Lamb's Daycare v. DHHS, Division of Child Development	11 DHR 3391	06/13/11	
Yolanda McKinnon v. DHHS, Division of Child Development	11 DHR 4117	06/09/11	
Kenneth Dellinger Executive Office KD Support Services d/b/a Kellys Care #5 v. DHHS, Division of Health Care Service Regulation Adult Care Licensure Section	11 DHR 4755	07/14/11	
Amy Robinson v. DHHS, Division of Facility Services	11 DHR 4758	07/27/11	
Angelicia Linney v. Alexander County DSS	11 DHR 4965	06/21/11	
Robin Whistsett-Crite/RJ Whistsett Residential Services v. DHHS	11 DHR 5146	07/12/11	
Kathy Daniels v. CNS Registry	11 DHR 6318	08/04/11	
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**CONTESTED CASE DECISIONS**

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Maithily H Patel v. Nutrition Service Branch, DHHS	11 DHR 02144	06/30/11
Kishja Marlin v. DHHS	11 DHR 03313	07/07/11
Wonne Mills v. Department of Social Services/Fraud Department, Office of Administrative Hearings	11 DHR 03389	06/27/11
Beau A. Davis v. DHHS	11 DHR 03691	06/20/11
Edna Lee v. DHHS, Division of Health Service Regulation	11 DHR 03836	07/22/11
Bertha's Place Inc, Wayne Louis Garris v. Mecklenburg County LME	11 DHR 04186	06/17/11
Karana Kolivia Wallace v. DHHS	11 DHR 04190	11/14/11
Crystal Lashay Eason v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry Section	11 DHR 04473	08/12/11
Nicole McGee v. Health Care Personnel Registry	11 DHR 04475	06/17/11
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Dondra R. Sugg v. Carteret County Social Services Food Stamp	11 DHR 04958	07/15/11
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Stepping Stones Group Homes Inc v. DHHS, Division Of Health Service Regulation Mental Health Licensure and Certification	11 DHR 05068	07/19/11
Lesliey Cowans v. DHHS, Division of Health Services Regulation	11 DHR 05426	09/08/11
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Jerris McPhail v. Department of Health and Human Services	11 DHR 05518	07/19/11
Cynthia Neely v. Dept. of Social Services	11 DHR 05786	07/28/11
Tonya Monique Little v. Health Care Personnel Registry	11 DHR 06066	10/04/11
Bobby F Huskey v. Dept. of Health and Human Service Division Health Service Regulation	11 DHR 06238	08/04/11
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Recovery Center of Durham v. Division of Health Service Regulation	11 DHR 06491	09/15/11
Sandra Grace and Making Changes, Inc., v. The Beacon Center and DHHS	11 DHR 06792	08/26/11
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Darnell Holman v. DHHS, Division of Health Service Regulation	11 DHR 07856	09/23/11
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Nicole Jackson v. DHHS, Division of Health Service Regulation	11 DHR 08103	08/22/11
Tony Ledwell v. DHHS, Division of Health Service Regulation	11 DHR 08158	08/31/11
Kevin Warren v. Health Care Personnel Registry	11 DHR 08552	08/23/11
Jenny Michelle Lee v. DHHS, Division of Health Service Regulation	11 DHR 08558	11/30/11
Annette Adams v. DHHS, Division of Health Service Regulation	11 DHR 08897	09/19/11
Robin R Chavis v. Division of Child Development, DHHS	11 DHR 08932	10/14/11
Carson Daycare, Brenda Carson v. Division of Child Development – DHHS	11 DHR 09030	09/23/11
Sherry Marie Jones v. Health Care Personnel Registry HCPR Investigations Branch	11 DHR 09146	09/29/11
Charlene Johnson v. DHHS, Division of Health and Human Services	11 DHR 09147	11/10/11
Family Intervention & Prevention Services LLC, a North Carolina limited liability company	11 DHR 09243	08/05/11
Audrey A Crawford v. DHHS	11 DHR 09308	09/09/11
Ronald Theodore Harlee v. DHHS, Division of Health Service Regulation	11 DHR 09677	11/04/11
Chenye Melton v. Health Care Personnel Registry	11 DHR 09839	12/01/11
Booby Jean Graves v. Health Care Personnel Registry	11 DHR 10120	11/29/11
Hope Mills v. DHHS, Health Services Regulation	11 DHR 10738	10/11/11
Cathy Crosland v. DHHS	11 DHR 10959	11/01/11

**DEPARTMENT OF CORRECTION**

Andria Lambert v. DOC	10 DOC 3417	08/11/11
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