

NORTH CAROLINA REGISTER

VOLUME 28 • ISSUE 15 • Pages 1699 - 1846

February 3, 2014

I. EXECUTIVE ORDERS	
Executive Order No. 37.....	1699 – 1702
Executive Order No. 38.....	1703 – 1705
II. IN ADDITION	
Environment and Natural Resources, Department of – Public Notice.....	1706
III. PROPOSED RULES	
Administrative Hearings, Office of	
Rules Review Commission	1750 – 1754
Agriculture and Consumer Services, Department of	
Agriculture, Board of	1707 – 1709
Health and Human Services, Department of	
Public Health, Commission for	1709 – 1712
Insurance, Department of	
Home Inspector Licensure Board.....	1712 – 1715
Justice, Department of	
Criminal Justice Education and Training Standards Commission.....	1716 - 1718
Private Protective Services Board	1715 – 1716
Occupational Licensing Boards and Commissions	
Dental Examiners, Board of	1718 – 1726
Real Estate Commission.....	1726 – 1750
IV. APPROVED RULES	1755 – 1789
Administrative Hearing, Office of	
Rules Review Commission	
Environment and Natural Resources, Department of	
Department	
Environmental Management Commission	
Public Health, Commission for	
Health and Human Services, Department of	
Public Health, Commission for	
Occupational Licensing Boards and Commissions	
Certified Public Accountant Examiners, Board of	
Cosmetic Art Examiners, Board of	
Dental Examiners, Board of	
Landscape Contractors Registration Board	
Social Work Certification and Licensure Board	
Secretary of State, Department of	
Department	
V. RULES REVIEW COMMISSION	1790 – 1804
VI. CONTESTED CASE DECISIONS	
Index to ALJ Decisions	1805 – 1817
Text of ALJ Decisions	
13 DHR 09729	1818 – 1824
13 DHR 09799	1825 – 1830
12 DOJ 08026	1831 – 1836
13 DOJ 09863	1837 – 1842
13 OSP 14357	1843 – 1846

Contact List for Rulemaking Questions or Concerns

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

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

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

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

Rule Review and Legal Issues

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

contact: Joe DeLuca Jr., Commission Counsel joe.deluca@oah.nc.gov (919) 431-3081
Amanda Reeder, Commission Counsel amanda.reeder@oah.nc.gov (919) 431-3079
Abigail Hammond, Commission Counsel abigail.hammond@oah.nc.gov (919) 431-3076
Julie Brincefield, Administrative Assistant julie.brincefield@oah.nc.gov (919) 431-3073

Fiscal Notes & Economic Analysis and Governor's Review

Office of State Budget and Management
116 West Jones Street (919) 807-4700
Raleigh, North Carolina 27603-8005 (919) 733-0640 FAX
Contact: Anca Grozav, Economic Analyst osbmruleanalysis@osbm.nc.gov (919) 807-4740

NC Association of County Commissioners
215 North Dawson Street (919) 715-2893
Raleigh, North Carolina 27603
contact: Amy Bason amy.bason@ncacc.org

NC League of Municipalities (919) 715-4000
215 North Dawson Street
Raleigh, North Carolina 27603
contact: Erin L. Wynia ewynia@nclm.org

Legislative Process Concerning Rule-making

Joint Legislative Administrative Procedure Oversight Committee
545 Legislative Office Building
300 North Salisbury Street (919) 733-2578
Raleigh, North Carolina 27611 (919) 715-5460 FAX

contact: Karen Cochrane-Brown, Staff Attorney Karen.cochrane-brown@ncleg.net
Jeff Hudson, Staff Attorney Jeffrey.hudson@ncleg.net

NORTH CAROLINA REGISTER
Publication Schedule for January 2014 – December 2014

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	Earliest Eff. Date of Permanent Rule	Delayed Eff. Date of Permanent Rule 31st legislative day of the session beginning:	270 th day from publication in the Register
28:13	01/02/14	12/06/13	01/17/14	03/03/14	03/20/14	05/01/14	05/2014	09/29/14
28:14	01/15/14	12/19/13	01/30/14	03/17/14	03/20/14	05/01/14	05/2014	10/12/14
28:15	02/03/14	01/10/14	02/18/14	04/04/14	04/21/14	06/01/14	01/2015	10/31/14
28:16	02/17/14	01/27/14	03/04/14	04/21/14	05/20/14	07/01/14	01/2015	11/14/14
28:17	03/03/14	02/10/14	03/18/14	05/02/14	05/20/14	07/01/14	01/2015	11/28/14
28:18	03/17/14	02/24/14	04/01/14	05/16/14	05/20/14	07/01/14	01/2015	12/12/14
28:19	04/01/14	03/11/14	04/16/14	06/02/14	06/20/14	08/01/14	01/2015	12/27/14
28:20	04/15/14	03/25/14	04/30/14	06/16/14	06/20/14	08/01/14	01/2015	01/10/15
28:21	05/01/14	04/09/14	05/16/14	06/30/14	07/21/14	09/01/14	01/2015	01/26/15
28:22	05/15/14	04/24/14	05/30/14	07/14/14	07/21/14	09/01/14	01/2015	02/09/15
28:23	06/02/14	05/09/14	06/17/14	08/01/14	08/20/14	10/01/14	01/2015	02/27/15
28:24	06/16/14	05/23/14	07/01/14	08/15/14	08/20/14	10/01/14	01/2015	03/13/15
29:01	07/01/14	06/10/14	07/16/14	09/02/14	09/22/14	11/01/14	01/2015	03/28/15
29:02	07/15/14	06/23/14	07/30/14	09/15/14	09/22/14	11/01/14	01/2015	04/11/15
29:03	08/01/14	07/11/14	08/16/14	09/30/14	10/20/14	12/01/14	01/2015	04/28/15
29:04	08/15/14	07/25/14	08/30/14	10/14/14	10/20/14	12/01/14	01/2015	05/12/15
29:05	09/02/14	08/11/14	09/17/14	11/03/14	11/20/14	01/01/15	01/2015	05/30/15
29:06	09/15/14	08/22/14	09/30/14	11/14/14	11/20/14	01/01/15	01/2015	06/12/15
29:07	10/01/14	09/10/14	10/16/14	12/01/14	12/22/14	02/01/15	05/2016	06/28/15
29:08	10/15/14	09/24/14	10/30/14	12/15/14	12/22/14	02/01/15	05/2016	07/12/15
29:09	11/03/14	10/13/14	11/18/14	01/02/15	01/20/15	03/01/15	05/2016	07/31/15
29:10	11/17/14	10/24/14	12/02/14	01/16/15	01/20/15	03/01/15	05/2016	08/14/15
29:11	12/01/14	11/05/14	12/16/14	01/30/15	02/20/15	04/01/15	05/2016	08/28/15
29:12	12/15/14	11/20/14	12/30/14	02/13/15	02/20/15	04/01/15	05/2016	09/11/15

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.



State of North Carolina

PAT McCrORY
GOVERNOR

January 9, 2014

EXECUTIVE ORDER NO. 37

REESTABLISHING THE NORTH CAROLINA EARLY CHILDHOOD ADVISORY COUNCIL

WHEREAS, North Carolina remains committed to developing a new early childhood system-building initiative, drawing on the State's public and private sector strengths and expertise and bringing together talented specialists, educators and citizens to provide innovative leadership to ensure a quality system to benefit young children and their families; and

WHEREAS, quality programs and services, particularly for young at-risk children, can help reduce demands on our criminal justice system and the need for social service intervention; and can improve college attendance, future employment and wage prospects; and

WHEREAS, it is important to improve North Carolina's efficiency and effectiveness in serving young children and their families; and

WHEREAS, North Carolina can improve programs and services by taking a comprehensive, integrated approach to supporting young children and families, including early child care and education, health care, and family strengthening and support services.

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

Section 1. Establishment and Purpose

The North Carolina Early Childhood Advisory Council (hereinafter the "NCECAC") is hereby reestablished, consistent with 42 U.S.C. § 9837b(b). The NCECAC shall create and sustain a shared vision for young children and a comprehensive, integrated system of family strengthening services, including early care and education services that support children, families, and communities. The NCECAC shall also develop, encourage and support initiatives to strengthen the state's early childhood system to achieve the best possible outcomes for the state's young children.

Section 2. Membership

- a. The NCECAC shall consist of no more than twenty-five (25) voting members. All members shall be appointed by the Governor and shall serve at the pleasure of the Governor. The Governor shall appoint a Chair of the NCECAC.
- b. NCECAC members shall serve terms of three years. Initial appointment terms shall be staggered for one, two, or three years so that approximately one-third of the terms expire each year. Vacancies among the members shall be filled by the Governor to serve for the remainder of the unexpired term. Members appointed to fill unexpired terms shall serve for the remainder of that term.
- c. The NCECAC shall include members required by 42 U.S.C. § 9837b (b)(1)(C) and others deemed appropriate by the Governor.
 - a. The Director of the North Carolina Head Start Collaboration shall serve as an ex officio member.
 - b. The President of the North Carolina Partnership for Children shall serve as an ex officio member.

Section 3. Committees

The Chair of the NCECAC may establish such committees or other work groups as are necessary to carry out the NCECAC's duties.

Section 4. Duties

The NCECAC shall have the following duties and functions:

- a. Manage, coordinate, advise, and oversee, as appropriate, North Carolina's Early Childhood System Building Grant (Award No. 90SC0020/01) issued by the U.S. Department of Health and Human Services and the Race to the Top Early Learning Challenge Grant (Award No. S412A120027) issued by the U.S. Department of Education and the U.S. Department of Health and Human Services and administratively housed in the North Carolina Department of Health and Human Services Division of Child Development and Early Education.
- b. Maximize the effectiveness of State public sector resources by learning from public and private sector successes in working toward the State's goals for early childhood systems and better results for young children.
- c. Strengthen state and local coordination, collaboration and innovation among various public and private sector early childhood programs in the State, including family strengthening, health, early care and education.
- d. Develop and periodically review an innovative statewide strategic plan that outlines major goals and actions for reaching the desired system-wide results for young children and addresses changing state and local needs.

- e. Identify key infrastructure needs or enhancements and recommend policies to promote and sustain an integrated system of family support, early care and education services that support children, families, and communities.
- f. Recommend to the Governor funding priorities for a high-quality, efficient, and effective system of state supported services for young children and their families.
- g. Conduct periodic statewide needs assessments on the quality and availability of innovative programs and services for children from birth to school entry.
- h. Recommend enhancements in state early learning standards and undertake efforts to maintain high-quality early learning standards, as needed.
- i. Promote coordination and collaboration among existing programs.
- j. Recommend strategies to create a talented workforce and high-quality professional development system for educators and specialists serving young children and their families.
- k. Assess the capacity and effectiveness of two- and four-year public and private institutions of higher education in the State that support the development of early childhood educators and specialists.
- l. Recommend and promote strategies to develop and implement a statewide, unified, longitudinal data collection system for early childhood education programs and services.
- m. Develop and implement plans to promote the importance of early childhood development and to increase commitment among parents, professionals, businesses, policy makers, and the public at large to ensuring that young children in North Carolina, especially at-risk children, are learning and thriving.
- n. Monitor progress toward goals and present an annual written report of progress to date.
- o. Seek, identify, and advocate for resources, including submitting grant proposals, for funding to implement the State's early childhood initiatives. To the extent funds are available, the NCECAC is specifically authorized to make grants to other entities, to contract with other entities, and to utilize funds for the operation of the NCECAC.
- p. Carry out additional responsibilities as assigned by the Governor to innovate and improve our early childhood system and achieve the best results for young children.

Section 5. Meetings and Public Hearings

- a. The NCECAC shall meet twice each year and upon the call of the Governor or Chair. The Chair shall set the agenda for the NCECAC's meetings.

b. A simple majority of the NCECAC members shall constitute a quorum for the purpose of transacting the business of the NCECAC.

c. The NCECAC shall hold public hearings and provide an opportunity for public comment regarding the strategic plan and the implementation of the NCECAC's duties.

Section 6. Administration

The Office of the Governor shall provide necessary administrative and staff support services to the NCECAC. The Executive Director of the NCECAC, an employee of the Office of the Governor, shall lead the administrative and staff support services for the NCECAC. The Division of Child Development and Early Education shall provide additional administrative and staff support services as deemed necessary by the Executive Director of the NCECAC. The NCECAC is authorized to accept funds and in-kind services from other state, federal and private entities, as authorized by the North Carolina State Budget Act. No per diem allowance shall be paid to members of the NCECAC. Members of the NCECAC and staff may receive necessary travel and subsistence expenses in accordance with State law and the policies and regulations of the Office of State Budget and Management. These expenses shall be paid from federal funds where possible. If federal funds are not available, these expenses may be paid only if the Office of the Governor has sufficient funds or if another source of funds is available.

Section 7. Effect and Duration

This Executive Order is effective immediately and shall remain in effect until July 1, 2017, pursuant to N.C. Gen. Stat. § 147-16.2(b), or until earlier rescinded. This order supersedes and replaces all other executive orders and directives on this subject.

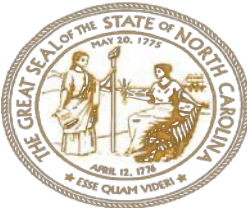
IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this ninth day of January, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-eighth.


Pat McCrory
Governor

ATTEST:


Elaine F. Marshall
Secretary of State





State of North Carolina

PAT McCrORY
GOVERNOR

January 10, 2014

EXECUTIVE ORDER NO. 38

TEMPORARY SUSPENSION OF MOTOR VEHICLE REGULATIONS TO PROVIDE HUMANITARIAN RELIEF TO WEST VIRGINIA

WHEREAS, due to water contamination as a result of a major chemical spill in the State of West Virginia, vehicles bearing water, equipment and supplies needed to assist with the humanitarian effort need to be moved on the highways of North Carolina; and

WHEREAS, I hereby declare that a state of emergency as defined in N.C.G.S. §§ 166A-19.3(6) and 166A-19.3(18) exists in the State of North Carolina for the purpose of transporting water, equipment and supplies to the State of West Virginia in order to provide humanitarian aid to residents in that State. The emergency area as defined in N.C.G.S. §§ 166A-19.3(7) and 166A-19.20(b) is the State of North Carolina.

WHEREAS, under the provisions of N.C.G.S. § 166A-19.30(b)(3) the Governor, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

WHEREAS, with the concurrence of the Council of State, I have found that vehicles bearing water, equipment and supplies to assist in the humanitarian effort in West Virginia must adhere to the registration requirements of N.C.G.S. §§ 20-86.1 and 20-382, fuel tax requirements of N.C.G.S. § 105-449.47, and the size and weight requirements of N.C.G.S. §§ 20-116 and 20-118. I have further found that citizens in that State have suffered losses and will likely suffer imminent further widespread damage within the meaning of N.C.G.S. §§ 166A-19.3(3) and 166A-19.21(b) and;

WHEREAS, the prompt delivery of water and other essentials to West Virginia is essential to the safety and well-being of citizens in that State; and

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

WHEREAS, under N.C.G.S. § 166A-19.70, the Governor may declare that the health, safety, or economic well-being of persons or property requires that the maximum hours of service for drivers prescribed by N.C.G.S. § 20-381 should be waived for persons transporting essential fuels, food, water, and medical supplies, and for restoration of utility services.

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

Section 1.

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

Section 2.

The Department of Public Safety in conjunction with the North Carolina Department of Transportation shall waive certain size and weight restrictions and penalties arising under N.C.G.S. §§ 20-116 and 20-118, and certain registration requirements and penalties arising under N.C.G.S. §§ 20-86.1, 20-382, 105-449.47, and 105-449.49 for the vehicles transporting water, equipment and supplies to the State of West Virginia.

Section 3.

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

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

Section 4.

Vehicles referenced under Sections 2 and 3 shall be exempt from the following registration requirements:

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

Section 5.

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

Section 6.

The waiver of regulations under Title 49 of the Code of Federal Regulations (Federal Motor Carrier Safety Regulations) does not apply to the CDL and Insurance Requirements. This waiver shall be in effect for 30 days or the duration of the emergency, whichever is less.

Section 7.

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

Section 8.

Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish their loads are being used for transporting water, equipment and supplies for the humanitarian relief efforts in West Virginia.

Section 9.

This Executive Order does not prohibit or restrict lawfully possessed firearms or ammunition or impose any limitation on the consumption, transportation, sale or purchase of alcoholic beverages as provided in N.C.G.S. § 166A-19.30(c).

Section 10.

This declaration will not trigger the prohibitions against excessive pricing in the emergency area, notwithstanding the provisions of N.C.G.S. § 166A-19.23.

Section 11.

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

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


Pat McCrory
Governor

ATTEST:


Elaine F. Marshall
Secretary of State



Public Notice
North Carolina Department of Environment and Natural Resources (NCDENR)

Division of Water Resources
Modeling and Assessment Branch
1611 Mail Service Center
Raleigh, NC 27699-1611

Notice of Recommendation that the Environmental Management Commission
Approve the Roanoke River Basin Hydrologic Model

The NC Division of Water Resources (DWR), within NCDENR, recommends that the Environmental Management Commission approve the Roanoke River Basin Hydrologic Model. Information and details about the Roanoke River Basin Hydrologic Model are available on the Division's website at http://ncwater.org/Data_and_Modeling/Roanoke.

Written comments regarding the proposed Roanoke River Basin Hydrologic Model will be accepted for 60 days after the publication date of this notice and must be received by DWR before close of business April 4, 2014. The Division will provide training in the use of the model during the comment period if there is sufficient interest. You can email comments and training requests to dwr-roanoke-staff@lists.ncmail.net, or mail comments to DWR at the address above.

You can contact Kathy Stecker at kathy.stecker@ncdenr.gov, or (919) 807-6422 for more information.

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

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

TITLE 02 – DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that NC Board of Agriculture intends to amend the rules cited as 02 NCAC 20B .0104.

Agency obtained G.S. 150B-19.1 certification:

- ☐ OSBM certified on:
☒ RRC certified on: December 19, 2013
☐ Not Required

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://www.ncagr.gov/ProposedRules/index.htm>

Proposed Effective Date: June 6, 2014

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): Any person may request a public hearing on the proposed rules by submitting a request in writing no later than February 18, 2014 to Tina Hlabse, Secretary, NC Board of Agriculture, 1001 Mail Service Center, Raleigh, NC 27699-1001.

Reason for Proposed Action: Since the State Fair does not receive any tax funds to cover expenses, this small increase in fees will allow the fair to keep pace with a variety of rising operating expenses and still dedicate money for improvements to the fairgrounds.

Comments may be submitted to: Tina Hlabse, 1001 Mail Service Center, Raleigh, NC 27699-1001; phone (919) 707-3013; email tina.hlabse@ncagr.gov

Comment period ends: April 4, 2014

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
☐ Substantial economic impact (≥\$1,000,000)
☒ No fiscal note required by G.S. 150B-21.4

CHAPTER 20 – THE NORTH CAROLINA STATE FAIR

SUBCHAPTER 20B - REGULATIONS OF THE STATE FAIR

SECTION .0100 - GENERAL PROVISIONS

02 NCAC 20B .0104 ADMISSION RULES

(a) All persons entering the North Carolina State Fair grounds must pay the established admission fee except persons holding worker's ~~permits~~, permits, or persons admitted via special ~~promotion~~. ~~One-time-only~~ One-time-only, or fair-length admissions may be issued to those persons who are employed by the Fair or are asked to appear on the grounds by the Fair management for a specific purpose relative to the operation of the fair.

(b) The gates of the North Carolina State Fair shall be open to visitors ~~from 9:00 a.m. until midnight each day of the fair, on the following schedule during the fair:~~

- (1) Opening Thursday 3:00 p.m. until 11:00 p.m.
- (2) Second Thursday, Friday and Saturday 8:00 a.m. until midnight
- (3) All other days 8:00 a.m. until 11:00 p.m.

Exhibit buildings shall be open from 9:00 a.m. to 9:45 p.m. ~~daily~~, except for opening Thursday when the buildings will open at 4:00 p.m.

(c) The State Fair Manager may operate a pass-out system at one or more of the outside gates. Persons exiting through these gates may, upon request, have their hand or vehicle stamped for readmittance through the same gate without additional charge. Readmittance must occur before 10:00 p.m. on the same day as pass-out or the hand stamp shall not be honored.

(d) Outside gate admission prices are as follows:

- (1) adult/child, 13 years of age and over

~~\$8.00~~ \$9.00

- | | | |
|-------------------|----------------------------------|---------------------------------|
| (2) | child, 6 through 12 years of age | \$3.00 <u>\$4.00</u> |
| (3) | military, with valid ID | <u>\$5.00</u> |
| (3)(4) | senior citizen, 65 and over | Free |
| (4)(5) | child, under 6 years of age | Free |
- (e) Outside gate admission prices for advance ticket sales are as follows:
- | | | |
|-----|--|---------------------------------|
| (1) | adult/child, 13 years of age and over | \$6.00 <u>\$7.00</u> |
| (2) | child, 6 through 12 years of age | \$2.00 <u>\$3.00</u> |
| (3) | senior citizen, 65 and over | Free |
| (4) | child, under 6 years of age | Free |
| (5) | adult group sales purchasing a minimum of 40 tickets | \$5.00 |

Authority G.S. 106-503.

Notice is hereby given in accordance with G.S. 150B-21.2 that NC Board of Agriculture intends to amend the rule cited as 02 NCAC 37 .0202.

Agency obtained G.S. 150B-19.1 certification:

- ☐ OSBM certified on:
☒ RRC certified on: December 19, 2013
☐ Not Required

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://www.ncagr.gov/ProposedRules/index.htm>

Proposed Effective Date: June 1, 2014

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): Any person may request a public hearing on the proposed rules by submitting a request in writing no later than February 18, 2014 to Tina Hlabse, Secretary, NC Board of Agriculture, 1001 Mail Service Center, Raleigh, NC 27699-1001.*

Reason for Proposed Action: *This rule shows an increase in waste analysis fees that will offset budget cuts generated by the managerial flexibility cuts mandated by the General Assembly in S.L. 2013-360. The increase in fees will make up for lost revenue and help meet the division's projected budget. The other fees listed have been a part of the fee schedule adopted in 2005, but are added here to make the rules up to date and accurate as possible. The revenue generated by the fees will help the agronomics lab continue to provide an effective and efficient service to the public.*

Comments may be submitted to: Tina Hlabse, 1001 Mail Service Center, Raleigh, NC 27699-1001; phone (919) 707-3013; email tina.hlabse@ncagr.gov

Comment period ends: April 4, 2014

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
☐ Substantial economic impact (≥\$1,000,000)
☒ No fiscal note required by G.S. 150B-21.4

CHAPTER 37 – AGRONOMIC SERVICES

SECTION .0200 – PROGRAMS

02 NCAC 37 .0202 PLANT ANALYSIS SERVICE

(a) Individuals desiring plant analysis may obtain plant tissue mailers and instructions from the Agronomic Services Division, county extension office, farm supply dealers, Agronomic Division Regional Agronomists, or other local agricultural advisors. All samples will be analyzed for nitrogen, phosphorus, potassium, calcium, magnesium, manganese, copper, zinc, boron and other elements as needed. Results of the test and recommendations for corrective action will be provided. For the purposes of this Rule, "plant analysis" ~~shall~~ may include analysis of ~~wastes~~ wastes, soilless media, and other solutions for agronomic purposes. ~~A fee of four dollars (\$4.00) will be charged for each sample analyzed.~~

(b) Fees for these services, to be paid at the time of submission, are as follows:

- | | |
|-----|--|
| (1) | Routine plant analysis - \$5.00. |
| (2) | Routine solution analysis - \$5.00. |
| (3) | Routine soilless media analysis - \$5.00. |
| (4) | Routine waste analysis - \$8.00. |
| (5) | Research plant, waste, soilless media, and solution analysis - \$12.00. |
| (6) | Nonresident plant, waste, soilless media, and solution analysis - \$25.00. |
| (7) | Special services: |
| (A) | Waste-heavy metals - \$10.00. |
| (B) | Waste-N breakout - \$10.00. |
| (C) | Waste-liming equivalent - \$10.00. |
| (D) | Plant-chloride - \$2.00. |
| (E) | Plant-molybdenum - \$2.00. |
| (F) | Plant-petiole nitrates - \$2.00. |

Authority G.S. 106-22(17).

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that Commission for Public Health intends to adopt the rule cited as 10A NCAC 41A .0401.

Agency obtained G.S. 150B-19.1 certification:

- ☒ **OSBM certified on:** December 23, 2013
- ☐ **RRC certified on:**
- ☐ **Not Required**

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://cph.publichealth.nc.gov/>

Proposed Effective Date: June 1, 2014

Public Hearing:

Date: February 24, 2014

Time: 2:00 p.m.

Location: Cardinal Room, 5605 Six Forks Road, Raleigh, NC 27609

Reason for Proposed Action: *The purpose of this rule change is to bring Immunization Branch vaccine requirements in line with recommendations from the Advisory Committee on Immunization Practices (ACIP) and the Centers for Disease Control and Prevention (CDC) concerning Pneumococcal Conjugate Vaccine, Varicella Vaccine and Meningococcal Vaccine. The draft impact analysis for the proposed rule change is posted at the following link: <http://cph.publichealth.nc.gov/>. The Commission for Public Health specifically requests public comments on the cost-effectiveness of the varicella booster requirement given assumptions and uncertainties surrounding cost and benefit estimates.*

Comments may be submitted to: Chris Hoke, JD, 1931 Mail Service Center, Raleigh, NC 27699-1931; phone (919) 707-5006; email chris.hoke@dhhs.nc.gov

Comment period ends: April 4, 2014

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**
- ☒ **Substantial economic impact (≥\$1,000,000)**
- ☐ **No fiscal note required by G.S. 150B-21.4**

CHAPTER 41 – HEALTH: EPIDEMIOLOGY

SUBCHAPTER 41A – OCCUPATIONAL HEALTH

SECTION .0400 – OCCUPATIONAL HEALTH NURSING CONSULTATION PROGRAM

10A NCAC 41A .0401 DOSAGE AND AGE REQUIREMENTS FOR IMMUNIZATION

(a) Every individual in North Carolina required to be immunized pursuant to G.S. 130A-152 through 130A-157 shall be immunized against the following diseases by receiving the specified minimum doses of vaccines by the specified ages:

- (1) Diphtheria, tetanus, and pertussis (whooping cough) – whooping cough vaccine – five doses: three doses by age seven months and two booster doses, one by age 19 months and the second on or after the fourth birthday and before enrolling in school for the first time. However:
 - (A) Individuals who receive the first booster dose of diphtheria, tetanus, and whooping cough vaccine on or after the fourth birthday are not required to have a second booster dose;
 - (B) Individuals ~~attending colleges and universities are required to have three doses of tetanus/diphtheria toxoid; one of which must have been within the last 10 years. Those individuals~~ Individuals enrolling in college or university for the first time on or after July 1, 2008 must have had three doses of tetanus/diphtheria toxoid; toxoid and a booster dose of tetanus/diphtheria/pertussis vaccine if a tetanus/diphtheria toxoid or one of which must be tetanus/diphtheria/pertussis. tetanus/diphtheria/pertussis vaccine has not been administered within the past 10 years. A dose of tetanus/diphtheria/pertussis vaccine is not required for any student over the age of 64 years;

- (C) A booster dose of tetanus/diphtheria/pertussis vaccine is required for individuals ~~attending public school who have not previously received it and~~ are entering the sixth grade or by 12 years of age (whichever comes first); on or after August 1, 2008, if five years or more have passed since the last dose of tetanus/diphtheria toxoid. ~~A booster dose of tetanus/diphtheria/pertussis vaccine is required for individuals not attending public schools who are 12 years of age on or after August 1, 2008, if five years or more have passed since the last dose of tetanus/diphtheria toxoid.~~ However, pertussis (whooping cough) vaccine is not required for individuals between 7 years of age through the fifth grade for those attending public schools and 7 through 12 years of age for those not attending public schools.
- (D) The sixth grade booster dose does not apply to individuals who enrolled in sixth grade before August 1, 2008.
- (2) Poliomyelitis vaccine – four doses: two doses of trivalent type by age five months; a third dose trivalent type before age 19 months, and a booster dose of trivalent type on or after the fourth birthday and before enrolling in school for the first time. However:
- (A) An individual attending school who has attained his or her 18th birthday is not required to receive polio vaccine;
- (B) The requirements for the booster does on or after the fourth birthday do not apply to individual who began school before August 1, 2014;
- (C)(B) Individuals who receive the third dose of poliomyelitis vaccine on or after the fourth birthday are not required to receive a fourth dose; dose if third dose is given at least six months after the second dose;
- (C) ~~The requirements for booster doses of poliomyelitis vaccine do not apply to individuals who enrolled for the first time in the first grade before July 1, 1987.~~
- (3) Measles (rubeola) vaccine – two doses of live, attenuated vaccine administered at least 28 days apart: one dose on or after age 12 months and before age 16 months and a second dose before enrolling in school for the first time. However:
- (A) An individual who has been documented by serological testing to have a protective antibody titer against measles is not required to receive measles vaccine;
- (B) An individual who has been diagnosed prior to January 1, 1994, by a physician (or designee such as a nurse practitioner or physician's assistant) licensed to practice medicine as having measles (rubeola) disease is not required to receive measles vaccine;
- (C) An individual born prior to 1957 is not required to receive measles vaccine;
- (D) The requirement for a second dose of measles vaccine does not apply to individuals who enroll in school or in college or university for the first time before July 1, 1994.
- (4) Rubella vaccine – one dose of live, attenuated vaccine on or after age 12 months and before age 16 months. However:
- (A) An individual who has been documented by serologic testing to have a protective antibody titer against rubella is not required to receive rubella vaccine;
- (B) An individual who has attained his or her 50th fiftieth birthday is not required to receive rubella vaccine except in outbreak situations;
- (C) An individual who entered a college or university after his or her thirtieth birthday and before February 1, 1989 is not required to meet the requirement for rubella vaccine except in outbreak situations.
- (5) Mumps vaccine – one dose of live, attenuated vaccine administered on or after age 12 months and before age 16 months and a second dose before enrolling in school, college or university for the first time. However:
- (A) An individual born prior to 1957 is not required to receive mumps vaccine;
- (B) The requirements for mumps vaccine do not apply to individuals who enrolled for the first time in the first grade before July 1, 1987 or in college or university before July 1, 1994;
- (C) An individual who has been documented by serological testing to have a protective antibody titer against mumps is not required to receive mumps vaccine;
- (D) An individual entering school, college or university prior to July 1,

- 2008 is not required to receive a second dose of mumps vaccine.
- (6) *Haemophilus influenzae, b*, conjugate vaccine – three doses of HbOC or PRP-T or two doses of PRP-OMP before age seven months and a booster dose of any type on or after age 12 months and by age 16 months. However:
- (A) Individuals who receive the first dose of *Haemophilus influenzae, b*, vaccine on or after seven months of age and before 12 months of age are required to have two doses of HbOC, PRP-T or PRP-OMP and a booster dose on or after 12 months of age and by age 16 months; born before October 1, 1988 are not required to be vaccinated against *Haemophilus influenzae, b*;
- (B) Individuals who receive the first dose of *Haemophilus influenzae, b*, vaccine on or after 12 months of age and before 15 months of age are required to have only two doses of HbOC, PRP-T or ~~PRP-OMP~~; PRP-OMP and a booster dose two months later;
- (C) Individuals who receive the first dose of *Haemophilus influenzae, b*, vaccine on or after 15 months of age are required to have only one dose of any of the *Haemophilus influenzae* conjugate vaccines; ~~vaccines, including PRP-D;~~
- (D) No individual who has passed their fifth birthday is required to be vaccinated against *Haemophilus influenzae, b*.
- (7) Hepatitis B vaccine – three doses: one dose by age three months, a second dose before age five months and a third dose by age 19 months. However:
- (A) The last dose of the hepatitis B vaccine series shall not be administered prior to 24 weeks of age;
- (B) Individuals born before July 1, 1994 are not required to be vaccinated against hepatitis B.
- (8) Varicella vaccine – Two doses 4-dose administered at least 28 days apart; one dose on or after age 12 months of age and before age 19 months and a second dose before enrolling in school for the first time. months. However:
- (A) An individual who has been documented by serological testing to have a protective antibody titer against varicella is not required to varicella vaccine;
- ~~(A) — An individual with a laboratory test indicating immunity or with a history of varicella disease, documented by a health care provider, parent, guardian or person in loco parentis is not required to receive varicella vaccine. Serologic proof of immunity or documentation of previous illness must be presented whenever a certificate of immunization is required by North Carolina General Statute. The documentation shall include the name of the individual with a history of varicella disease and the approximate date or age of infection. Previous illness shall be documented by:~~
- ~~(i) — a written statement from a health care provider documented on or attached to the lifetime immunization card or certificate of immunization; or~~
- ~~(ii) — a written statement from the individual's parent, guardian or person in loco parentis attached to the lifetime immunization card or certificate of immunization.~~
- ~~(C)(B)~~ An individual born prior to April 1, 2001 is not required to receive varicella vaccine.
- ~~(D)~~ The requirement for the second dose of varicella vaccine shall not apply to individuals who enroll in school (K-1) for the first time before August 1, 2014.
- (9) Pneumococcal conjugate vaccine – Four doses; three doses by age seven months and a booster dose at 12 through 15 months of age; However:
- (A) Individuals who receive the first dose of pneumococcal conjugate vaccine on or after seven months of age and before 12 months of age are required to have two doses at least four weeks apart and a booster dose at 12 through 15 months of age;
- (B) Individuals who receive the first dose of pneumococcal conjugate vaccine on or after 12 months of age and before 24 months of age are required to have two doses at least eight weeks apart to complete the series;
- (C) Individuals who receive the first dose of pneumococcal conjugate vaccine on or after 24 months of age and before five years are required to have one dose to complete the series;

- (D) No individual who has passed their fifth birthday shall be required to be vaccinated against pneumococcal disease;
- (E) An individual born prior to April 1, 2014 shall not be required to receive pneumococcal conjugate vaccine.
- (10) Meningococcal conjugate vaccine – Two doses: one dose is required for individuals entering the sixth grade or by 12 years of age (whichever comes first) on or after August 1, 2014. A booster dose is required by 16 years of age or by entering the 11th grade. However:
- (A) The first dose does not apply to individuals who enrolled in sixth grade before August 1, 2014;
- (B) The booster dose does not apply to individuals who enrolled in the 11th grade before August 1, 2019;
- (C) If the first dose is administered on or after the 16th birthday, a booster dose is not required;
- (D) An individual born prior to January 1, 2003 shall not be required to receive meningococcal conjugate vaccine.

(b) The healthcare provider shall administer immunizations in accordance with this Rule. However, if a healthcare provider administers vaccine up to and including the fourth day prior to the required minimum age, the individual dose is not required to be repeated. Doses administered more than 4 days prior to the requirements are considered invalid doses and shall be repeated.

(c) The State Health Director may suspend temporarily any portion of the requirements of this Rule due to emergency conditions, such as the unavailability of vaccine. The Department shall give notice in writing to all local health departments and other providers currently receiving vaccine from the Department when the suspension takes effect and when the suspension is lifted. When any vaccine series is disrupted by such a suspension, the next dose shall be administered within 90 days of the lifting of the suspension and the series resumed in accordance with intervals determined by the most recent recommendations of the Advisory Committee on Immunization Practices.

Authority G.S. 130A-152(c); 130A-155.1.

TITLE 11 – DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Home Inspectors Licensure Board intends to amend the rules cited as 11 NCAC 08 .1011, .1020, .1103, .1201, .1301, .1302 and .1318.

Agency obtained G.S. 150B-19.1 certification:

- ☐ OSBM certified on:
- ☒ RRC certified on: *November 21, 2013*
- ☐ Not Required

Link to agency website pursuant to G.S. 150B-19.1(c):
http://www.ncdoi.com/LS/LS_Rules.aspx

Proposed Effective Date: *October 1, 2014*

Public Hearing:

Date: *April 11, 2014*

Time: *9:00 a.m.*

Location: *322 Chapanoke Road, Raleigh, NC 27603*

Reason for Proposed Action:

11 NCAC 08 .1011, .1020, .1103, .1201, .1301 – Per S.L. 2009-509, Effective October 1, 2013, no statutory authority for licensing of an Associate Home Inspector

11 NCAC 08 .1302, .1318 – S.L. 2009-509 required a 3-year, 48-hour educational program for all home inspectors licensed prior to September 30, 2011. Each year's 16-hour segment of education satisfied the continuing education (CE) requirement for the license periods ending September 2012, September 2013, September 2014. Upon completion of the 48-hour program, this change reduces CE requirements back to 12 hours per year, reducing costs of licensure for licensees. Effective October 1, 2014, newly licensed home inspectors, who did not complete a 200 hour prelicensing program, must complete an additional four hours of CE for the first three years of licensure.

Comments may be submitted to: *Karen Waddell, NC Department of Insurance, 1201 Mail Service Center, Raleigh, NC 27699-1201*

Comment period ends: *April 11, 2014*

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
- ☐ Substantial economic impact (≥\$1,000,000)
- ☒ No fiscal note required by G.S. 150B-21.4

CHAPTER 08 – ENGINEERING AND BUILDING CODES DIVISION

SECTION .1000 – N.C. HOME INSPECTOR LICENSURE BOARD

11 NCAC 08 .1011 FEE SCHEDULE

(a) The following fees apply to the licensure of home inspectors:

Application for Home Inspector License	\$ 35.00
Application for Associate Home Inspector License	\$ 20.00
Home Inspector Examination	\$ 80.00
Initial Issuance or Annual Renewal of Home Inspector License	\$160.00
Initial Issuance or Annual Renewal of Associate Home Inspector License	\$110.00
Late Renewal Penalty Fee - Home Inspector License	\$ 30.00
Late Renewal Penalty Fee - Associate Home Inspector License	\$ 20.00
Copies of Board Rules and License Standards	\$ 5.00 Cost of printing and mailing
Unapproved Course Fee	\$ 50.00

(b) The home inspector and the ~~associate home inspector~~ initial issuance license fees are due after successful completion of the examination. The Board shall not issue a license until it receives the ~~appropriate~~ fee. The license is valid from the date of issuance ~~issue~~ until the following September 30.

Authority G.S. 143-151.49; 143-151.55; 143-151.57.

11 NCAC 08 .1020 DEFINITIONS

(a) As used in Rules .1020 through .1028 of this Section:

- (1) "Course Sponsor" means a person approved by the Board to conduct home inspection preclicensing courses.
- (2) "Credit hour" means one continuing education course hour, comprising at least 50 minutes of instruction.
- (3) "License period" means October 1 through the following September 30.
- (4) "Licensee" means a home inspector ~~or associate home inspector~~ licensed by the Board under G.S. 143, Article 9F.
- (5) "Person" means an individual, partnership, firm, association, corporation, joint-stock company, trust, any similar entity, or any combination of the foregoing acting in concert.

(b) The definitions contained in G.S. 143-151.45 apply to this Section.

Authority G.S. 143-151.45; 143-151.49; 143-151.51.

SECTION .1100 – N.C. HOME INSPECTOR STANDARDS OF PRACTICE AND CODE OF ETHICS

11 NCAC 08 .1103 PURPOSE AND SCOPE

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

(b) Home inspectors shall:

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

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

- (1) Reporting observations and conditions or rendering opinions of items in addition to those required in Paragraph (b) of this Rule; or

- (2) Excluding systems and components from the inspection if requested by the client, and so stated in the written contract.

Authority G.S. 143-151.49; 143-151.58.

SECTION .1200 – N.C. HOME INSPECTOR DISCIPLINARY ACTIONS

11 NCAC 08 .1201 DEFINITIONS

The following definitions are used in this Section:

- (1) The definitions in G.S. 143-151.45 are incorporated into this Section by reference. ~~"Associate home inspector" is included where reference is made to "home inspector" or "licensee".~~
- (2) ~~"File or filing" means to place the paper or item to be filed into the care and custody of the presiding officer, and acceptance thereof by him, except that the Board may permit the papers to be filed with the Board, in which event the Board shall note thereon the filing date. All documents filed with the presiding officer or the Board, except exhibits, shall be duplicate in letter size 8 1/2" by 11".~~
- (3)(2) "Party" means the Board, the licensee, or an intervenor who qualifies under G.S. 150B-38(f). "Party" does not include a complainant unless the complainant is allowed to intervene under G.S. 150B-38(f).
- (4)(3) "Service or serve" means personal delivery or, unless otherwise provided by law or rule, delivery by first class United States Postal Service mail or a licensed overnight express mail service, addressed to the person to be served at his or her last known address. A Certificate of Service by the person making the service shall be appended to every document requiring service under these Rules. Service by mail or licensed overnight express mail is complete upon addressing, enveloping, and placing the item to be served, in an official depository of the United States Postal Service or delivering the item to an agent of an overnight express mail service.

Authority G.S. 143-151.49; 150B-38(h).

SECTION .1300 - HOME INSPECTOR CONTINUING EDUCATION

11 NCAC 08 .1301 DEFINITIONS

(a) As used in this Section:

- (1) "Credit hour" means one continuing education course hour, comprising at least 50 minutes of instruction.
- (2) "License period" means October 1 through the following September 30.

- (3) "Licensee" means a home inspector ~~or associate home inspector~~ licensed by the Board under G.S. 143, Article 9F and Section .1000 of this Chapter.

- (4) "Person" means an individual, partnership, firm, association, corporation, joint-stock company, trust, any similar entity, or any combination of the foregoing acting in concert.

(b) The definitions contained in G.S. 143-151.45 apply to this Section.

Authority G.S. 143-151.49; 143-151.55.

11 NCAC 08 .1302 CONTINUING EDUCATION REQUIRED FOR RENEWAL OF ACTIVE LICENSE

(a) In order to renew an active home inspector ~~or associate home inspector~~ license for license renewal periods beginning on or after October 1, ~~2011~~, 2014, the licensee shall have completed, during the license renewal period, ~~16~~ 12 credit hours, except as described in Paragraph (b) of this Rule.

(b) In order to renew an active home inspector license for license renewal periods beginning on or after October 1, ~~2011~~, 2014, home inspectors who are newly licensed on or after October 1, ~~2011~~, 2014, who have not completed the pre-licensing education program established pursuant to G.S. ~~143-151.51(1)(5)(a)~~, 143-151.51(a)(5)a or its equivalent pursuant to ~~11 NCAC 08 .1004(e)~~, Rule .1004(c) of this Chapter, must complete ~~20~~ 16 hours of continuing education per year for the first three years of licensure that include the following:

- (1) Four hours of a Board approved ~~mandatory course~~; course consisting of the following:
- (A) for the first year, a Board approved course on the Standards of Practice and Report Writing; and
- (B) for each of the second and third years, a Board approved course of the home inspector's choosing.
- (2) Four hours of the update course component described in ~~11 NCAC 08 .1309~~; Rule .1309 of this Chapter; and
- (3) ~~12~~ Eight hours of Board approved elective courses.

(c) A licensee who is newly licensed on or after June 1 is exempt from this Section for the initial license period.

Authority G.S. 143-151.49; 143-151.51; 143-151.55; 143-151.64.

11 NCAC 08 .1318 ELECTIVE COURSE COMPONENT

(a) Licensee Requirements: To renew a license on active status, a licensee shall complete ~~12~~ eight classroom hours of instruction in ~~three two~~ two or more Board approved elective courses within the license period ~~one year preceding license expiration~~ in addition to satisfying the continuing education mandatory update course requirement described in Rule .1309 of this Section.

(b) Sponsor Requirements: Approval of an elective course requires approval of the sponsor and instructor(s) as well as the course itself. Such approval authorizes the sponsor to conduct

the approved course using the instructor(s) who have been found by the Board to satisfy the instructor requirements set forth in Rule .1322 of this Section. The sponsor may conduct the course at any location as frequently as is desired during the approval period. However, the sponsor may not conduct any session of an approved course for home inspector continuing education purposes between September 10 and September 30, inclusive, of any approval period.

Authority G.S. 143-151.49(13); 143-151.64.

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 rule cited as 12 NCAC 07D .0901.

Agency obtained G.S. 150B-19.1 certification:

- ☐ OSBM certified on:
- ☒ RRC certified on: *December 19, 2013*
- ☐ Not Required

Link to agency website pursuant to G.S. 150B-19.1(c):
www.ncdoj.gov

Proposed Effective Date: *June 1, 2014*

Public Hearing:

Date: *February 25, 2014*

Time: *2:00 p.m.*

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

Reason for Proposed Action: *The intent of the rule originally was to lessen the burden on those persons not required to attend the entire course; however, since the North Carolina Justice Academy charges the Board for all five (5) days regardless of the number of days a person attends, the Board is absorbing the additional amount. This rule amendment will now require all applicants to pay the same course fee amount.*

Comments may be submitted to: *Anthony Bonapart, PPSB Deputy Director, 4901 Glenwood Avenue, Suite 200, Raleigh, NC 27612*

Comment period ends: *April 4, 2014*

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
- ☐ Substantial economic impact (≥\$1,000,000)
- ☒ No fiscal note required by G.S. 150B-21.4

CHAPTER 07 – PRIVATE PROTECTIVE SERVICES

SUBCHAPTER 07D – PRIVATE PROTECTIVE SERVICES BOARD

SECTION .0900 – TRAINER CERTIFICATE

12 NCAC 07D .0901 REQUIREMENTS FOR A FIREARMS TRAINER CERTIFICATE

(a) Firearms trainer applicants shall:

- (1) meet the minimum standards established by Rule .0703 of this Subchapter;
- (2) have a minimum of one year of supervisory experience in security with a contract security company or proprietary security organization, or one year of experience with any federal, state, county or municipal law enforcement agency;
- (3) attain a 90 percent score on a firearm's prequalification course approved by the Board and the Attorney General, with a copy of the firearm's course certificate to be kept on file in the administrator's office;
- (4) complete a training course approved by the Board and the Attorney General which shall consist of a minimum of 40 hours of classroom and practical range training in handgun and shotgun safety and maintenance, range operations, night firearm training, control and safety procedures, and methods of handgun and shotgun firing;
- (5) pay the certified trainer application fee established in 12 NCAC 07D .0903(a)(1); and
- (6) successfully complete the requirements of the Unarmed Trainer Certificate set forth in Rule .0909 of this Subchapter.

(b) The applicant's score on the prequalification course set forth in Subparagraph (a)(3) of this Rule is valid for 180 days after completion of the course.

(c) In lieu of completing the training course set forth in Subparagraph (a)(4) of this Rule, an applicant may submit to the Board a current Criminal Justice Specialized Law Enforcement Firearms Instructor Certificate from the North Carolina Criminal Justice Education and Training Standards Commission.

(d) In lieu of Subparagraphs (a)(2) and (4) of this Rule, an applicant may establish to the Board's satisfaction a military occupational specialty and two years of verifiable experience within the past five years in the U.S. Armed Forces as a firearms instructor.

(e) All applicants subject to ~~this~~ Paragraphs (c) and (d) of this Rule shall comply with the provisions of Subparagraph (a)(3), pay ~~one-half~~ the course fee ~~amount~~, amount as set forth in Rule .0903 of this Subchapter, and complete the eight hour course given by the Board on rules and regulations.

(f) In addition to the requirement of 12 NCAC 07D .0200, an applicant for a firearms trainer certificate ~~that who~~ is the spouse of an active duty member of the U.S. Armed Forces shall establish to the Board's satisfaction:

- (1) the spouse holds a current license, certification or registration from another jurisdiction and the other jurisdiction's requirements are substantially equivalent to or exceed the Board's requirements; and
- (2) the spouse has two years of verifiable experience within the past five years as a firearms instructor.

(g) A Firearms Trainer Certificate expires two years after the date of issuance.

Authority G.S. 74C-5; 74C-13; 93B-15.1.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Criminal Justice Education and Training Standards Commission intends to amend the rule cited as 12 NCAC 09F .0102 and repeal the rules cited as 12 NCAC 09A .0108; 09B .0311; 09C .0217, .0218, .0220.

Agency obtained G.S. 150B-19.1 certification:

- ☐ OSBM certified on:
- ☒ RRC certified on: *December 19, 2013*
- ☐ Not Required

Link to agency website pursuant to G.S. 150B-19.1(c):
http://ncdoj.gov/getdoc/5fa6f1c1-c748-4d37-82c3-36066a322fad/Public-Hearing_Rule-Revisions_1-2-14.aspx

Proposed Effective Date: *August 1, 2014*

Public Hearing:

Date: *May 21, 2014*

Time: *1:00 p.m.*

Location: *Wake Technical Community College, Public Safety Training Center, 321 Chapanoke Road, Raleigh, NC 27602*

Reason for Proposed Action:

12 NCAC 09A .0108; 09B .0311; 09C .0217, .0218, .0220 – The rules for repeal are needed to become current with industry practice and to remove outdated requirements for Speed Measurement Instrument operator and instructors. Newer requirements are found in other rules.

12 NCAC 09F .0102 – *This rule is being revised in order to allow for training programs other than the previously required NC Justice Academy lesson plan.*

Comments may be submitted to: *Trevor Allen, P.O. Drawer 149, Raleigh, NC 27602-0149; phone (919) 779-8211; fax (919) 779-8210; email tjallen@ncdoj.gov*

Comment period ends: *May 21, 2014*

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
- ☐ Substantial economic impact (≥\$1,000,000)
- ☒ No fiscal note required by G.S. 150B-21.4

CHAPTER 09 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SUBCHAPTER 09A - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

SECTION .0100 - COMMISSION ORGANIZATION AND PROCEDURES

12 NCAC 09A .0108 APPLICABILITY OF RADAR/TDS STANDARDS PRE 7/1/82

~~(a) The Commission takes official notice that minimum standards and levels of training for certification and recertification of operators and instructors for training programs in radio microwave and other electronic speed measuring instruments have been established by the Commission through rule making. Additionally, many law enforcement officers have met such standards and have been certified as operators and instructors.~~

~~(b) The standards in this Rule and levels of training are in form and substance the same as required by G.S. 17C 6(a)(11)(12) and (13) and 6(d).~~

~~(c) Any law enforcement officer who has met these standards and has been certified prior to July 1, 1982, has met the~~

~~standards in effect as of July 1, 1982, shall be subject to all terms and conditions for recertification, supplementary training and discipline that apply to such certification.~~

~~(d) The Commission takes official notice that, by operation of law and formal rule making by the Commission, all standards, levels of training, approved equipment, testing procedures and other rules pertaining to the use of radio microwave and other electronic speed measuring instruments, currently embodied within the rules of the Commission (12 NCAC 09A, 09B and 09C) are mandatory.~~

Authority G.S. 17C-6.

SUBCHAPTER 09B - STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT: EDUCATION: AND TRAINING

SECTION .0300 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE INSTRUCTORS

12 NCAC 09B .0311 CERTIFIED INSTRUCTORS PRE 7/1/82

~~Any radar or radar and time distance instructors certified pursuant to standards in effect between November 1, 1981 and July 1, 1982 shall continue to hold certification with full force and effect. The terms and conditions of 12 NCAC 09B .0310 shall apply to these instructors.~~

Authority G.S. 17C-6.

SUBCHAPTER 09C - ADMINISTRATION OF CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SECTION .0200 - FORMS

12 NCAC 09C .0217 APPLICATION FOR LAW ENFORCEMENT EMPLOYMENT

~~The Application for Law Enforcement Employment is a card suitable for use by law enforcement agencies for preliminary screening of new applicants for employment and for documenting the applicant's submission of required documentation.~~

Authority G.S. 17C-6; 150B-11.

12 NCAC 09C .0218 FORM ORDER BLANK

~~The Form Order Blank, is a means by which an agency may order copies of forms described in this Section.~~

Authority G.S. 17C-6; 150B-11.

12 NCAC 09C .0220 ACQUISITION OF FORMS

~~All forms described in this Section may be obtained by forwarding a request by letter or by using the Form Order Blank to the Standards Division at P.O. Drawer 149, Raleigh, North Carolina 27602.~~

Authority G.S. 17C-6; 150B-11.

SUBCHAPTER 09F - CONCEALED HANDGUN TRAINING

SECTION .0100 - CONCEALED HANDGUN TRAINING PROGRAM

12 NCAC 09F .0102 TOPICAL AREAS

The course entitled "Concealed Carry Handgun Training" shall consist of eight hours of instruction and shall include the following identified topical areas:

- (1) Legal Issues (two hours): The student shall be able to demonstrate a general knowledge of North Carolina law on concealed handguns, handgun safety, and use of deadly force. ~~The instructor shall use the lesson plan produced by the North Carolina Justice Academy.~~ The instructor shall determine the student's level of understanding of the relevant legal issues by a written examination.
- (2) Handgun Nomenclature: The students shall be able either verbally or in writing to list the primary parts of their personal handguns.
- (3) Handgun Safety: The students shall be able to:
 - (a) list at least four rules of safe gun handling and demonstrate all of these procedures during range exercises;
 - (b) list four methods of safely storing a handgun and choose the method most appropriate for their personal use;
 - (c) describe safety issues relating to the safe carry of a handgun; and
 - (d) determine the proper storage of their handguns when there are minors in the home.
- (4) Handgun Fundamentals: The students shall be able to:
 - (a) demonstrate how to properly load both a revolver and a semiautomatic handgun;
 - (b) demonstrate how to properly unload both a revolver and a semiautomatic handgun;
 - (c) describe the operational characteristics of their handguns; and
 - (d) successfully complete a proficiency test administered by the instructor as prescribed in 12 NCAC 09F .0105.
- (5) Marksmanship Fundamentals: The student shall be able to:
 - (a) demonstrate a proper handgun grip;
 - (b) demonstrate either the Weaver or Isosceles Stance;
 - (c) describe the elements of sight alignment and sight picture; and
 - (d) demonstrate trigger control in a dry fire exercise.
- (6) Presentation Techniques: The students shall be able to demonstrate the draw or presentation with their handguns.

- (7) Cleaning and Maintenance: The students shall be able to:
- (a) demonstrate how to "field strip" the handguns if their handguns can be field stripped;
 - (b) describe how to perform a "Function Check" on their personal handguns; and
 - (c) based on the manufacturer's recommendations, list the lubrication points of their specific handguns.
- (8) Ammunition: The students shall be able to list the four components of handgun ammunition.
- (9) Proficiency Drills: The students shall be able to:
- (a) demonstrate how to properly check a handgun in order to ensure that it is safe;
 - (b) demonstrate how to fire a handgun from a ready position;
 - (c) demonstrate the ability to fire a handgun from various distances; and
 - (d) successfully complete a proficiency test administered by the instructor as prescribed in 12 NCAC 09F .0105(7).

Authority G.S. 14-415.12.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 16 – STATE BOARD OF DENTAL EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that NC State Board of Dental Examiners intends to adopt the rule cited as 21 NCAC 16B .1101; amend the rules cited as 21 NCAC 16B .0101, .0201-.0202, .0301, .0303, .0501, .0601, .0701, .0801, .0901, .1002; and repeal the rules cited as 21 NCAC 16B .0401-.0406.

Agency obtained G.S. 150B-19.1 certification:

- ☐ OSBM certified on:
- ☐ RRC certified on:
- ☒ Not Required

Link to agency website pursuant to G.S. 150B-19.1(c):
www.ncdentalboard.org

Proposed Effective Date: June 1, 2014

Public Hearing:

Date: March 20, 2014

Time: 6:30 p.m.

Location: Dental Board Office, 507 Airport Blvd., Ste. 105, Morrisville, NC 27560

Reason for Proposed Action:

21 NCAC 16B .0101 – This rule is proposed for amendment to clarify that everyone practicing dentistry in North Carolina must have current CPR certification.

21 NCAC 16B .0201, .0202, .0301, .0501, .0601, .0701, .0801, .1002 – These rules are proposed for amendment to clarify and standardize the application and renewal process.

21 NCAC 16B .0303 – This rule is proposed for amendment to make the rule consistent with the current examination process.

21 NCAC 16B .0901 – This rule is proposed for amendment to clarify the definition of "good standing."

21 NCAC 16B .1101 – This rule is proposed for adoption to clarify how a suspended or lapsed license may be reinstated.

21 NCAC 16B .0401, .0402, .0403, .0404, .0405, .0406 – These rules are proposed for repeal as unnecessary, since the Board no longer gives clinical licensing exams to dentists.

Comments may be submitted to: Bobby D. White, 507 Airport Blvd., Ste. 105, Morrisville, NC 27560

Comment period ends: May 20, 2014

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
- ☐ Substantial economic impact (≥\$1,000,000)
- ☒ No fiscal note required by G.S. 150B-21.4

SUBCHAPTER 16B – LICENSURE DENTISTS

SECTION .0100 – GENERAL PROVISIONS

21 NCAC 16B .0101 EXAMINATION REQUIRED; EXEMPTIONS

(a) All persons desiring to practice dentistry in North Carolina are required to pass Board approved, as set forth in these Rules, written and clinical examinations before receiving a license.

(b) The examination requirement does not apply to persons who do not hold a North Carolina dental license and who are seeking volunteer licenses pursuant to G.S. 90-21.107 or licensure by

endorsement pursuant to Rules .1001 and .1002 of this Subchapter.

(c) All persons practicing dentistry in North Carolina must maintain current CPR certification at all times.

Authority G.S. 90-21.107; 90-28; 90-30; 90-36; 90-38; 90-48.

SECTION .0200 – QUALIFICATIONS

21 NCAC 16B .0201 IN GENERAL

(a) An applicant for licensure as a dentist must be a graduate of and have a DMD or DDS degree from a university or college accredited by the Commission on Dental Accreditation of the American Dental Association.

(b) Graduates of foreign colleges may apply be accepted as applicants for licensure after completing at least two years in a dental school accredited by the Commission on Accreditation of the American Dental Association, graduating with a DMD or DDS degree from that dental school, and passing Board approved written and clinical examinations, as set out in these Rules. ~~Rules, and graduating with a DMD or DDS degree from that dental school.~~

Authority G.S. 90-28; 90-30; 90-48.

21 NCAC 16B .0202 STUDENT MAY APPLY

Applications for a dental license will be accepted from students currently enrolled in schools of ~~dentistry.~~ dentistry accredited by the Commission on Dental Accreditation of the American Dental Association. ~~Such applications will automatically be deemed denied if the applicant should fail to complete the required course of study or fail Board approved licensure examinations.~~ Applications will be automatically denied if the applicant fails to complete the required course of study or fails a Board approved licensure examination.

Authority G.S. 90-28; 90-30; 90-48.

SECTION .0300 – APPLICATION FOR LICENSURE

21 NCAC 16B .0301 APPLICATION FOR LICENSE

(a) All applications shall be ~~are to be~~ made on the forms furnished by the ~~Board,~~ Board at www.ncdentalboard.org and no application shall be deemed complete which does not set forth all the required information ~~information, required relative to the applicant.~~ Incomplete applications will be returned to the applicant. Any ~~candidate applicant~~ who changes his address shall ~~immediately~~ notify the Board office, office within 10 business days. Applicants shall ensure that official ~~furnish~~ transcripts of undergraduate college and dental school ~~credits are sent in a sealed envelope to the Board office.~~

(b) The nonrefundable application fee shall accompany the application. ~~Such fee is non-refundable.~~

(c) Applicants who are licensed in other states shall ensure that the Board receives ~~furnish~~ verification of licensure from the ~~secretary of the~~ dental board of each state in which they are licensed. A ~~photograph,~~ photograph of the applicant, taken within six months prior to the date of the application, must be affixed to the application.

(d) All applicants shall submit to the Board a signed release form, completed Fingerprint Record Card, and such other form(s) required to perform a criminal history check at the time of the application. The form and card are available from the Board office.

(e) All applicants shall arrange for and ensure the submission to the Board office the examination scores as required by Rule ~~.0303(e)~~ .0303(b) of this Subchapter, if applicable. The examination requirement does not apply to individuals who do not hold a North Carolina dental license and who are seeking volunteer licenses pursuant to G.S. 90-21.107 or licensure by endorsement pursuant to Rules .1001 or .1002 of this Chapter.

(f) All applicants must include a statement disclosing and explaining periods, within the last 10 years, of any voluntary or involuntary commitment to any hospital or treatment facility, observation, assessment, or treatment for substance abuse, with verification demonstrating that the applicant has complied with all provisions and terms of any drug treatment program, or impaired dentists or other impaired professionals program.

Authority G.S. 90-28; 90-30; 90-39; 90-48.

21 NCAC 16B .0303 BOARD APPROVED EXAMINATIONS

(a) All applicants for dental licensure shall achieve passing scores on the Board's sterilization and jurisprudence examinations. Reexamination on the written examinations shall be governed by Rule ~~16B .0406(e).~~ 16B .0317.

(b) All applicants for dental licensure shall achieve passing scores on Parts I and II of the Dental National Board examination administered by the Joint Commission on National Dental Examinations and written and clinical examinations administered by the Board or Board approved testing agencies according to this Rule.

(c) Test development agencies ~~Clinical testing agencies~~ must permit Board representation on the Board of Directors and the Examination Review Committee or equivalent committee and allow Board input in the examination development and administration.

(d) The clinical examination shall:

- (1) be substantially equivalent to or an improvement to the clinical licensure examination most recently administered by the Board;
- (2) include procedures performed on human subjects as part of the assessment of restorative clinical competencies;
- (3) include evaluations in clinical periodontics and at least ~~four~~ three of the following subject matter areas:
 - ~~(A) — periodontics, clinical abilities testing;~~
 - ~~(A)(B)~~ endodontics, clinical abilities testing;
 - ~~(B)(C)~~ amalgam preparation and restoration;
 - ~~(C)(D)~~ anterior composite preparation and restoration;
 - ~~(D)(E)~~ posterior ceramic or composite preparation and restoration;
 - ~~(E)(F)~~ cast gold, clinical abilities testing;

- ~~(F)(G)~~ prosthetics, written or clinical abilities testing;
 - ~~(G)(H)~~ oral diagnosis, written or clinical abilities testing; or
 - ~~(H)(I)~~ oral surgery, written or clinical abilities testing.
- (4) provide the following:
- (A) anonymity between applicants and examination graders; raters;
 - (B) standardization and calibration of graders; raters;
 - (C) a mechanism for post exam analysis;
 - (D) conjunctive scoring, which is scoring that requires applicants to earn a passing grade on all sections or areas tested and that does not allow weighted, averaged or overall scoring to compensate for failures in individual subject areas;
 - (E) a minimum passing score set by the Board for each subject area tested;
 - (F) an annual review of the examination; examination and its technical manual by the Board and a psychometrician selected by the Board;
 - (G) a task analysis performed at least once every seven ~~four~~ years, which surveys dentists on a nationwide survey to determine the content domain to be scored and how the sections of the examination; examination are scored;
 - (H) a defined system of quality assurance to ensure uniform, consistent administration of the examination at each testing site; and
 - ~~(I) a system of applicant assessment which utilizes raters of applicant performance who are not full time employees of any dental academic institution.~~
 - (I) does not permit a dental instructor to grade candidates at any institution at which the instructor is employed.

(e) The Board shall accept scores upon such examinations for a ~~period of five years~~ following the date of such examinations. Each applicant shall arrange for and ensure the submission to the Board office the applicant's scores.

(f) The applicant shall comply with all requirements of such the testing agency in applying for and taking the examination.

(g) The Board shall determine which examinations meet the criteria set out in Rule .0303(d) of this Subchapter. specify the times, places and agencies which will conduct Board approved licensure examinations in the state.

Authority G.S. 90-30; 90-48.

SECTION .0400 – LICENSURE BY BOARD CONDUCTED EXAMINATION

21 NCAC 16B .0401 APPLICATION FOR BOARD CONDUCTED EXAMINATION

~~(a) All applications for Board conducted examination are to be made on the forms furnished by the Board, and no application shall be deemed complete which does not set forth all the information required by said Board relative to the applicant. Any candidate who changes his address shall immediately notify the Board office.~~

~~(b) The fee for each examination or re-examination must accompany the application. Such fee is non refundable.~~

~~(c) Two identical photographs of the applicant, taken within six months prior to the date of the application, not over two inches in height, must be submitted. One photograph must be affixed to the application and the second photograph must be paper clipped to the application to be used as part of the identification badge.~~

Authority G.S. 90-28; 90-30; 90-39; 90-41; 90-48.

21 NCAC 16B .0402 TIME FOR FILING

~~The completed application, fee, photographs, and undergraduate college and dental school transcripts must be received in the Board's office at least 90 days prior to the date of examination. Dental school transcripts for those still in dental school must be sent upon graduation. All data received by the Board concerning the applicant shall be part of the application and shall be retained as part of the record.~~

Authority G.S. 90-28; 90-30; 90-48.

21 NCAC 16B .0403 EXAMINATION CONDUCTED BY THE BOARD

~~(a) Written instructions designating the subject areas to be covered will be made available to candidates prior to the date fixed for each examination.~~

~~(b) Each candidate will be given a numbered badge. This badge will contain the candidate's photograph and will be presented to the candidate prior to the examination. The number on the badge will be the only identification allowed on any paper or manuscript during this examination. This badge must be returned to the Board at the completion of the examination.~~

~~(c) The Board reserves the right to dismiss any candidate who may be detected using or attempting to use any assistance not provided as an accommodation. If such violation is discovered by the Board after a license has been issued to the violator, the license shall be revoked.~~

Authority G.S. 90-28; 90-30; 90-48.

21 NCAC 16B .0404 PATIENTS AND SUPPLIES FOR BOARD CONDUCTED CLINICAL EXAMINATION

~~Each candidate must furnish his own patients and instruments for the Board conducted clinical examination. Additional instructions concerning supplies will be mailed to each candidate. A dental unit, chair, and stand to hold instrument cases are available for each candidate.~~

Authority G.S. 90-28; 90-30; 90-48.

**21 NCAC 16B .0405 SCOPE OF BOARD
CONDUCTED CLINICAL EXAMINATION**

~~(a) The Board conducted clinical examination may cover such of the following subject areas as the Board may designate:~~

- ~~(1) Clinical operative dentistry;~~
- ~~(2) Oral surgery, radiography, radiographic interpretation and oral diagnosis;~~
- ~~(3) Fixed and removable prosthodontics;~~
- ~~(4) Periodontics;~~
- ~~(5) Simulated clinical procedures;~~
- ~~(6) Endodontics.~~

~~(b) Each graded procedure will be examined separately by at least three examiners.~~

~~(c) The clinical examination will begin and end promptly as designated.~~

Authority G.S. 90-28; 90-30; 90-48.

**21 NCAC 16B .0406 BOARD CONDUCTED
REEXAMINATION**

~~(a) A complete application is required in case of reexamination. For purposes of this Rule:~~

- ~~(1) any person who has taken the clinical portion of the Board conducted clinical examination one time without passing, is considered to have failed the clinical portion of the examination; and~~
- ~~(2) any person who has taken the written portion of the Board conducted written examination three times without passing, is considered to have failed the written portion of the examination.~~

~~(b) Any applicant who has failed the clinical portion of the examination three times, regardless of having passed the written portion of the examination, shall successfully complete an additional course of study in clinical dentistry encompassing at least one academic year, such course of study as determined by the Board shall be in the area or areas of deficiency exhibited on the examination and shall provide additional experience and expertise in clinical dentistry for the applicant. Such applicant must send evidence of the additional study, along with the application, before being admitted for reexamination.~~

~~(c) Any applicant who has not passed the written portion of the examination may retake the written portion of the examination two additional times during the twelve month period from the date of the initial examination. The applicant must wait a minimum of 72 hours before attempting to retake a written examination. Any applicant who has failed the written portion of the examination as defined in Paragraph (a), shall successfully complete an additional course of study, such course of study as determined by the Board shall be in the area or areas of deficiency exhibited on the examination. Such applicant must send evidence of the additional study, along with the application, before being admitted for reexamination.~~

~~(d) Any applicant who has passed the written portion of the examination but has failed the clinical portion of the examination need not retake the written portion of the examination upon subsequent reexamination during one calendar year.~~

Authority G.S. 90-28; 90-30; 90-48.

SECTION .0500 – LICENSURE BY CREDENTIALS

**21 NCAC 16B .0501 DENTAL LICENSURE BY
CREDENTIALS**

(a) An applicant for a dental license by credentials shall submit to the Board:

- (1) a completed, notarized application form provided by the Board;
- (2) the non-refundable licensure by credentials fee;
- (3) an affidavit from the applicant stating for the five years immediately preceding the application:
 - (A) the dates that and locations where the applicant has practiced dentistry;
 - (B) that the applicant has provided at least ~~5000~~ 5,000 hours of clinical care directly to patients, not including post graduate training, residency programs or an internship and
 - (C) that the applicant has continuously held an active, unrestricted dental license issued by another U.S. state or ~~any~~ U.S. territory;
- (4) ~~if applicable,~~ a statement disclosing and explaining any ~~disciplinary actions,~~ investigations, malpractice claims, state or federal agency complaints, judgments, settlements, or criminal charges;
- (5) ~~if applicable,~~ a statement disclosing and explaining periods, within the last 10 years, of any voluntary or involuntary commitment to any hospital or treatment facility, observation, assessment, or treatment for substance abuse, with verification demonstrating that the applicant has complied with all provisions and terms of any county or state drug treatment program, or impaired dentists or other impaired professionals program;
- (6) a copy of a current CPR certificate; ~~an unexpired course completion certification card in cardiopulmonary resuscitation;~~ and
- (7) a statement disclosing whether or not the applicant holds or has ever held a registration with the federal Drug Enforcement Administration (DEA) and whether such registration has ever been surrendered ~~surrendered, surrendered for cause, or revoked.~~

(b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for a dental license by credentials shall arrange for and ensure the submission to the Board office, the following documents as a package, with each document in an unopened envelope sealed by the entity involved:

- (1) official transcripts ~~from the applicant's dental school~~ verifying that the applicant has graduated from a dental school accredited by

- the Commission on Dental Accreditation of the American Dental Association;
- (2) if the applicant is or has ever been employed as a dentist by or under contract with a federal agency, a letter certifying the applicant's current status and disciplinary history from each federal agency where the applicant is or has been employed or under contract;
- (3) certificate of the applicant's licensure status from the dental regulatory authority or other occupational or professional regulatory authority and complete information regarding any disciplinary action taken or investigation pending, from all licensing jurisdictions where the applicant holds or has ever held a dental license or other occupational or professional license;
- (4) a report from the National Practitioner Databank;
- (5) a report of any pending or final malpractice actions against the applicant verified by the malpractice insurance carrier covering the applicant. The applicant must submit a letter of coverage history from all current and all previous malpractice insurance carriers covering the applicant;
- (6) a score certification letter from a dental professional regulatory board or regional testing agency of a passing score on a clinical licensure examination substantially equivalent to the clinical licensure examination required in North Carolina and such examination shall be administered by the dental professional regulatory board or a regional testing agency. ~~its designated agent other than an educational institution.~~ The score certification letter shall:
- (A) state that the examination included procedures performed on human subjects as part of the assessment of restorative clinical competencies and included evaluations in periodontics and at least three ~~four~~ of the following subject areas:
- (i) ~~periodontics,~~ ~~clinical abilities testing;~~
 - (i)(ii) endodontics, clinical abilities testing;
 - (ii)(iii) amalgam preparation and restoration;
 - (iii)(iv) anterior composite preparation and restoration;
 - (iv)(v) posterior ceramic or composite preparation and restoration;
 - (vi) ~~cast gold, clinical abilities testing;~~
 - (v)(vii) prosthetics, written or clinical abilities testing;

- (vi)(viii) oral diagnosis, written or clinical abilities testing; or
 - (vii)(ix) oral surgery, written or clinical abilities testing.
- (B) state that licensure examinations after January 1, 1998 included:
- (i) anonymity between candidates and examination graders; raters;
 - (ii) standardization and calibration of graders; raters; and
 - (iii) a mechanism for post exam analysis;
- (7) the applicant's passing score on the Dental National Board Part I and Part II written examination administered by the Joint Commission on National Dental Examinations; and
- (8) the applicant's passing score on the licensure examination in general dentistry conducted by a regional testing agency or independent state licensure examination substantially equivalent to the clinical licensure examination required in North Carolina as set out in Subparagraph (b)(6) of this Rule.
- (c) All information required must be completed and received by the Board office as a complete package with the initial application and application fee. Incomplete applications ~~If all of the information is not received as a complete package, the application~~ shall be returned to the applicant.
- (d) All applicants shall submit to the Board a signed release form, completed Fingerprint Record Card, and other form(s) required to perform a criminal history check at the time of the application. The forms and card are available at the Board office.
- (e) An applicant for dental licensure by credentials must successfully complete written examinations as set out in G.S. 90-36 and, if deemed necessary based on the applicant's history, a clinical simulation examination administered by the Board. An applicant who fails the written examination may retake it ~~If the applicant fails any of the examinations, the applicant may retake the examination failed~~ two additional times during a one year period. The applicant must wait a minimum of 72 hours before attempting to retake a written examination. Individuals who fail the clinical examination or do not pass the written examination after three attempts within one year may not reapply for licensure by credentials.
- (f) Should the applicant reapply for licensure by credentials, an additional licensure by credentials fee shall be required.
- (g) Any license obtained through fraud or by any false representation shall be void ab initio and of no effect.

Authority G.S. 90-28; 90-36.

SECTION .0600 – LIMITED VOLUNTEER DENTAL LICENSE

21 NCAC 16B .0601 LIMITED VOLUNTEER DENTAL LICENSE

(a) An applicant for a limited volunteer dental license shall submit to the Board:

- (1) a completed, notarized application form provided by the Board;
- (2) the non-refundable limited volunteer dental licensure fee;
- (3) an affidavit from the applicant stating:
 - (A) for the five years immediately preceding application, the dates that and locations where the applicant has practiced dentistry;
 - (B) that the applicant has provided at least 1000 hours per year of clinical care directly to patients, for a minimum of five years, not including post graduate training, residency programs or an internship; and
 - (C) that the applicant has provided at least 500 hours of clinical care directly to patients within the last five years, not including post graduate training, residency programs or an internship;
- (4) ~~if applicable,~~ a statement disclosing and explaining periods, within the last 10 years, of any voluntary or involuntary commitment to a hospital or treatment facility, years, of observation, assessment, or treatment for substance abuse, with verification from the applicable program demonstrating that the applicant has complied with all provisions and terms of any county or state drug treatment program, or impaired dentists or other impaired professionals program; and
- (5) a copy of a current CPR certification course completion certification card, card in cardiopulmonary resuscitation.

(b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for a limited volunteer dental license shall arrange for and ensure the submission to the Board office, the following documents as a package, with each document in an unopened envelope sealed by the entity involved:

- (1) official transcripts verifying that the applicant has graduated from a dental school ~~documentation of graduation from a dental school~~ accredited by the Commission on Dental Accreditation of the American Dental Association;
- (2) certificate of the applicant's licensure status from the dental regulatory authority or other occupational or professional regulatory authority and, if applicable, of the applicant's authorization to treat veterans or personnel enlisted in the United States armed services, and information regarding all disciplinary actions taken or investigations pending, from all licensing jurisdictions where the applicant

- holds or has ever held a dental license or other occupational or professional license;
- (3) a report from the National Practitioner Databank;
- (4) a report of any pending or final malpractice actions against the applicant verified by the malpractice insurance carrier covering the applicant. The applicant must submit a letter of coverage history from all current and all previous malpractice insurance carriers covering the applicant;
- (5) the applicant's passing score on the Dental National Board Part I and Part II written examination administered by the Joint Commission on National Dental Examinations; and
- (6) the applicant's passing score on a licensure examination in general dentistry substantially equivalent to the clinical licensure examination required in North Carolina, conducted by a regional testing agency or a state licensing board.

(c) All information required must be completed and received by the Board office as a complete package with the initial application and application fee. Incomplete applications ~~If all of the information is not received as a complete package, the application~~ shall be returned to the applicant.

(d) All applicants shall submit to the Board a signed release form, completed Fingerprint Record Card, and such other form(s) required to perform a criminal history check at the time of the application. The forms and card are available at the Board.

(e) An applicant for limited volunteer dental license must successfully complete written examinations as set out in G.S. 90-37.1 and, if deemed necessary by the Board based on the applicant's history, a clinical simulation examination administered by the Board. An applicant who fails the written exam may retake it ~~If the applicant fails any of the examinations, the applicant may retake the examination failed~~ two additional times during a one year period. The applicant must wait a minimum of 72 hours before attempting to retake a written examination. Applicants who fail the clinical examination or who do not pass the written examination after three attempts in one year may not reapply for a limited volunteer dental license.

(f) Should the applicant reapply for a limited volunteer dental license, an additional limited volunteer dental license fee shall be required.

(g) Any license obtained through fraud or by any false representation shall be void ab initio and of no effect.

(h) The license may be renewed on an annual basis provided that the licensee provides documentation that he or she has practiced a minimum of 100 hours, completed continuing education requirements as required in Subchapter 16R of these Rules and has current CPR certification.

Authority G.S. 90-28; 90-37.1.

SECTION .0700 – INSTRUCTOR'S LICENSE

21 NCAC 16B .0701 INSTRUCTOR'S LICENSE

(a) An applicant for an instructor's license shall submit to the Board:

- (1) a completed, notarized application form provided by the ~~Board;~~ Board at www.ncdentalboard.org.
- (2) the non-refundable instructor's licensure fee;
- (3) a photograph of the applicant, taken within six months before the application date, affixed to the application.
- (4) a signed release form and completed Fingerprint Record Card, and other form(s) required to perform a criminal history check at the time of the application. The form and card are available from the Board office.
- ~~(3)(5)~~ if ~~applicable~~, a statement disclosing and explaining any disciplinary actions, investigations, malpractice claims, state or federal agency complaints, judgments, settlements, or criminal charges; ~~and~~
- ~~(4)(6)~~ if ~~applicable~~, a statement disclosing and explaining periods, within the last ten years, of any voluntary or involuntary commitment to any hospital or treatment facility, observation, assessment, or treatment for substance abuse, with verification demonstrating that the applicant has complied with all provisions and terms of any county or state drug treatment program, or impaired dentists or other impaired professionals program; and program.
- (7) a current CPR card.

(b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for an instructor's license shall ~~arrange for and~~ ensure the submission to the Board office, the following documents as a package, with each document in an unopened envelope sealed by the entity involved:

- (1) if the applicant is or has ever been employed as a dentist by or under contract with an agency or organization, a certification letter of the applicant's current status and disciplinary history from each agency or organization where the applicant is or has been employed or under contract;
- (2) certificate of the applicant's licensure status from the dental regulatory authority or other occupational or professional regulatory authority and information regarding all disciplinary actions taken or investigations pending, from all licensing jurisdictions where the applicant holds or has ever held a dental license or other occupational or professional license;
- (3) a report from the National Practitioner Databank or its international equivalent, if applicable;
- (4) a report of any pending or final malpractice actions against the applicant, verified by the malpractice insurance carrier covering the applicant. The applicant must submit a letter

of coverage history from all current and all previous malpractice insurance carriers covering the applicant; and
(5) certification letter from the dean or director that the applicant has met or been approved under the credentialing standards of a dental school or an academic medical center with which the person is to be affiliated, and certification that such school or medical center is accredited by the American Dental Association's Commission on Accreditation or the Joint Commission on Accreditation of Health Care Organizations.

(c) All information required must be completed and received by the Board office as a complete package with the initial application and application fee. Incomplete applications ~~If all of the information is not received as a complete package, the application shall be returned to the applicant.~~

~~(d) All applicants shall submit to the Board a signed release form, completed Fingerprint Record Card, and such other form(s) required to perform a criminal history check at the time of the application.~~

(d) Any applicant who changes his or her address shall notify the Board office within 10 business days.

(e) Should the applicant reapply for an instructor's license, an additional instructor's license fee shall be required.

(f) Any license obtained through fraud or by any false representation shall be void ab initio and of no effect.

(g) The license shall be renewed on an annual basis, ~~basis~~. as set out in 21 NCAC 16R.

Authority G.S. 90-28; 90-29.5.

SECTION .0800 – SPECIAL RESTRICTED LICENSES

21 NCAC 16B .0801 TEMPORARY VOLUNTEER DENTAL PERMIT

(a) An applicant for a Temporary Volunteer Dental License shall submit to the Board:

- (1) A completed, notarized application form provided by the Board; with a photograph of the applicant, taken within six months of the application date attached;
- (2) A statement from all jurisdictions in which the applicant is now or has ever been licensed, disclosing the applicant's disciplinary history and current status of the applicant's license;
- (3) A statement signed by a N.C. licensed dentist agreeing to provide supervision or direction to the temporary volunteer dentist, stating where, within the next calendar year, such supervision or direction will occur, and affirming that no fee or monetary compensation of any kind will be paid to the applicant for dental services performed; and
- (4) A statement signed by the applicant stating where the applicant will practice, the type of facility where the practice will occur, the duration of the practice, the name of the

supervising dentist, and affirming that no fee will be charged or accepted. The applicant must update the information within five days of any changes in the practice location or facility.

(b) All information required must be completed and received in the Board office as a complete package at least two weeks prior to the issuance of the license. Incomplete applications ~~If all required information is not received, the application shall be returned to the applicant.~~ The applicant must report any changes to submitted information within five days of when the applicant knew or should have known of the changes.

(c) To renew the Temporary Volunteer Dental License the licensee ~~must~~ must submit the information required in Subparagraphs (a)(2) – (4) of this Rule, along with an affidavit updating the information on the original application or, if applicable, stating that the information on the original application is correct and requires no update or correction.

- ~~(1) Submit an affidavit stating that all information on the original application is correct and requires no update or correction;~~
- ~~(2) A certificate of licensure from all jurisdictions in which the applicant is currently licensed certifying that the applicant holds a valid unrestricted license to practice general dentistry, is currently in good standing, and has never been disciplined;~~
- ~~(3) A statement signed by a NC licensed dentist agreeing to provide supervision or direction to the temporary volunteer dentist, where, within the next calendar year, such supervision or direction is to occur, and affirming that no fee or monetary compensation of any kind will be paid to the licensee for dental services performed; and~~
- ~~(4) A statement signed by the applicant stating where the applicant will practice, the type of facility where the practice will occur, the duration of the practice, the name of the supervising dentist, and affirming that no fee will be charged or accepted. The applicant must update the information within five days of any changes in the practice location or facility.~~

(d) All required information must be completed and received in the Board office as a complete package at least two weeks prior to the renewal of the license. Incomplete applications ~~If all required information is not received, the renewal application shall be returned to the applicant.~~ The applicant licensee must report any changes to submitted information within five days of when the licensee knew or should have known of the changes.

(e) Licensees must notify the Board within five days after any changes in their practice location or facility.

Authority G.S. 90-29.

SECTION .0900 – EXEMPTIONS FOR ACTIVE MILITARY

21 NCAC 16B .0901 DEFINITIONS

The following definitions apply only to this Subchapter:

- (1) "Dental Board" – the North Carolina State Board of Dental Examiners.
- (2) "Eligible licensees" – all dentists currently licensed by and in good standing with the North Carolina State Board of Dental Examiners who are serving in the armed forces of the United States and who are eligible for an extension of time to file a tax return pursuant to G.S. 105-249.2.
- (3) "Extension period" – the time period disregarded pursuant to 26 U.S.C. 7508.
- (4) "Good standing" – a dentist whose license is not ~~suspended or revoked~~ suspended, revoked or subject to a probationary order.

Authority G.S. 90-28; 93B-15.

SECTION .1000 – LICENSURE BY MILITARY ENDORSEMENT

21 NCAC 16B .1002 DENTAL LICENSURE BY ENDORSEMENT BASED ON STATUS AS MILITARY SPOUSE

(a) An applicant for a dental license by endorsement based on the applicant's status as a military spouse shall submit to the Board:

- (1) a completed, signed and notarized application form provided by the Board at www.ncdentalboard.org;
- (2) the non-refundable application fee required by Rule 16M .0101(a)(14) of this Chapter;
- (3) written evidence demonstrating that the applicant is married to an active member of the U.S. military and that such applicant:
 - (A) holds a current dental license from another jurisdiction whose standards for licensure are substantially equivalent to or greater than those required for licensure as a dentist in North Carolina as set forth in these Rules; and
 - (B) has engaged in the active practice of dentistry as defined by G.S. 90-29(b)(1) for at least 1,500 hours per year during at least two of the five years preceding the date of application; and
- (4) a statement disclosing and explaining the commission of an act set out in G.S. 90-41(a) or (b), any disciplinary actions, investigations, malpractice claims, state or federal agency complaints, judgments, settlements, or criminal charges.
- (5) a statement disclosing and explaining periods, within the last 10 years, of any voluntary or involuntary commitment to any hospital or treatment facility, observation, assessment, or

treatment for substance abuse, with verification demonstrating that the applicant has complied with all provisions and terms of any county or state drug treatment program, or impaired dentists or other impaired professionals program;

- (6) a copy of a current CPR certification;
- (7) a report from the National Practitioner Data Bank; and
- (8) the applicant's passing score on the Dental National Board Part I and Part II written examination administered by the Joint Commission on National Dental Examinations.

(b) All information required must be completed and received by the Board office as a complete package with the initial application and application fee. Incomplete application packages shall be returned to the applicant.

(c) All applicants shall submit to the Board a signed release form, form and completed Fingerprint Record Card and Card, obtained from the Board. other forms required to perform a criminal history check. The forms and card may be obtained from the Board.

Authority G.S. 90-30(b); 90-41; 90-36; 93B-15.1.

SECTION .1100 – REINSTATEMENT

21 NCAC 16B. 1101 PROOF OF COMPETENCY

(a) All applications for reinstatement shall be submitted on forms furnished by the Board at www.ncdentalboard.org and no application shall be deemed complete which does not set forth all the information required relative to the applicant. Incomplete applications will be returned to the applicant.

(b) The application for reinstatement shall be accompanied by:

- (1) the non-refundable reinstatement fee;
- (2) two letters of character reference from non-family members;
- (3) a current report from the National Practitioner Databank;
- (4) proof of completion of continuing education courses in clinical patient care from Board-approved sponsors, as defined in Rule 16R .0104, in amounts equal to the hours required for renewal of a dental license; and
- (5) a copy of current CPR card.

(c) Applicants who are licensed in other states shall ensure that the Board receives verification of licensure from the board of each state in which they are licensed.

(d) Applicants whose North Carolina license has been revoked, suspended, inactive or lapsed for more than one year shall submit to the Board a signed release form, completed Fingerprint Record Card, and such other form(s) required to perform a criminal history check. The form and card are available from the Board office.

(e) Applicants for reinstatement whose North Carolina license has been revoked, suspended, inactive or lapsed for two to five years may be required, at the Board's discretion, to take refresher courses on topics specified by the Board.

(f) Applicants seeking reinstatement of a North Carolina dental license that has been revoked, suspended, inactive or lapsed for more than five years must successfully pass the clinical examination given to first-time applicants before applying for reinstatement.

(g) Any applicant who changes his address shall notify the Board office within 10 business days.

Authority G.S. 90-30; 90-41.

CHAPTER 58 – REAL ESTATE COMMISSION

Notice is hereby given in accordance with G.S. 150B-21.2 that NC Real Estate Commission intends to adopt the rule cited as 21 NCAC 58C .0221; amend the rules cited as 21 NCAC 58A .0104, .0110, .0112, .0114, .0117, .0118, .0404, .0502-.0503, .1702, .1709, .1808; 58C .0105, .0209, .0218, .0309-.0310, .0608; 58E .0102, .0202-.0204, .0304; and repeal the rules cited as 21 NCAC 58E .0601-.0604.

Agency obtained G.S. 150B-19.1 certification:

- ☐ **OSBM certified on:**
- ☐ **RRC certified on:**
- ☒ **Not Required**

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://www.ncrec.gov/>

Proposed Effective Date: *July 1, 2014*

Public Hearing:

Date: *March 19, 2014*

Time: *9:00 a.m.*

Location: *NC Real Estate Commission, 1313 Navaho Drive, Raleigh, NC 27609*

Reason for Proposed Action:

Adoptions:

21 NCAC 58C .0221 – To adopt a new rule governing transfers of private real estate school ownership to clarify that when school ownership is transferred to a different legal entity, the school license is not transferrable, and requiring the new entity to obtain an original license for each location where the school will conduct courses. All courses commenced by the former owner must be completed by the effective date of the ownership transfer.

Amendments:

21 NCAC 58A .0104 – To add paragraph (d1) to the rule governing agency agreements and disclosures to prohibit a broker who is selling property in which the broker has an interest from representing a buyer of the property, and to further prohibit a broker who is listing property from purchasing the listed property unless the broker first discloses the conflict of interest to his principal and, if requested to do so by his principal prior to closing, terminates the listing agreement. The change is needed to eliminate the inherent conflict of interest

presented by a broker representing the very party against whom the broker, as an interested party, is negotiating.

21 NCAC 58A .0110 – To amend the rule governing brokers-in-charge to delete the requirement that brokers-in-charge complete the four-hour Broker-in-Charge Annual Review Course and the mandatory four-hour Real Estate Update Course, and to instead require them to complete a four hour mandatory continuing education course known as the "Broker-in-Charge Update Course" and a four-hour continuing education ("CE") elective course in order to retain broker-in-charge eligibility. The rule change will combine the old Broker-in-Charge Annual Review Course and the Update Course into a single 4-hour course, allowing brokers-in-charge to take an elective CE course to fulfill the second four hour component of the mandatory 8-hour CE requirement.

21 NCAC 58A .0112 – To amend the rule governing offers and sales contracts to incorporate minor technical changes. Paragraph (a)(7), addressing language required in form contracts regarding the handling of disputed earnest money deposits, should refer to Rule 21 NCAC 58A .0116 rather than former Rule 21 NCAC 58A .0107.

21 NCAC 58A .0114 – To amend and clarify Question #24 on the Residential Property and Owners' Association Disclosure Statement to inquire whether, based upon the seller's knowledge, the property is in violation of any local zoning ordinances, restrictive covenants, building code requirements, or other land-use restrictions, and eliminate the reference to notice from a government agency about those restrictions.

21 NCAC 58A .0117 – To amend Paragraph (f) of the rule governing accounting for trust money to incorporate minor technical changes. The reference to "the records required by Paragraph (d) of this Rule" should instead refer to Paragraph (c), which is the paragraph describing the records brokers are required to maintain.

21 NCAC 58A .0118 – To amend the rule governing the handling of trust money belonging to owners' associations to incorporate minor technical changes for the purpose of updating references to other rules to agree with recent amendments. Paragraph (a), requiring such trust money to be handled in the manner required by "this Rule" should instead refer to Rules 21 NCAC 58A .0116 and A .0117. Paragraph (b), exempting brokers volunteering as officers of owners' associations from the requirements of Rule A .0116, should also exempt them from the requirements of Rule A .0117.

21 NCAC 58A .0404 – To amend and clarify the rule prohibiting cheating and certain other misconduct in connection with the licensing examination to prohibit applicants from engaging in specified activities when taking a license examination and to add forfeiture of examination and application fees as possible consequences for a violation of the Rule in addition to dismissal from an examination, invalidation of examination score, and denial of a real estate license and disciplinary action if an applicant has been issued a license.

21 NCAC 58A .0502 – To amend the rule governing the licensing of business entities to incorporate minor technical changes for the purpose of updating references to other rules to agree with recent amendments. The references in Paragraphs (a)(7) and (d)(1) to the definitions of "office" and "branch office" should refer to Rule 21 NCAC 58A .0110(a), where the

definitions are located in the current rule, instead of A .0110(b). Also, the references in Paragraphs (d)(6) and (8) to records that "have not been reconciled as required by Rule A .0107 of this Subchapter" should instead refer to Rule 21 NCAC 58A .0117.

21 NCAC 58A .0503 – To amend and modernize the rule governing license renewals to require that brokers applying for renewal do so using an electronic application on the Commission's website or by calling the Commission's office. Also, to require brokers to provide the Commission with their e-mail address if they have one, and to permit brokers to designate their e-mail address as private, thereby exempting the addresses from disclosure as a public record.

21 NCAC 58A .1702 – To amend the rule governing the continuing education requirement to provide that four of the eight hours of continuing education required of brokers each year shall consist of the "General Update Course," except that brokers-in-charge shall complete the "Broker-in-Charge Update Course" prescribed in the proposed amendment to Rule 21 NCAC 58A .0110.

21 NCAC 58A .1709 – To amend the rule governing brokers' requests for extensions of time within which to complete continuing education ("CE") requirement to clarify that a request for extension must be made by a broker on active status and submitted not later than June 10 of the license year for which the extension is sought. The proposed change would be consistent with Rule 21 NCAC 58A .1708's requirement that requests for equivalent CE credit be received by the Commission on or before June 10.

21 NCAC 58A .1808 – To amend the rule governing the handling of trust monies by a nonresident commercial broker to incorporate minor technical changes. The provision requiring the depositing of trust monies in a trust account "in accordance with the provisions of Rule .0107 of this Subchapter" should instead refer to Rule 21 NCAC 58A .0117.

21 NCAC 58C .0105 – To amend the rule governing the withdrawal or denial of approval of a school to lower the threshold below which the Commission may take formal disciplinary action in response to the substandard performance of a school's or instructor's students taking the license examination for the first time from 70% to 50% for any two of the previous five annual reporting periods. Also to lower the substandard performance threshold for a school's first-time examination candidates from 70% to 50% for that portion of the rule authorizing the Commission to discipline a school for failing to provide a requested plan for corrective action.

21 NCAC 58C .0209 – Addition to Paragraph (c) prescribing specific language to be included in student enrollment contracts informing students of the penalty for participating in two postlicensing courses concurrently that total more than 21 classroom hours in a seven-day period. Also, the last two sentences of Paragraph (c), pertaining to the enrollment contract, have been moved to Paragraph (b) where they more logically belong.

21 NCAC 58C .0218 – To amend Paragraphs (b) and (c) of the rule governing school performance and licensing to lower the threshold below which a performance record for first time candidates for the real estate licensing examination is considered unsatisfactory from 70% to 50% for any two of the previous five annual reporting periods.

21 NCAC 58C .0309 – To amend Paragraph (a) of the rule governing course completion reporting to require that a course completion certificate bear the school director's signature and deleting the requirement for an original signature or a signature stamp in a color other than black. The proposed change is intended to modernize the rule.

21 NCAC 58C .0310 – To amend and clarify the rule governing course records to be retained by real estate schools to include copies of all enrollment records.

21 NCAC 58C .0608 – To amend the rule governing the withdrawal or denial of approval of prelicensing and postlicensing instructors to lower the threshold below which the Commission may take formal disciplinary action against the instructor in response to the substandard performance of the instructor's first-time examination candidates from 70% to 50% for any two of the previous five annual reporting periods. Also to lower the substandard performance threshold for an instructor's first-time examination candidates from 70% to 50% for that portion of the rule authorizing the Commission to discipline an instructor for failing to provide a requested plan for corrective action.

21 NCAC 58E .0102 – To amend the rule governing the update course component of the continuing education requirement for brokers to require each broker renewing his or her license to complete the mandatory four-hour "General Update Course" as prescribed in the proposed amendment to Rule 21 NCAC 58A .1702, except that brokers-in-charge must complete the "Broker-in-Charge Update Course" prescribed in the proposed amendment to Rule 21 NCAC 58A .0110.

21 NCAC 58E .0202 – To amend the rule governing the approval of update course instructors to refer to the two new update courses prescribed by the proposed amendments to Rules 21 NCAC 58A .0110 and A .1702, the General Update Course and the Broker-in-Charge Update Course. To clarify that the approval of an update course instructor remains in effect so long as the approval is on active status.

21 NCAC 58E .0203 – To amend the rule governing the application and criteria for original approval of update course instructors to require instructor applicants to take the Commission's Update Instructor Seminar for the license year in which the applicant's approval would be effective prior to approval being issued. If the applicant fails to take the seminar within six months after filing the application for approval, the application will be cancelled.

21 NCAC 58E .0204 – To amend and clarify the rule governing active and inactive status of update course instructors to provide that an instructor's initial approval shall be issued and remain on active status during the approval period so long as the instructor takes the Commission's annual Update Instructor's Seminar by September 1 of each year. If an instructor fails to take the Update Seminar by September 1, the instructor's approval will be placed on inactive status until the seminar is taken or the approval expires. To also provide that an instructor may teach either the General Update Course or the Broker-in-Charge Update Course while the instructor's approval is on active status, but shall be prohibited from teaching either course while the instructor's approval is on inactive status. To further provide a procedure for requesting an extension of the course deadline due to personal hardship, and to require that

instructors renewing or reinstating their approval take the Update Instructor's Seminar for the license year in which the renewed or reinstated approval would be effective. Finally, to provide that where an instructor's approval was on inactive status when it expired, an instructor applying for reinstatement must take the annual Update Instructor Seminar for the license year in which the applicant's reinstated approval would be effective.

21 NCAC 58E .0304 – To amend the rule governing the criteria for elective course approval to provide that where a proposed new course has been reviewed by the Commission twice and found unsatisfactory after both reviews, any subsequent submission will be treated as an initial application subject to the course application fee prescribed by Rule 21 NCAC 58E .0303.

21 NCAC 58E .0408 – To amend the rule governing changes in continuing education course sponsor ownership to clarify that when sponsor ownership is transferred to a different legal entity, the sponsor approval is not transferrable, and the new entity must obtain an original approval for each location where the school will conduct courses. The sponsor owner transferring ownership shall not conduct any courses after the effective date of the ownership transfer.

Repeals:

21 NCAC 58E .0601, .0602, .0603, 0604 – To repeal the rules governing the Broker-in-Charge Annual Review Course ("BICAR") in light of the discontinuance of the BICAR course requirement and its replacement by the "Broker-in-Charge Update Course" prescribed by the proposed amendment to Rule 21 NCAC 58A .0110.a

Comments may be submitted to: Curtis Aldendifer, Associate Legal Counsel, NC Real Estate Commission, P.O. Box 17100, Raleigh, NC 27619; phone (919) 875-3700 ext. 131; fax (919) 582-9640; email legal@ncrec.gov

Comment period ends: April 4, 2014

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

- ☐ **Substantial economic impact (≥\$1,000,000)**
☒ **No fiscal note required by G.S. 150B-21.4**

SUBCHAPTER 58A – REAL ESTATE BROKERS

SECTION .0100 – GENERAL BROKERAGE

21 NCAC 58A .0104 AGENCY AGREEMENTS AND DISCLOSURE

(a) Every agreement for brokerage services in a real estate transaction and every agreement for services connected with the management of a property owners association shall be in writing and signed by the parties thereto. Every agreement for brokerage services between a broker and an owner of the property to be the subject of a transaction must be in writing and signed by the parties from the time of its formation. Every agreement for brokerage services between a broker and a buyer or tenant shall be express and shall be reduced to writing and signed by the parties thereto not later than the time one of the parties makes an offer to purchase, sell, rent, lease, or exchange real estate to another. However, every agreement between a broker and a buyer or tenant which seeks to bind the buyer or tenant for a period of time or to restrict the buyer's or tenant's right to work with other agents or without an agent shall be in writing and signed by the parties thereto from its formation. A broker shall not continue to represent a buyer or tenant without a written, signed agreement when such agreement is required by this Rule. Every written agreement for brokerage services of any kind in a real estate transaction shall provide for its existence for a definite period of time, shall include the ~~licensee's~~ broker's license number, and shall provide for its termination without prior notice at the expiration of that period, except that an agency agreement between a landlord and broker to procure tenants or receive rents for the landlord's property may allow for automatic renewal so long as the landlord may terminate with notice at the end of any contract period and any subsequent renewals. For the purposes of this rule, an agreement between ~~licensees~~ brokers to cooperate or share compensation shall not be considered an agreement for brokerage services and, except as required by Rule .1807 of this Subchapter, need not be memorialized in writing.

(b) Every listing agreement, written buyer agency agreement or other written agreement for brokerage services in a real estate transaction shall contain the following provision: The broker shall conduct all brokerage activities in regard to this agreement without respect to the race, color, religion, sex, national origin, handicap or familial status of any party or prospective party. The provision shall be set forth in a clear and conspicuous manner which shall distinguish it from other provisions of the agreement. For the purposes of this Rule, the term, familial status, shall be defined as it is in G.S. 41A-3(1b).

(c) In every real estate sales transaction, a broker shall, at first substantial contact directly with a prospective buyer or seller, provide the prospective buyer or seller with a copy of the publication "Working with Real Estate Agents," set forth the broker's name and license number thereon, review the publication with the buyer or seller, and determine whether the agent will act as the agent of the buyer or seller in the transaction. If the first substantial contact with a prospective

buyer or seller occurs by telephone or other electronic means of communication where it is not practical to provide the "Working with Real Estate Agents" publication, the broker shall at the earliest opportunity thereafter, but in no event later than three days from the date of first substantial contact, mail or otherwise transmit a copy of the publication to the prospective buyer or seller and review it with him or her at the earliest practicable opportunity thereafter. For the purposes of this Rule, "first substantial contact" shall include contacts between a broker and a consumer where the consumer or broker begins to act as though an agency relationship exists and the consumer begins to disclose to the broker personal or confidential information.

(d) A real estate broker representing one party in a transaction shall not undertake to represent another party in the transaction without the written authority of each party. The written authority must be obtained upon the formation of the relationship except when a buyer or tenant is represented by a broker without a written agreement in conformity with the requirements of Paragraph (a) of this Rule. Under such circumstances, the written authority for dual agency must be reduced to writing not later than the time that one of the parties represented by the broker makes an offer to purchase, sell, rent, lease, or exchange real estate to another party.

(e) In every real estate sales transaction, a broker working directly with a prospective buyer as a seller's agent or subagent shall disclose in writing to the prospective buyer at the first substantial contact with the prospective buyer that the broker represents the interests of the seller. The written disclosure shall include the broker's license number. If the first substantial contact occurs by telephone or by means of other electronic communication where it is not practical to provide written disclosure, the broker shall immediately disclose by similar means whom he represents and shall immediately mail or otherwise transmit a copy of the written disclosure to the buyer. In no event shall the broker mail or transmit a copy of the written disclosure to the buyer later than three days from the date of first substantial contact with the buyer.

(f) In every real estate sales transaction, a broker representing a buyer shall, at the initial contact with the seller or seller's agent, disclose to the seller or seller's agent that the broker represents the buyer's interests. In addition, in every real estate sales transaction other than auctions, the broker shall, no later than the time of delivery of an offer to the seller or seller's agent, provide the seller or seller's agent with a written confirmation disclosing that he represents the interests of the buyer. The written confirmation may be made in the buyer's offer to purchase and shall include the broker's license number.

(g) The provisions of Paragraphs (c), (d) and (e) of this Rule do not apply to real estate ~~licensees~~ brokers representing sellers in auction sales transactions.

(h) A broker representing a buyer in an auction sale transaction shall, no later than the time of execution of a written agreement memorializing the buyer's contract to purchase, provide the seller or seller's agent with a written confirmation disclosing that he represents the interests of the buyer. The written confirmation may be made in the written agreement.

(i) A firm which represents more than one party in the same real estate transaction is a dual agent and, through the brokers

associated with the firm, shall disclose its dual agency to the parties.

(j) When a firm represents both the buyer and seller in the same real estate transaction, the firm may, with the prior express approval of its buyer and seller clients, designate one or more individual brokers associated with the firm to represent only the interests of the seller and one or more other individual brokers associated with the firm to represent only the interests of the buyer in the transaction. The authority for designated agency must be reduced to writing not later than the time that the parties are required to reduce their dual agency agreement to writing in accordance with Paragraph (d) of this Rule. An individual broker shall not be so designated and shall not undertake to represent only the interests of one party if the broker has actually received confidential information concerning the other party in connection with the transaction. A broker-in-charge shall not act as a designated broker for a party in a real estate sales transaction when a provisional broker under his or her supervision will act as a designated broker for another party with a competing interest.

(k) When a firm acting as a dual agent designates an individual broker to represent the seller, the broker so designated shall represent only the interest of the seller and shall not, without the seller's permission, disclose to the buyer or a broker designated to represent the buyer:

- (1) that the seller may agree to a price, terms, or any conditions of sale other than those established by the seller;
- (2) the seller's motivation for engaging in the transaction unless disclosure is otherwise required by statute or rule; and
- (3) any information about the seller which the seller has identified as confidential unless disclosure of the information is otherwise required by statute or rule.

(l) When a firm acting as a dual agent designates an individual broker to represent the buyer, the broker so designated shall represent only the interest of the buyer and shall not, without the buyer's permission, disclose to the seller or a broker designated to represent the seller:

- (1) that the buyer may agree to a price, terms, or any conditions of sale other than those established by the seller;
- (2) the buyer's motivation for engaging in the transaction unless disclosure is otherwise required by statute or rule; and
- (3) any information about the buyer which the buyer has identified as confidential unless disclosure of the information is otherwise required by statute or rule.

(m) A broker designated to represent a buyer or seller in accordance with Paragraph (j) of this Rule shall disclose the identity of all of the brokers so designated to both the buyer and the seller. The disclosure shall take place no later than the presentation of the first offer to purchase or sell.

(n) When an individual broker represents both the buyer and seller in the same real estate sales transaction pursuant to a written agreement authorizing dual agency, the parties may provide in the written agreement that the broker shall not

disclose the following information about one party to the other without permission from the party about whom the information pertains:

- (1) that a party may agree to a price, terms or any conditions of sale other than those offered;
- (2) the motivation of a party for engaging in the transaction, unless disclosure is otherwise required by statute or rule; and
- (3) any information about a party which that party has identified as confidential, unless disclosure is otherwise required by statute or rule.

(o) A broker who is selling property in which the broker has an ownership interest shall not undertake to represent a buyer of that property. A broker who has an existing listing agreement for a property shall not enter into a contract to purchase that property unless, prior to entering into the contract, the listing broker first discloses to the broker's principal that the broker may have a conflict of interest in the transaction and that the principal may want to seek independent counsel of an attorney or another licensed broker. The broker shall, at any time prior to the closing of the broker's purchase of the principal's property, terminate the listing agreement if requested to do so by the principal.

Authority G.S. 41A-3(1b); 41A-4(a); 93A-3(c); 93A-9.

21 NCAC 58A .0110 BROKER-IN-CHARGE

(a) When used in this Rule, the term:

- (1) "Office" means any place of business where acts are performed for which a real estate license is required or where monies received by a broker acting in a fiduciary capacity are handled or records for such trust monies are maintained;
- (2) "Principal Office" means the office so designated in the Commission's records by the qualifying broker of a licensed firm or the broker-in-charge of a sole proprietorship; and
- (3) "Branch Office" means any office in addition to the principal office of a broker which is operated in connection with the broker's real estate business.

(b) Except as provided in Paragraphs (d) and (e) of this Rule, every real estate firm, including a sole proprietorship, shall have a broker designated by the Commission as provided in Paragraph (f) of this Rule to serve as the broker-in-charge at its principal office and a broker to serve as broker-in-charge at any branch office. No broker shall be broker-in-charge of more than one office at a time. No office of a firm shall have more than one designated broker-in-charge.

(c) If a firm shares office space with one or more other firms, the same broker may serve as broker-in-charge of multiple firms at that location. All firms at that location having the same designated broker-in-charge shall maintain with the Commission as a delivery address the same delivery address as that of the single designated broker-in-charge.

(d) A licensed real estate firm is not required to have a broker-in-charge if it:

- (1) has been organized for the sole purpose of receiving compensation for brokerage services furnished by its qualifying broker through another firm or broker;
- (2) is treated for tax purposes as a Subchapter S corporation by the United States Internal Revenue Service;
- (3) has no principal or branch office; and
- (4) has no licensed or unlicensed person associated with it other than its qualifying broker.

(e) A broker who is a sole proprietor shall obtain the Commission's designation of himself or herself as a broker-in-charge if the broker engages in any transaction where the broker is required to deposit and maintain monies belonging to others in a trust account, engages in advertising or promoting his or her services as a broker in any manner, or has one or more other brokers affiliated with him or her in the real estate business. Maintenance of a trust or escrow account by a broker solely for holding residential tenant security deposits received by the broker on properties owned by the broker in compliance with G.S. 42-50 shall not, standing alone, subject the broker to the requirement to designate himself or herself as a broker-in-charge.

(f) A broker desiring to be a broker-in-charge shall request in writing his or her designation as broker-in-charge by the Commission on a form provided by the Commission. Upon receipt of notice from the Commission that the broker has been designated as broker-in-charge, the broker shall assume the duties of broker-in-charge.

(g) To qualify to become a broker-in-charge, a broker shall:

- (1) have a license on active status but not on provisional status;
- (2) possess at least two years of full-time real estate brokerage experience or equivalent part-time real estate brokerage experience within the previous five years or real estate education or experience in real estate transactions that the Commission finds equivalent to such experience; and
- (3) complete the Commission's 12 classroom hour broker-in-charge course either within three years prior to designation as a broker-in-charge or within 120 days following designation as a broker-in-charge.

Upon the request of the Commission, a broker shall provide to the Commission evidence that he or she possesses the requisite experience. A broker-in-charge designation shall be immediately terminated if a broker-in-charge fails to complete the broker-in-charge course during the required time period or if the Commission finds the broker-in-charge does not possess the required experience. A broker who is removed as broker-in-charge for failure to timely complete the Commission's 12 hour broker-in-charge course must first complete the 12 hour broker-in-charge course before he or she may again be designated as broker-in-charge.

(h) By submission of a broker-in-charge designation request to the Commission, a broker certifies that he or she possesses the experience required to become a broker-in-charge and upon

designation by the Commission, the broker shall be authorized to act as a broker-in-charge. Upon his or her designation as broker-in-charge and completion of the broker-in-charge course within the time period prescribed in Subparagraph (g)(3) of this Rule, the designated broker-in-charge acquires the eligibility to be re-designated as a broker-in-charge at any time in the future after a period of not actively serving as a broker-in-charge without having to again satisfy the qualification requirements for initial designation stated in this Paragraph so long as the broker continuously satisfies the requirements to retain such eligibility described in Paragraph (k) of this Rule.

(i) The broker-in-charge shall, in accordance with the requirements of G.S. 93A and the rules adopted by the Commission, assume the responsibility at his or her office for:

- (1) the retention of current license renewal pocket cards by all brokers employed at the office for which he or she is broker-in-charge; the proper display of licenses at such office in accordance with Rule .0101 of this Section; and assuring that each broker employed at the office has complied with Rules .0503, .0504, and .0506 of this Subchapter;
- (2) the proper notification to the Commission of any change of business address or trade name of the firm and the registration of any assumed business name adopted by the firm for its use;
- (3) the proper conduct of advertising by or in the name of the firm at such office;
- (4) the proper maintenance at such office of the trust or escrow account of the firm and the records pertaining thereto;
- (5) the proper retention and maintenance of records relating to transactions conducted by or on behalf of the firm at such office, including those required to be retained pursuant to Rule .0108 of this Section;
- (6) the proper supervision of provisional brokers associated with or engaged on behalf of the firm at such office in accordance with the requirements of Rule .0506 of this Subchapter;
- (7) the proper supervision of all brokers employed at the office for which he or she is broker-in-charge with respect to adherence to agency agreement and disclosure requirements.

(j) A broker who was the broker-in-charge of a real estate office on April 1, 2006, whose broker-in-charge declaration was received by the Commission prior to that date, and who completed the Commission's broker-in-charge course prior to April 1, 2006 or within 120 days following designation as a broker-in-charge, may continue to serve as a broker-in-charge thereafter until his or her eligibility to serve as a broker-in-charge is terminated as provided in Paragraph (l) of this Rule.

(k) Once a broker has been designated as a broker-in-charge and completed the 12 hour broker-in-charge course as prescribed by Paragraph (g) of this Rule, the broker may maintain broker-in-charge eligibility by timely annual renewal of his or her broker ~~license, license and~~ completion each license year of the four hour mandatory continuing education update course ~~prescribed for all brokers and for brokers-in-charge~~ known as the "Real

~~Estate Update Course," "Broker-In-Charge Update Course," and completion each license year of the any Commission-approved four hour special-continuing education elective course prescribed by the Commission only for brokers in charge and known as the "Broker-In-Charge Annual Review Course." described in Rule 58E .0305. The Broker-In-Charge Annual Review Update Course must be taken initially by a broker-in-charge during the first full license year following the license year in which the broker was designated as a broker-in-charge and must be taken each license year thereafter in order for the broker to maintain broker-in-charge eligibility. The Broker-In-Charge Annual Review Course shall satisfy the broker's general continuing education elective course requirement, but the broker must also take the mandatory continuing education Real Estate Update Course each license year. The Enrollment in the Broker-In-Charge Annual Review Update Course is reserved shall be limited exclusively for to current brokers-in-charge, and brokers who are not currently acting as a broker-in-charge but who desire to retain their broker-in-charge eligibility. Only these brokers shall receive continuing education elective credit for taking the course. Broker-In-Charge Update Course. A broker-in-charge or broker who is broker-in-charge eligible who takes the General Update Course described in Rule .1702 of this Subchapter rather than the Broker-In-Charge Update Course shall receive continuing education update course credit for taking such course only for the purpose of retaining his or her license on active status and shall not be considered to have satisfied the requirement to take the Broker-In-Charge Update Course in order to retain his or her broker-in-charge status or eligibility.~~

(l) A broker's broker-in-charge eligibility and, if currently designated as a broker-in-charge, his or her broker-in-charge designation shall be terminated upon the occurrence of any of the following events:

- (1) the broker's license expires or the broker's license is suspended, revoked or surrendered;
- (2) the broker's license is made inactive for any reason, reason; including failure to satisfy the continuing education requirements described in Rule .1702 of this Subchapter;
- (3) the broker fails to complete the Broker-In-Charge Annual Review Update Course described in Paragraph (k) of this Rule; or
- (4) the broker is found by the Commission to have not possessed the experience required in Paragraph (g) of this Rule at the time of either initial designation as a broker-in-charge or re-designation as a broker-in-charge.

(m) When a broker who is a former broker-in-charge desires to be re-designated as a broker-in-charge following termination of his or her broker-in-charge designation or eligibility, he or she must first have a license on active status. The broker then must satisfy the experience requirements for initial designation set forth in Paragraph (g) of this Rule, and the broker must complete the 12 hour broker-in-charge course prior to re-designation as broker-in charge.

(n) A broker-in-charge shall notify the Commission in writing that he or she no longer is serving as broker-in-charge of a particular office within 10 days following any such change.

(o) A non-resident broker who has been designated by the Commission as the broker-in-charge of an office not located in North Carolina is not required to complete the broker-in-charge course or the Broker-In-Charge Annual Review Update Course prescribed for brokers-in-charge under Paragraph (k) of this Rule. However, if such broker-in-charge either becomes a resident of North Carolina or becomes broker-in-charge of an office located within North Carolina, then he or she must take the 12 hour broker-in-charge course within 120 days of such change, unless he or she has taken the 12 hour course within the preceding three years. Such broker-in-charge shall take the Broker-In-Charge Annual Review Update Course prescribed in Paragraph (k) of this Rule during the first full license year following the change and each license year thereafter so long as the broker-in-charge remains a resident of North Carolina or continues to manage an office located in North Carolina.

(p) A nonresident commercial real estate broker licensed under the provisions of Section .1800 of this Subchapter shall not act as or serve in the capacity of a broker-in-charge of a firm or office in North Carolina.

Authority G.S. 93A-2; 93A-3(c); 93A-4; 93A-4.1; 93A-4.2; 93A-9.

21 NCAC 58A .0112 OFFERS AND SALES CONTRACTS

(a) A broker acting as an agent in a real estate transaction shall not use a preprinted offer or sales contract form unless the form describes or specifically requires the entry of the following information:

- (1) the names of the buyer and seller;
- (2) a legal description of the real property sufficient to identify and distinguish it from all other property;
- (3) an itemization of any personal property to be included in the transaction;
- (4) the purchase price and manner of payment;
- (5) any portion of the purchase price that is to be paid by a promissory note, including the amount, interest rate, payment terms, whether or not the note is to be secured, and other material terms;
- (6) any portion of the purchase price that is to be paid by the assumption of an existing loan, including the amount of such loan, costs to be paid by the buyer or seller, the interest rate and number of discount points and a condition that the buyer must be able to qualify for the assumption of the loan and must make every reasonable effort to qualify for the assumption of the loan;
- (7) the amount of earnest money, if any, the method of payment, the name of the broker or firm that will serve as escrow agent, an acknowledgment of earnest money receipt by the escrow agent, and the criteria for determining disposition of the earnest money, including disputed earnest money, consistent

- with Commission ~~Rule .0107~~ Rule .0116 of this Subchapter;
- (8) any loan that must be obtained by the buyer as a condition of the contract, including the amount and type of loan, interest rate and number of discount points, loan term, and who shall pay loan closing costs, and a condition that the buyer shall make every reasonable effort to obtain the loan;
 - (9) a general statement of the buyer's intended use of the property and a condition that such use must not be prohibited by private restriction or governmental regulation;
 - (10) the amount and purpose of any special assessment to which the property is subject and the responsibility of the parties for any unpaid charges;
 - (11) the date for closing and transfer of possession;
 - (12) the signatures of the buyer and seller;
 - (13) the date of offer and acceptance;
 - (14) a provision that title to the property must be delivered at closing by general warranty deed and must be fee simple marketable title, free of all encumbrances except ad valorem taxes for the current year, utility easements, and any other encumbrances specifically approved by the buyer or a provision otherwise describing the estate to be conveyed with encumbrances, and the form of conveyance;
 - (15) the items to be prorated or adjusted at closing;
 - (16) who shall pay closing expenses;
 - (17) the buyer's right to inspect the property prior to closing and who shall pay for repairs and improvements, if any;
 - (18) a provision that the property shall at closing be in substantially the same condition as on the date of the offer (reasonable wear and tear excepted), or a description of the required property condition at closing; and
 - (19) a provision setting forth the identity of each real estate agent and firm involved in the transaction and disclosing the party each agent and firm represents.
- (b) A broker acting as an agent in a real estate transaction shall not use a preprinted offer or sales contract form containing:
- (1) any provision concerning the payment of a commission or compensation, including the forfeiture of earnest money, to any broker or firm; or
 - (2) any provision that attempts to disclaim the liability of a broker for his or her representations in connection with the transaction.
- A broker or anyone acting for or at the direction of the broker shall not insert or cause such provisions or terms to be inserted into any such preprinted form, even at the direction of the parties or their attorneys.
- (c) The provisions of this Rule shall apply only to preprinted offer and sales contract forms which a broker acting as an agent in a real estate transaction proposes for use by the buyer and seller. Nothing contained in this Rule shall be construed to prohibit the buyer and seller in a real estate transaction from altering, amending or deleting any provision in a form offer to purchase or contract nor shall this Rule be construed to limit the rights of the buyer and seller to draft their own offers or contracts or to have the same drafted by an attorney at law.

Authority G.S. 93A-3(c).

21 NCAC 58A .0114 RESIDENTIAL PROPERTY AND OWNERS' ASSOCIATION DISCLOSURE STATEMENT

(a) Every owner of real property subject to a transfer of the type contemplated by Chapter 47E of the General Statutes shall complete the following Residential Property and Owners' Association Disclosure Statement and furnish a copy of the complete statement to a purchaser in accordance with the requirements of G.S. 47E-4. The form shall bear the seal of the North Carolina Real Estate Commission and shall read as follows:

[N.C. REAL ESTATE COMMISSION SEAL]

STATE OF NORTH CAROLINA RESIDENTIAL PROPERTY AND OWNERS' ASSOCIATION DISCLOSURE STATEMENT

Instructions to Property Owners

1. The Residential Property Disclosure Act (G.S. 47E) ("Disclosure Act") requires owners of residential real estate (single-family homes, individual condominiums, townhouses, and the like, and buildings with up to four dwelling units) to furnish purchasers a Residential Property and Owners' Association Disclosure Statement ("Disclosure Statement"). This form is the only one approved for this purpose. A disclosure statement must be furnished in connection with the sale, exchange, option and sale under a lease with option to purchase where the tenant does not occupy or intend to occupy the dwelling. A disclosure statement is not required for some transactions, including the first sale of a dwelling which has never been inhabited and transactions of residential property made pursuant to a lease with option to purchase where the lessee occupies or intends to occupy the dwelling. For a complete list of exemptions, see G.S. 47E-2.

PROPOSED RULES

2. You must respond to each of the questions on the following pages of this form by filling in the requested information or by placing a check ☒ in the appropriate box. In responding to questions, you are only obligated to disclose information about which you have actual knowledge.
 - a. If you check "Yes" for any question, you must explain your answer and either describe any problem or attach a report from an attorney, engineer, contractor, pest control operator or other expert or public agency describing it. If you attach a report, you will not be liable for any inaccurate or incomplete information contained in it so long as you were not grossly negligent in obtaining or transmitting the information.
 - b. If you check "No," you are stating that you have no actual knowledge of any problem. If you check "No" and you know there is a problem, you may be liable for making an intentional misstatement.
 - c. If you check "No Representation," you are choosing not to disclose the conditions or characteristics of the property, even if you have actual knowledge of them or should have known of them.
 - d. If you check "Yes" or "No" and something happens to the property to make your Disclosure Statement incorrect or inaccurate (for example, the roof begins to leak), you must promptly give the purchaser a corrected Disclosure Statement or correct the problem.
3. If you are assisted in the sale of your property by a licensed real estate broker, you are still responsible for completing and delivering the Disclosure Statement to the purchasers; and the broker must disclose any material facts about your property which he or she knows or reasonably should know, regardless of your responses on the Statement.
4. You must give the completed Disclosure Statement to the purchaser no later than the time the purchaser makes an offer to purchase your property. If you do not, the purchaser can, under certain conditions, cancel any resulting contract (See "**Note to Purchasers**" below). You should give the purchaser a copy of the Disclosure Statement containing your signature and keep a copy signed by the purchaser for your records.

Note to Purchasers

If the owner does not give you a Residential Property and Owners' Association Disclosure Statement by the time you make your offer to purchase the property, you may under certain conditions cancel any resulting contract without penalty to you as the purchaser. To cancel the contract, you must personally deliver or mail written notice of your decision to cancel to the owner or the owner's agent within three calendar days following your receipt of the Disclosure Statement, or three calendar days following the date of the contract, whichever occurs first. However, in no event does the Disclosure Act permit you to cancel a contract after settlement of the transaction or (in the case of a sale or exchange) after you have occupied the property, whichever occurs first.

5. In the space below, type or print in ink the address of the property (sufficient to identify it) and your name. Then sign and date.

Property Address: _____

Owner's Name(s): _____

Owner(s) acknowledge having examined this Disclosure Statement before signing and that all information is true and correct as of the date signed.

Owner Signature: _____ Date _____, ____

Owner Signature: _____ Date _____, ____

Purchasers acknowledge receipt of a copy of this Disclosure Statement; that they have examined it before signing; that they understand that this is not a warranty by owners or owners' agents; that it is not a substitute for any inspections they may wish to obtain; and that the representations are made by the owners and not the owners' agents or subagents. Purchasers are strongly encouraged to obtain their own inspections from a licensed home inspector or other professional. As used herein, words in the plural include the singular, as appropriate.

Purchaser Signature: _____ Date _____, ____

PROPOSED RULES

Purchaser Signature: _____	Date _____, _____
----------------------------	-------------------

Property Address/Description: _____

The following questions address the characteristics and condition of the property identified above about which the owner has *actual knowledge*. Where the question refers to "dwelling," it is intended to refer to the dwelling unit, or units if more than one, to be conveyed with the property. The term "dwelling unit" refers to any structure intended for human habitation.

- | | Yes | No | No Representation |
|--|--------------------------|--------------------------|--------------------------|
| 1. In what year was the dwelling constructed? _____
Explain if necessary: _____ | | | <input type="checkbox"/> |
| 2. Is there any problem, malfunction or defect with the dwelling's foundation, slab, fireplaces/chimneys, floors, windows (including storm windows and screens), doors, ceilings, interior and exterior walls, attached garage, patio, deck or other structural components including any modifications to them? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. The dwelling's exterior walls are made of what type of material? <input type="checkbox"/> Brick Veneer <input type="checkbox"/> Wood <input type="checkbox"/> Stone <input type="checkbox"/> Vinyl <input type="checkbox"/> Synthetic Stucco <input type="checkbox"/> Composition/Hardboard <input type="checkbox"/> Concrete <input type="checkbox"/> Fiber Cement <input type="checkbox"/> Aluminum <input type="checkbox"/> Asbestos <input type="checkbox"/> Other _____
(Check all that apply) | | | <input type="checkbox"/> |
| 4. In what year was the dwelling's roof covering installed? _____
(Approximate if no records are available.) Explain if necessary: _____ | | | <input type="checkbox"/> |
| 5. Is there any leakage or other problem with the dwelling's roof? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Is there any water seepage, leakage, dampness or standing water in the dwelling's basement, crawl space, or slab? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Is there any problem, malfunction or defect with the dwelling's electrical system (outlets, wiring, panel, switches, fixtures, generator, etc.)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. Is there any problem, malfunction or defect with the dwelling's plumbing system (pipes, fixtures, water heater, etc.)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. Is there any problem, malfunction or defect with the dwelling's heating and/or air conditioning? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. What is the dwelling's heat source? <input type="checkbox"/> Furnace <input type="checkbox"/> Heat Pump <input type="checkbox"/> Baseboard
<input type="checkbox"/> Other _____ (Check all that apply)
Age of system: _____ | | | <input type="checkbox"/> |
| 11. What is the dwelling's cooling source? <input type="checkbox"/> Central Forced Air <input type="checkbox"/> Wall/Window Unit(s)
<input type="checkbox"/> Other _____ (Check all that apply)
Age of system: _____ | | | <input type="checkbox"/> |
| 12. What is the dwelling's fuel sources? <input type="checkbox"/> Electricity <input type="checkbox"/> Natural Gas <input type="checkbox"/> Propane <input type="checkbox"/> Oil
<input type="checkbox"/> Other _____ (Check all that apply)
If the fuel source is stored in a tank, identify whether the tank is <input type="checkbox"/> above ground or <input type="checkbox"/> below ground, and whether the tank is <input type="checkbox"/> leased by seller or <input type="checkbox"/> owned by seller.
(Check all that apply) | | | <input type="checkbox"/> |
| 13. What is the dwelling's water supply source? <input type="checkbox"/> City/County <input type="checkbox"/> Community System
<input type="checkbox"/> Private Well <input type="checkbox"/> Shared Well <input type="checkbox"/> Other _____ | | | <input type="checkbox"/> |

(Check all that apply)

14. The dwelling's water pipes are made of what type of material? ☐ Copper ☐ Galvanized
☐ Plastic ☐ Polybutylene ☐ Other _____
 (Check all that apply)
15. Is there any problem, malfunction or defect with the dwelling's water supply (including water quality, quantity or water pressure)? ☐ ☐ ☐
16. What is the dwelling's sewage disposal system? ☐ Septic Tank ☐ Septic Tank with Pump
☐ Community System ☐ Connected to City/County System ☐ City/County System available
☐ Straight pipe (wastewater does not go into a septic or other sewer system [note: use of this type of system violates State law]) ☐ Other _____
 (Check all that apply)
17. If the dwelling is serviced by a septic system, do you know how many bedrooms are allowed by the septic system permit? If your answer is "Yes," how many bedrooms are allowed? _____ ☐ No records available. ☐ ☐
18. Is there any problem, malfunction or defect with the dwelling's sewer and/or septic system? ☐ ☐ ☐
19. Is there any problem, malfunction or defect with the dwelling's central vacuum, pool, hot tub, spa, attic fan, exhaust fan, ceiling fans, sump pump, irrigation system, TV cable wiring or satellite dish, garage door openers, gas logs, or other systems? ☐ ☐ ☐
20. Is there any problem, malfunction or defect with any appliances that may be included in the conveyance (range/oven, attached microwave, hood/fan, dishwasher, disposal, etc.)? ☐ ☐ ☐
21. Is there any problem with present infestation of the dwelling, or damage from past infestation of wood destroying insects or organisms which has not been repaired? ☐ ☐ ☐
22. Is there any problem, malfunction or defect with the drainage, grading or soil stability of the property? ☐ ☐ ☐
23. Are there any structural additions or other structural or mechanical changes to the dwelling(s) to be conveyed with the property? ☐ ☐ ☐
24. ~~Have you been notified by a governmental agency that~~ Is the property to be conveyed the ~~property is~~ in violation of any local zoning ordinances, restrictive covenants, or other land-use restrictions, or building codes (including the failure to obtain proper permits for room additions or other changes/improvements)? ☐ ☐ ☐
25. Are there any hazardous or toxic substances, materials, or products (such as asbestos, formaldehyde, radon gas, methane gas, lead-based paint) which exceed government safety standards, any debris (whether buried or covered) or underground storage tanks, or any environmentally hazardous conditions (such as contaminated soil or water, or other environmental contamination) which affect the property? ☐ ☐ ☐
26. Is there any noise, odor, smoke, etc. from commercial, industrial or military sources which affects the property? ☐ ☐ ☐
27. Is the property subject to any utility or other easements, shared driveways, party walls or encroachments from or on adjacent property? ☐ ☐ ☐
28. Is the property subject to any lawsuits, foreclosures, bankruptcy, leases or rental agreements, judgments, tax liens, proposed assessments, mechanics' liens, materialmen's liens, or notices from any governmental agency that could affect title to the property? ☐ ☐ ☐

29. Is the property subject to a flood hazard or is the property located in a federally-designated flood hazard area? ☐ ☐ ☐
30. Does the property abut or adjoin any private road(s) or street(s)? ☐ ☐ ☐
31. If there is a private road or street adjoining the property, is there in existence any owners' association or maintenance agreements dealing with the maintenance of the road or street? ☐ ☐ ☐

If you answered "yes" to any of the questions listed above (1-31) please explain (attach additional sheets if necessary):

In lieu of providing a written explanation, you may attach a written report to this Disclosure Statement by a public agency, or by an attorney, engineer, land surveyor, geologist, pest control operator, contractor, home inspector, or other expert, dealing with matters within the scope of that public agency's functions or the expert's license or expertise.

The following questions pertain to the property identified above, including the lot to be conveyed and any dwelling unit(s), sheds, detached garages, or other buildings located thereon.

- | | Yes | No | No Representation |
|---|--------------------------|--------------------------|--------------------------|
| 32. To your knowledge, is the property subject to regulation by one or more owners' association(s) or governing documents which impose various mandatory covenants, conditions, and restrictions upon the lot, including, but not limited to obligations to pay regular assessment or dues and special assessments? If your answer is "yes," please provide the information requested below as to each owners' association to which the property is subject [insert N/A into any blank that does not apply]:
(specify name) _____ whose regular assessments ("dues") are \$ _____ per _____. The name, address and telephone number of the president of the owners' association or the association manager are _____

_____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| (specify name) _____ whose regular assessments ("dues") are \$ _____ per _____. The name, address and telephone number of the president of the owners' association or the association manager are _____

_____ | | | |

*** If you answered "Yes" to question 32 above, you must complete the remainder of this Disclosure Statement. If you answered "No" or "No Representation" to question 32 above, you do not need to answer the remaining questions on this Disclosure Statement. Skip to the bottom of the last page and initial and date the page.**

- | | Yes | No | No Representation |
|---|--------------------------|--------------------------|--------------------------|
| 33. Are any fees charged by the association or by the association's management company in connection with the conveyance or transfer of the lot or property to a new owner? If your answer is "yes," please state the amount of the fees:

_____ | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

PROPOSED RULES

34. As of the date this Disclosure Statement is signed, are there any dues, fees or special assessment which have been duly approved as required by the applicable declaration or by-laws, and that are payable to an association to which the lot is subject? If your answer is "yes," please state the nature and amount of the dues, fees or special assessments to which the property is subject: ☐ ☐ ☐

35. As of the date this Disclosure Statement is signed, are there any unsatisfied judgments against or pending lawsuits *involving the property or lot to be conveyed*? If your answer is "yes," please state the nature of each pending lawsuit and the amount of each unsatisfied judgment: ☐ ☐ ☐

36. As of the date this Disclosure Statement is signed, are there any unsatisfied judgments against or pending lawsuits *involving the planned community or the association to which the property and lot are subject*, with the exception of any action filed by the association for the collection of delinquent assessments on lots other than the property and lot to be conveyed? If your answer is "yes," please state the nature of each pending lawsuit and the amount of each unsatisfied judgment: ☐ ☐ ☐

37. Which of the following services and amenities are paid for by the owners' association(s) identified above out of the association's regular assessments ("dues")? (Check all that apply.)

	Yes	No	No Representation
Management Fees	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Exterior Building Maintenance of Property to be Conveyed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Exterior Yard/Landscaping Maintenance of Lot to be Conveyed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Common Areas Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trash Removal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Recreational Amenity Maintenance (specify amenities covered) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<hr/>			
Pest Treatment/Extermination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Street Lights	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Water	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sewer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Storm Water Management/Drainage/Ponds	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Internet Service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cable	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Private Road Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parking Area Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gate and/or Security	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other: (specify) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<hr/>			

Owner Initials and Date _____

Owner Initials and Date _____

Purchaser Initials and Date _____

Purchaser Initials and Date _____

(b) The form described in Paragraph (a) of this Rule may be reproduced, but the form shall not be altered or amended in any way.

(c) The form described in Paragraph (a) of this Rule as amended effective ~~January 1, 2013~~, July 1, 2014 applies to all properties placed on the market on or after ~~January 1, 2013~~, July 1, 2014. The form described in Paragraph (a) of this Rule as amended effective January 1, ~~2012~~, 2013, applies to all properties placed on the market prior to ~~January 1, 2013~~, July 1, 2014. If a corrected disclosure statement required by G.S. 47E-7 is prepared on or after ~~January 1, 2013~~, July 1, 2014, for a property placed on the market prior to ~~January 1, 2013~~, July 1, 2014, the form described in Paragraph (a) of this Rule as amended effective ~~January 1, 2013~~, July 1, 2014, shall be used.

Authority G.S. 47E-4(b), (b1); 93A-3(c); 93A-6.

21 NCAC 58A .0117 ACCOUNTING FOR TRUST MONEY

(a) A broker shall create, maintain and retain records sufficient to identify the ownership of all funds belonging to others. Such records shall be sufficient to show proper deposit and disbursement of such funds into and from a trust or escrow account and to verify the accuracy and proper use of the trust or escrow account.

(b) A trust or escrow account shall satisfy the requirements of G.S. 93A-6(g) and shall be designated as a "Trust Account" or "Escrow Account." All bank statements, deposit tickets and checks drawn on said account shall bear the words "Trust Account" or "Escrow Account." A trust account shall provide for the full withdrawal of funds on demand without prior notice and without penalty or deduction to the funds.

(c) A broker shall create, maintain or retain the following records:

- (1) bank statements;
- (2) canceled checks and other evidence or memoranda of payments from the trust or escrow account, whether by transfer between accounts, wire payments, or payments by electronic means, which shall be referenced to the corresponding journal entry or check stub entries and to the corresponding sales transaction ledgers or for rental transactions, the corresponding property or owner ledgers. Checks and other evidence or memoranda of payments from the account shall identify the payee by name and shall bear a notation identifying the purpose of the disbursement. When a payment is used to disburse funds for more than one sales transaction, owner, or property, the check or other evidence or memoranda of payment shall bear a notation identifying each sales transaction, owner, or property for which disbursement is made, including the amount disbursed for each, and the corresponding sales transaction, property, or owner ledger entries. When necessary, the check notation may refer to the required information recorded on a supplemental disbursement worksheet which shall be cross-referenced to the corresponding check or payment. In lieu of retaining canceled checks, a broker may retain digitally imaged copies of the canceled checks or substitute checks provided that such images are legible reproductions of the front and back of such instruments with no smaller images than

1.1875 x 3.0 inches and provided that the broker's bank retains for a period of at least five years the original checks, "substitute checks" as described in 12 C.F.R. 229.51 or the capacity to provide substitute checks as described in 12 C.F.R. 229.51 and makes the original or substitute checks available to the broker and the Commission upon request;

(3) deposit tickets or other evidence or memoranda of deposits or payments into the account, whether by transfer between accounts, wire payments, or payments by electronic means:

- (A) for a sales transaction, the deposit ticket or other evidence or memoranda of deposits or payments into the account shall identify the purpose and remitter of the funds deposited, the property, the parties involved, and a reference to the corresponding sales transaction ledger;
- (B) for a rental transaction, the deposit ticket or other evidence or memoranda of deposits or payments into the account shall identify the purpose and remitter of the funds deposited, the tenant, and the corresponding property or owner ledger;
- (C) for deposits of funds belonging to or collected on behalf of a property owner association, the deposit ticket or other evidence or memoranda of deposits or payments into the account shall identify the property or property interest for which the payment is made, the property or interest owner, the remitter, and the purpose of the payment;
- (D) when a single deposit ticket or payment is used to deposit funds collected for more than one sales transaction, property owner, or property, the required information shall be recorded on the ticket or other evidence or memoranda of deposits or payments into the account for each sales transaction, owner, or property, or it may refer to the same

- information recorded on a supplemental deposit worksheet which shall be cross-referenced to the corresponding deposit ticket;
- (4) a separate ledger for each sales transaction, for each property or owner of property managed by the broker and for company funds held in the trust account:
- (A) the ledger for a sales transaction shall identify the property, the parties to the transaction, the amount, date, and purpose of the deposits and from whom received, the amount, date, check number, and purpose of disbursements and to whom paid, and the running balance of funds on deposit for each deposit and disbursement entry;
- (B) the ledger for a rental transaction shall identify the particular property or owner of property, the tenant, the amount, date, and purpose of the deposits and from whom received, the amount, date, check number, and purpose of disbursements and to whom paid, and the running balance of funds on deposit for each deposit and disbursement entry. Monies held as tenant security deposits in connection with rental transactions may be accounted for on a separate tenant security deposit ledger for each property or owner of property managed by the broker. For each security deposit the tenant security deposit ledger shall identify the remitter, the date the deposit was paid, the amount, the tenant, landlord, and subject property as well as the check number, amount, date, payee, purpose and a running balance for each disbursement. When tenant security deposit monies are accounted for on a separate ledger as provided in this Rule, deposit tickets, canceled checks and supplemental worksheets shall reference the corresponding tenant security deposit ledger entries;
- (C) a broker may maintain a maximum of one hundred dollars (\$100.00) in company funds in a trust account for the purpose of paying service charges incurred by the account. In the event that the services charges exceed one hundred dollars (\$100.00) monthly, the broker may deposit an amount each month sufficient to cover the service charges. A broker shall maintain a separate ledger for company funds held in the trust account identifying the date, amount and running balance for each deposit and disbursement;
- (5) a general journal, check register or check stubs identifying in chronological order each bank deposit and disbursement of monies to and from the trust or escrow account, including the amount and date of each deposit and a reference to the corresponding deposit ticket and any supplemental deposit worksheet, and the amount, date, check number, and purpose of disbursements and to whom paid. The journal or check stubs shall also show a running balance for each entry into the account;
- (6) a payment record for each property or interest for which funds are collected and deposited into a property owner association trust account as required by Rule .0118 of this Section. Payment record(s) shall identify the amount, date, remitter, and purpose of payments received, the amount and nature of the obligation for which payments are made, and the amount of any balance due or delinquency;
- (7) copies of earnest money checks, due diligence fee checks, receipts for cash payments, contracts, and closing statements in sales transactions;
- (8) copies of leases, security deposit checks, property management agreements, property management statements, and receipts for cash payments in leasing transactions;
- (9) copies of covenants, bylaws, minutes, management agreements and periodic statements relating to the management of property owner associations;
- (10) copies of invoices, bills, and contracts paid from the trust account; and
- (11) copies of any documents not otherwise described in this Rule necessary and sufficient to verify and explain record entries.
- (d) Records of all receipts and disbursements of trust or escrow monies shall be maintained in such a manner as to create an audit trail from deposit tickets and canceled checks to check stubs or journals and to the ledger sheets.
- (e) Brokers shall reconcile their trust or escrow accounts monthly. The trust account reconciliation shall be performed in the following manner as of a specific cutoff date selected by the broker:
- (1) a trial balance shall be prepared showing a list of the property or owner ledgers, their balances, and the total of all of the property or owner ledger balances as of the cutoff date;
- (2) a bank statement shall be reconciled by deducting from the statement's ending balance the amount of any outstanding checks and then adding to the balance the amount of any deposits-in-transit as of the cutoff date; and

- (3) the trial balance, reconciled bank statement balance, and the journal balance shall be compared as of the cutoff date. If the amounts on the trial balance, journal balance and reconciled bank balance do not agree, the broker shall investigate the reason for any variation between the balances and make the necessary corrections to bring the balances into agreement.

A broker shall maintain and retain a worksheet for each monthly trust account reconciliation showing the balance of the journal or check stubs, the trial balance and the reconciled bank statement balance to be in agreement as of the cutoff date.

(f) In addition to the records required by ~~Paragraph (d)~~ Paragraph (c) of this Rule, a broker acting as agent for the landlord of a residential property used for vacation rentals shall create and maintain a subsidiary ledger sheet for each property or owner of such properties on which all funds collected and disbursed are identified in categories by purpose. On a monthly basis, the broker shall reconcile the subsidiary ledgers to the corresponding property or property owner ledger. In lieu of maintaining a subsidiary ledger, the broker may maintain an accounts payable ledger for each owner or property and each vendor to whom trust monies are due for monies collected on behalf of the owner or property identifying the date of receipt of the trust monies, from whom the monies were received, rental dates, and the corresponding property or owner ledger entry including the amount to be disbursed for each and the purpose of the disbursement. The broker may also maintain an accounts payable ledger in the format described above for vacation rental tenant security deposit monies and vacation rental advance payments.

(g) Upon the written request of a client, a broker shall promptly, but in no event later than ten days after receipt of the request, furnish the client with copies of any records retained as required by Rule 21 NCAC 58A .0108 that pertain to the transaction to which the client was a party.

(h) All trust or escrow account records shall be made available for inspection by the Commission or its authorized representatives in accordance with Rule 21 NCAC 58A .0108.

Authority G.S. 93A-3(c); 93A-6.

21 NCAC 58A .0118 TRUST MONEY BELONGING TO PROPERTY OWNERS' ASSOCIATIONS

(a) The funds of a property owners' association, when collected, maintained, disbursed or otherwise controlled by a broker, are trust money and shall be treated as such in the manner required by ~~this Rule. Rules .0116 and .0117 of this Section.~~ Such trust money must be deposited into and maintained in a trust or escrow account dedicated exclusively for trust money belonging to a single property owners' association and may not be commingled with funds belonging to other property owners' associations or other persons or parties. A broker who undertakes to act as manager of a property owners' association or as the custodian of trust money belonging to a property owners' association shall provide the association with periodic statements which report the balance of association trust money in the broker's possession or control and which account for the trust

money the broker has received and disbursed on behalf of the association. Such statements must be made in accordance with the broker's agreement with the association, but not less frequently than every 90 days.

(b) A broker who receives trust money belonging to a property owners' association in his or her capacity as an officer of the association in a residential development in which the broker is a property owner and for which the broker receives no compensation is exempt from the requirements of ~~Rule .0116~~ Rules .0116 and .0117 of this Section except that said broker shall not convert trust money belonging to the association to his or her own use, apply such money or property to a purpose other than that for which it was intended or permit or assist any other person in the conversion or misapplication of such money or property.

Authority G.S. 93A-3(c); 93A-6.

SECTION .0400 – EXAMINATIONS

21 NCAC 58A .0404 EXAMINATION RELATED CONDUCT

~~Applicants shall not cheat or attempt to cheat on an examination by any means, including both giving and receiving assistance, and shall not communicate in any manner for any purpose with any person other than an examination supervisor during an examination. Applicants shall not disrupt the quiet and orderly administration of an examination in any manner.~~

When taking a license examination, an applicant shall not engage in any of the following actions:

- (1) cheat or attempt to cheat on the examination by any means, including giving or receiving assistance or using notes of any type;
- (2) communicate in any manner for any purpose with any person other than an examination supervisor;
- (3) have in his or her possession or utilize in any manner study materials or notes or any device that may be used to communicate with others, to access information or to record or store photographs, visual images, audio or other information about the examination;
- (4) have in his or her possession or utilize a calculator that permits the storage, entry or retrieval of alphabetic characters or that is not silent, hand-held and either battery-powered or solar-powered;
- (5) have in his or her possession a wallet, pocketbook, bag or similar item that can be used to store materials prohibited by this Rule;
- (6) refuse to demonstrate to the examination supervisor that pockets on any item of clothing do not contain materials prohibited by this Rule;
- (7) leave or attempt to leave the testing area with any materials provided for the purpose of taking the examination or with any information, notes or other information about the content of the examination; or

- (8) refuse to comply with the instructions of the Commission and the Commission's test provider for taking the examination or disrupt in any manner the quiet and orderly administration of the examination.

Violation of this Rule shall be grounds for dismissal from an examination, invalidation of examination scores, forfeiture of examination and application fees and denial of a real estate license, as well as for disciplinary action if the applicant has been issued a license.

Authority G.S. 93A-4(d).

SECTION .0500 – LICENSING

21 NCAC 58A .0502 BUSINESS ENTITIES

(a) Every business entity other than a sole proprietorship shall apply for and obtain from the Commission a firm license prior to engaging in business as a real estate broker. An entity that changes its business form other than by conversion shall submit a new license application immediately upon making the change and obtain a new firm license. An entity which converts to a different business entity in conformity with and pursuant to applicable North Carolina General Statutes is not required to apply for a new license. However, such converted entity shall provide the information required by this Paragraph in writing to the Commission within 10 days of said conversion and shall include the applicable fee to have the firm license reissued in the legal name of the converted entity. Incomplete applications shall not be acted upon by the Commission. Application forms for partnerships, corporations, limited liability companies, associations and other business entities required to be licensed as brokers shall be available upon request to the Commission and shall require the applicant to set forth:

- (1) the name of the entity;
- (2) the name under which the entity will do business;
- (3) the type of business entity;
- (4) the address of its principal office;
- (5) the entity's NC Secretary of State Identification Number if required to be registered with the Office of the NC Secretary of State;
- (6) the name, real estate license number and signature of the proposed qualifying broker for the proposed firm;
- (7) the address of and name of the proposed broker-in-charge for each office as defined in ~~Rule .0110(b)~~ Rule .0110(a) of this Subchapter, along with a completed broker-in-charge declaration form for each proposed broker-in-charge;
- (8) any past criminal conviction of and any pending criminal charge against any principal in the company or any proposed broker-in-charge;
- (9) any past revocation, suspension or denial of a business or professional license of any

- principal in the company or any proposed broker-in-charge;
- (10) if a general partnership, a full description of the applicant entity, including a copy of its written partnership agreement or if no written agreement exists, a written description of the rights and duties of the several partners;
- (11) if a business entity other than a corporation, limited liability company or partnership, a full description of the organization of the applicant entity, including a copy of its organizational documents evidencing its authority to engage in real estate brokerage;
- (12) if a foreign business entity, a certificate of authority to transact business in North Carolina and an executed consent to service of process and pleadings; and
- (13) any other information required by this Rule.

When the authority of a business entity to engage in the real estate business is unclear in the application or in law, the Commission shall require the applicant to declare in the license application that the applicant's organizational documents authorize the firm to engage in the real estate business and to submit organizational documents, addresses of affiliated persons and similar information. For purposes of this Rule, the term principal, when it refers to a person or entity, means any person or entity owning 10 percent or more of the business entity, or who is an officer, director, manager, member, partner or who holds any other comparable position.

(b) After filing a written application with the Commission and upon a showing that at least one principal of the business entity holds a broker license on active status and in good standing and will serve as qualifying broker of the entity, the entity shall be licensed provided it appears that the applicant entity employs and is directed by personnel possessed of the requisite truthfulness, honesty, and integrity. The qualifying broker of a partnership of any kind must be a general partner of the partnership; the qualifying broker of a limited liability company must be a manager of the company; and the qualifying broker of a corporation must be an officer of the corporation. A licensed business entity may serve as the qualifying broker of another licensed business entity if the qualifying broker-entity has as its qualifying broker a natural person who is licensed as a broker. The natural person who is qualifying broker shall assure the performance of the qualifying broker's duties with regard to both entities. A provisional broker may not serve as a qualifying broker.

(c) The licensing of a business entity shall not be construed to extend to the licensing of its partners, managers, members, directors, officers, employees or other persons acting for the entity in their individual capacities regardless of whether they are engaged in furthering the business of the licensed entity.

(d) The qualifying broker of a business entity shall assume responsibility for:

- (1) designating and assuring that there is at all times a broker-in-charge for each office and branch office of the entity as ~~office~~ "office" and ~~branch office~~ "branch office" are defined

in ~~Rule .0110(b)~~ Rule .0110(a) of this Subchapter;

- (2) renewing the real estate broker license of the entity;
- (3) retaining the firm's renewal pocket card at the firm and producing it as proof of firm licensure upon request and maintaining a photocopy of the firm license certificate and pocket card at each branch office thereof;
- (4) notifying the Commission of any change of business address or trade name of the entity and the registration of any assumed business name adopted by the entity for its use;
- (5) notifying the Commission in writing of any change of his or her status as qualifying broker within ten days following the change;
- (6) securing and preserving the transaction and trust account records of the firm whenever there is a change of broker-in-charge at the firm or any office thereof and notifying the Commission if the trust account records are out of balance or have not been reconciled as required by ~~Rule .0107~~ Rule .0117 of this Subchapter;
- (7) retaining and preserving the transaction and trust account records of the firm upon termination of his or her status as qualifying broker until a new qualifying broker has been designated with the Commission or, if no new qualifying broker is designated, for the period of time for which said records are required to be retained by Rule .0108 of this Subchapter; and
- (8) notifying the Commission if, upon the termination of his or her status as qualifying broker, the firm's transaction and trust account records cannot be retained or preserved or if the trust account records are out of balance or have not been reconciled as required by ~~Rule .0107(e)~~ Rule .0117 of this Subchapter.

(e) Every licensed business entity and every entity applying for licensure shall conform to all the requirements imposed upon it by the North Carolina General Statutes for its continued existence and authority to do business in North Carolina. Failure to conform to such requirements is grounds for disciplinary action or denial of the entity's application for licensure. Upon receipt of notice from an entity or agency of this state that a licensed entity has ceased to exist or that its authority to engage in business in this state has been terminated by operation of law, the Commission shall cancel the license of the entity.

Authority G.S. 55-11A-04; 93A-3(c); 93A-4(a),(b),(d).

21 NCAC 58A .0503 LICENSE RENEWAL; PENALTY FOR OPERATING WHILE LICENSE EXPIRED

(a) All real estate licenses issued by the Commission under G.S. 93A, Article 1 shall expire on the 30th day of June following issuance. Any broker desiring renewal of a license shall apply for renewal within 45 days prior to license expiration by

submitting ~~a~~ an electronic renewal application on ~~a form prescribed by the Commission~~ the Commission's website and submitting with the electronic application the required renewal fee of forty-five dollars (\$45.00). A broker who does not have the ability to renew online may renew by calling the Commission's office during normal business hours. Every individual broker shall provide on his or her renewal application an email address to be used by the Commission to communicate with the broker. Such email address may be designated by the broker as private and shall then be exempt from public records disclosures pursuant to G.S. 93A-4(b2). A broker who does not have an email address may indicate so on the renewal application and shall not be required to obtain an email address.

(b) Any person desiring to renew his or her license on active status shall, upon the second renewal of such license following initial licensure, and upon each subsequent renewal, have obtained all continuing education required by G.S. 93A-4.1 and Rule .1702 of this Subchapter.

(c) A person renewing a license on inactive status shall not be required to have obtained any continuing education in order to renew such license; however, in order to subsequently change his or her license from inactive status to active status, the broker must satisfy the continuing education requirement prescribed in Rule .1703 or .1711 of this Subchapter.

(d) Any person or firm that engages in the business of a real estate broker while his, her, or its license is expired is subject to the penalties prescribed in G.S. 93A-6.

Authority G.S. 93A-3(c); 93A-4(c), (d); 93A-4.1; 93A-6.

SECTION .1700 – MANDATORY CONTINUING EDUCATION

21 NCAC 58A .1702 CONTINUING EDUCATION REQUIREMENT

(a) Except as provided in 21 NCAC 58A .1708 and .1711, in order to renew a broker license on active status, the person requesting renewal of a license shall, upon the second renewal of such license following initial licensure, and upon each subsequent annual renewal, have completed, within one year preceding license expiration, eight classroom hours of real estate continuing education in courses approved by the Commission as provided in Subchapter 58E. Four of the required eight classroom hours must be obtained each license period by completing a mandatory update course developed annually by the Commission and known as the "General Update Course," except that a broker-in-charge or broker who is broker-in-charge eligible shall complete the "Broker-In-Charge Update Course" in lieu of the "General Update Course" as prescribed by Rule .0110 of this Subchapter. The remaining four hours must be obtained by completing one or more Commission-approved elective courses described in Rule .0305 of Subchapter 58E. The ~~licensee~~ broker shall provide upon request of the Commission, evidence of continuing education course completion satisfactory to the Commission.

(b) No continuing education shall be required to renew a broker license on inactive status; however, to change a license from inactive status to active status, the ~~licensee~~ broker must satisfy

the continuing education requirement described in Rule .1703 of this Section.

(c) No continuing education shall be required for a licensee broker who is a member of the U.S. Congress or the North Carolina General Assembly in order to renew his or her license on active status.

(d) The terms "active status" and "inactive status" are defined in Rule .0504 of this Subchapter. For continuing education purposes, the term "initial licensure" shall include the first time that a license of a particular type is issued to a person, the reinstatement of a canceled, revoked or surrendered license, and any license expired for more than six months. The issuance, pursuant to G.S. 93A-4.3, of a broker license on provisional status on April 1, 2006 to licensees brokers who held a salesperson license as of that date shall not be considered to constitute initial licensure for continuing education purposes.

Authority G.S. 93A-3(c); 93A-4.1.

21 NCAC 58A .1709 EXTENSIONS OF TIME TO COMPLETE CONTINUING EDUCATION

A licensee broker on active status may request and be granted an extension of time to satisfy the continuing education requirement for a particular license period if the licensee broker provides evidence satisfactory to the Commission that he or she was unable to obtain the necessary education due to an incapacitating illness or other circumstance which existed for a substantial portion of the license period and which constituted a severe and verifiable hardship such that to comply with the continuing education requirement would have been impossible or unreasonably burdensome. The Commission shall in no case grant an extension of time to satisfy the continuing education requirement for reasons of business or personal conflicts. The Commission also shall not grant such an extension of time when, in the opinion of the Commission, the principal reason for the licensee's broker's inability to obtain the required education in a timely manner was unreasonable delay on the part of the licensee broker in obtaining such education. If an extension of time is granted, the licensee broker shall be permitted to renew his or her license on active status but the license shall be automatically changed to inactive status at the end of the extension period unless the licensee broker satisfies the continuing education requirement prior to that time. If an extension of time is not granted, the licensee broker may either satisfy the continuing education requirement prior to expiration of the license period or renew his or her license on inactive status. The length of any extension of time granted and the determination of the specific courses which shall be accepted by the Commission as equivalent to the continuing education the licensee broker would have been required to have completed had the licensee broker not been granted the extension is wholly discretionary on the part of the Commission. The licensee's broker's request for an extension of time ~~must~~ shall be submitted on a form prescribed by the ~~Commission.~~ Commission and must be received by the Commission on or before June 10 of the license year for which the extension is sought.

Authority G.S. 93A-3(c); 93A-4.1.

SECTION .1800 – LIMITED NONRESIDENT COMMERCIAL LICENSING

21 NCAC 58A .1808 TRUST MONIES

A nonresident commercial licensee broker acting as real estate broker in North Carolina shall immediately deliver to the North Carolina resident broker with whom he or she is affiliated all money belonging to others received in connection with the nonresident commercial licensee's broker's acts or services as a broker. Upon receipt of said money, the resident North Carolina broker shall cause said money to be deposited in a trust account in accordance with the provisions of ~~Rule .0107~~ Rule .0116 of this Subchapter.

Authority G.S. 93A-4; 93A-9.

SUBCHAPTER 58C – REAL ESTATE PRELICENSING EDUCATION

SECTION .0100 – SCHOOLS

21 NCAC 58C .0105 WITHDRAWAL OR DENIAL OF APPROVAL

The Commission may deny or withdraw any approval granted to a school upon finding that such school has:

- (1) refused or failed to comply with any of the provisions of Sections .0100 or .0300 of this Subchapter;
- (2) obtained or used, or attempted to obtain or use, in any manner or form, North Carolina real estate licensing examination questions;
- (3) compiled a licensing examination performance record for first-time examination candidates which is below ~~70 percent~~ 50 percent passing for two or more of the previous five annual reporting periods; or
- (4) failed to provide to the Commission a within 30 days of a written request from the Commission a written plan describing the changes the school intends to make in its instructional program including instructors, course materials, methods of student evaluation, and completion standards to improve the performance of the school's students on the licensing examination in the future following attainment by the school of a licensing performance record for first-time examination candidates which was below ~~70 percent~~ 50 percent passing for the previous annual reporting period.

Authority G.S. 93A-4; 93A-6.

SECTION .0200 – PRIVATE REAL ESTATE SCHOOLS

21 NCAC 58C .0209 ENROLLMENT PROCEDURES AND CONTRACTS

(a) A school shall provide to a prospective student a copy of the school's bulletin prior to the time that a student becomes

committed to payment of any portion of tuition or registration deposit without the right to a full refund.

(b) A school shall execute a written enrollment contract with each student after the school's bulletin has been provided to the student but prior to the beginning of the course for which the student is enrolling. The student shall be provided a copy of the enrollment contract at the time of signing. The enrollment contract shall be a separate document and shall not be combined with the school's bulletin into a single document. A school may utilize the school's copy of the enrollment contract to note a record of student tuition payments.

(c) A school's student enrollment contract shall include the student's name, the contract date, the title of the course(s) for which the student is enrolling, the course schedule (beginning date, end date and meeting days and times), the amount of tuition and other required fees, a provision incorporating by reference the school's policies as described in the school's bulletin, a provision whereby the school certifies that the school's bulletin has been provided to the student and that the student acknowledges receipt of the bulletin, any provisions needed to address special accommodations or arrangements applicable to a particular student, and the signatures of both the student and a school official. The contract shall also include the following prescribed text: "NOTICE: Pursuant to North Carolina Real Estate Commission Rule 21 NCAC 58A .1904, the Commission may deny or withdraw credit for a postlicensing course that a provisional broker begins taking while already enrolled in another postlicensing course at the same school or a different school if participating in the two courses concurrently results in the provisional broker attending postlicensing course sessions that total more than 21 classroom hours in any given seven-day period." Other than the amount of tuition and fees, an enrollment contract shall not address other school policies that are addressed in the school's bulletin. ~~The enrollment contract shall be a separate document and shall not be combined with the school's bulletin into a single document. A school may utilize the school's copy of the enrollment contract to note a record of student tuition payments.~~

Authority G.S. 93A-4; 93A-33.

**21 NCAC 58C .0218 LICENSING EXAM
CONFIDENTIALITY: SCHOOL PERFORM./LICENSING**

(a) Schools shall not obtain or use, or attempt to obtain or use, in any manner or form, North Carolina real estate licensing examination questions.

(b) Schools must maintain a satisfactory performance record on the real estate licensing examination. A school performance record for first-time examination candidates which is below ~~70 percent~~ 50 percent passing for two or more of the five previous annual reporting periods shall be considered unsatisfactory under this Rule.

(c) A school shall provide to the Commission within 30 days of a written request from the Commission a written plan describing the changes the school intends to make in its instructional program to improve the performance of the school's students on the licensing examination in the future following attainment by the school of a licensing examination performance record for

first-time examination candidates which was below ~~70 percent~~ 50 percent passing for the previous annual reporting period.

Authority G.S. 93A-4(a),(d); 93A-33.

**21 NCAC 58C .0221 TRANSFER OF SCHOOL
OWNERSHIP**

When ownership of a licensed school is transferred to a different legal entity, the school license is not transferable and terminates on the effective date of the transfer. All courses commenced by the school owner transferring ownership shall be completed by the effective date of the ownership transfer, and that owner shall report course completion to the Commission. The entity acquiring ownership must obtain an original school license for each location where the school will conduct courses as required by G.S. 93A-34 and Rule .0202 of this Subchapter prior to advertising courses, registering students, accepting tuition, conducting courses, or otherwise engaging in any school operations.

Authority G.S. 93A-33; 93A-34.

**SECTION .0300 – PRELICENSING AND
POSTLICENSING COURSES**

**21 NCAC 58C .0309 COURSE COMPLETION
REPORTING**

(a) Schools shall provide each student who completes a prelicensing or postlicensing course in compliance with Commission rules and school course completion standards a course completion certificate in a format prescribed by this Rule. In addition to information identifying the course, student and instructor, the certificate must include the official letterhead of the school and must have the ~~original signature or a signature stamp in a color other than black~~ of the director, dean or other school official responsible for supervising the conduct of the course.

(b) Schools shall prepare and submit to the Commission accurate reports verifying completion of a prelicensing or postlicensing course for each student who completes a prelicensing or postlicensing course in compliance with Commission rules and school course completion standards. Such reports shall include students' names (full legal name for prelicensing course students), students' license numbers (for postlicensing course students), students' unique identification number (for prelicensing course students), course dates, school and course code numbers, instructor's name and code number (for prelicensing courses), and course information presented in the format prescribed by the Commission, and shall be transmitted electronically via the Internet to the Commission within seven calendar days following the course. Schools shall electronically submit with postlicensing course completion reports the per student fee prescribed by G.S 93A-4(a2).

Authority G.S. 93A-4(a),(d); 93A-33.

21 NCAC 58C .0310 COURSE RECORDS

- (a) Schools must retain on file for three years copies of all enrollment, grade and attendance records and must make such records available to the Commission upon request.
- (b) Schools must retain on file for two years a master copy of each final course examination, and such file copy shall indicate the answer key, course title, course dates and name of instructor. Examination file copies shall be made available to the Commission upon request.

Authority G.S. 93A-4(a),(d); 93A-33; 93A-75(a).

SECTION .0600 – PRELICENSING AND POSTLICENSING INSTRUCTORS

21 NCAC 58C .0608 DENIAL OR WITHDRAWAL OF APPROVAL

(a) The Commission may deny or withdraw approval of any instructor approved to teach prelicensing and postlicensing courses upon finding that:

- (1) the instructor or instructor applicant has failed to meet the criteria for approval described in Rule .0603 of this Section or the criteria for renewal of approval described in Rule .0607 of this Section at the time of application or at any time during an approval period or has refused or failed to comply with any other provisions of this Subchapter;
- (2) the instructor has made any false statements or presented any false, incomplete, or incorrect information in connection with an application for approval or renewal of approval;
- (3) the instructor has failed to submit any report, course examination or video recording the instructor is required to submit to the Commission;
- (4) the instructor has provided false, incomplete, or incorrect information in connection with any report the instructor or a school is required to submit to the Commission;
- (5) the instructor has failed to demonstrate, during the teaching of Commission-approved prelicensing, postlicensing or continuing education courses, those effective teaching skills described in Rule .0604 of this Section;
- (6) the instructor has compiled a licensing examination performance record for first-time examination candidates which is below ~~70 percent~~ 50 percent passing for two or more of the previous five annual reporting periods;
- (7) the instructor has failed to provide to the Commission within 30 days of a written request from the Commission a written plan describing the changes the instructor has made or intends to make in his or her instructional program to improve the performance of the instructor's students on the licensing examination in the future following attainment by the instructor of a licensing examination

performance record for first-time examination candidates which was below ~~70 percent~~ 50 percent passing for the previous annual reporting period.

- (8) the instructor has been disciplined by the Commission or any other occupational licensing agency in North Carolina or another jurisdiction; or
- (9) the instructor has obtained or used, or attempted to obtain or use, in any manner or form, North Carolina real estate license examination questions.

(b) If a ~~licensee broker~~ who is an approved prelicensing and postlicensing course instructor engages in any dishonest, fraudulent or improper conduct in connection with the ~~licensee's~~ broker's activities as an instructor, the ~~licensee broker~~ shall be subject to disciplinary action pursuant to G.S. 93A-6.

Authority G.S. 93A-4(a),(d); 93A-33; 93A-34.

SUBCHAPTER 58E – REAL ESTATE CONTINUING EDUCATION

SECTION .0100 – UPDATE COURSE

21 NCAC 58E .0102 UPDATE COURSE COMPONENT

(a) To renew a license on active status, a real estate broker must complete, within one year preceding license expiration and in addition to satisfying the continuing education elective requirement described in Section .0302 of this Subchapter, a Commission-developed update course consisting of four classroom hours of instruction to be known as the "General Update Course." ~~A broker-in-charge or broker who is broker-in-charge eligible who desires to retain his or her broker-in-charge status or eligibility must complete in lieu of the "General Update Course" a Commission-developed update course to be known as the "Broker-In-Charge Update Course" as prescribed in Rule 58A .0110.~~

(b) The Commission shall develop annually ~~an update course a~~ General Update Course and a Broker-In-Charge Update Course which shall be conducted by sponsors approved by the Commission under this Subchapter. The subject matter of ~~this course~~ these courses shall be determined by the Commission, which shall produce instructor and student materials for use by course sponsors. The Commission shall prepare ~~a completely new course~~ courses for each one-year period beginning July 1 and ending the next June 30. Sponsors must acquire the Commission-developed course materials and utilize such materials to conduct the update ~~course~~ courses. The ~~course~~ courses must be conducted exactly as prescribed by the rules in this Subchapter and the course materials developed by the Commission. All course materials that are developed by the Commission for use in an update course and that are subject to the protection of federal copyright laws are the property of the Commission. Violation of the Commission's copyright with regard to these materials shall be grounds for disciplinary action. Sponsors must provide ~~licensees~~ brokers participating in their classes a copy of the student materials developed by the

Commission. With advance approval from the Commission, course sponsors and instructors may make modifications to the update course when the update course is being promoted to and conducted for a group of ~~licensees~~ brokers that specialize in a particular area of real estate brokerage, provided that the modifications relate to the same general subject matter as is addressed in the prescribed update course and the course as modified achieves the same educational objectives as the unmodified course.

(c) Approval of a sponsor to conduct an update course authorizes the sponsor to conduct the update course using an instructor who has been approved by the Commission as an update course instructor under Section .0200 of this Subchapter. The sponsor may conduct the update course at any location as frequently as is desired during the approval period, provided that no courses may be conducted between June 11 and June 30 of any approval period.

Authority G.S. 93A-3(c); 93A-4.1.

SECTION .0200 – UPDATE COURSE INSTRUCTORS

21 NCAC 58E .0202 NATURE AND SCOPE OF APPROVAL

Approval of update course instructors shall be accomplished separate from the approval of update course sponsors. Approval of an update course instructor authorizes the instructor to teach the ~~update course~~ General Update Course or Broker-In-Charge Update Course for any approved update course ~~sponsor; sponsor~~ so long as his or her approval is on active status; however, an approved update course instructor may not independently conduct an update course unless the instructor has also obtained approval as an update course sponsor. An instructor must obtain written approval from the Commission prior to teaching an update course and prior to representing to any sponsor or other party that he or she is approved or may be approved as an update course instructor.

Authority G.S. 93A-3(c); 93A-4.1.

21 NCAC 58E .0203 APPLICATION AND CRITERIA FOR ORIGINAL APPROVAL

(a) A person seeking original approval as an update course instructor must make application on a form provided by the Commission. An applicant who is not a resident of North Carolina shall also file with the application a consent to service of process and pleadings. No application fee is required. All required information regarding the applicant's qualifications must be submitted.

(b) The applicant must be truthful, honest and of high integrity.

(c) The applicant must be qualified under one of the following standards:

- (1) Possession of a current North Carolina real estate broker license that is not on provisional status, a current continuing education record, and three years active full-time experience in general real estate brokerage, including substantial experience in real estate sales and at least one year of general brokerage

experience in North Carolina, within the previous seven years. For purposes of this Rule, substantial experience is experience which is material, valuable, and worthwhile and not nominal, occasional, or intermittent.

- (2) Possession of qualifications found by the Commission to be equivalent to the standard stated in Subparagraph (c)(1) of this Rule.

(d) The applicant must possess good teaching skills as demonstrated on a video recording portraying the instructor teaching a live audience. The applicant must submit the video recording for Commission review on either a digital video disc (DVD) or a VHS formatted videocassette. The video recording must be 45-60 minutes in length and must depict a continuous block of instruction on a single real estate or directly related topic. The video recording must be unedited, must show at least a portion of the audience, and must have visual and sound quality sufficient to enable reviewers to clearly see and hear the instructor. The video recording must have been recorded within the previous one year. The video recording must demonstrate that the instructor possesses the teaching skills described in Rule .0509 of this Subchapter.

(e) The applicant must take the Commission's Update Instructor Seminar for the real estate license year in which the applicant's approval would be effective prior to approval being issued. If this seminar is not taken within six months after filing the application for approval, the application shall be cancelled.

~~(e)(f)~~ An applicant shall be exempt from qualifying under Paragraphs (c) and (d) of this Rule if he or she is a Commission-approved real estate prelicensing instructor who has satisfied all requirements for an unconditional approval or possesses a current North Carolina real estate broker license, a current continuing education record, and a current designation as a Distinguished Real Estate Instructor (DREI) granted by the Real Estate Educators Association.

Authority G.S. 93A-3(c); 93A-4.1.

21 NCAC 58E .0204 ACTIVE AND INACTIVE STATUS; RENEWAL OF APPROVAL

(a) An instructor's initial approval shall be issued on active status and shall remain on active status during the approval period so long as the instructor takes the Commission's annual Update Instructor Seminar by September 1 of each year. An instructor may teach the General Update Course or Broker-In-Charge Update Course while his or her license is on active status. When an instructor fails to take the Update Instructor Seminar in a timely manner, the instructor's approval shall be placed on inactive status and shall remain on inactive status until the seminar is taken or until the expiration of the instructor's approval, whichever occurs first. An instructor may not teach any version of the update course while his or her approval is on inactive status. If an instructor whose approval is on active status is unable to take the Update Instructor Seminar on any of the scheduled seminar dates between July 1 and August 31 of any year due to a personal hardship such as a personal or family illness or a business conflict, the instructor may request and obtain from the Commission an extension of time to take the seminar on a subsequently scheduled seminar date following the

September 1 deadline, provided that the course must be taken not later than the following December 1. If an extension of time is granted, the instructor's approval shall remain on active status during the extension period.

~~(a)(b)~~ Commission approval of update course instructors expires on the third December 31 following issuance of approval. In order to assure continuous approval, approved instructors must file applications for renewal of approval on a form provided by the Commission on or before December 1 immediately preceding expiration of their approval. In order to renew their approval, Applicants applicants must satisfy the criteria for original approval, with the exception of the requirement in Rule .0203(d) of this Section, in order to renew their approval, and their approval must be on active status as described in Paragraph (a) of this Rule. Applicants for renewal of approval whose approval is on inactive status must also take the Commission's annual Update Instructor Seminar for the real estate license year in which the applicant's renewal of approval would be effective.

~~(b)(c)~~ In order to reinstate an expired instructor approval, the former instructor must file an application on a form provided by the Commission and must satisfy the criteria for original approval set forth in Rule .0203(b) and (c) of this Section. If the applicant's prior instructor approval was on inactive status at the time the approval expired, the applicant must additionally take the Commission's annual Update Instructor Seminar for the real estate license year in which the applicant's reinstated approval would be effective. If the applicant's prior instructor approval has been expired for more than one year, the applicant must also satisfy the criteria for original approval set forth in Rule .0203(d) of this Section.

Authority G.S. 93A-3(c); 93A-4.1.

SECTION .0300 – ELECTIVE COURSES

21 NCAC 58E .0304 CRITERIA FOR ELECTIVE COURSE APPROVAL

(a) The following requirements must be satisfied in order to obtain approval of a proposed elective course:

- (1) The applicant must submit all information required by the Commission and pay the application ~~fee~~, fee set forth in Rule .0303 of this Section, including any additional application fee set forth in Subparagraph (a)(12) of this Rule if applicable;
- (2) The applicant must satisfy the requirements of Section .0400 of this Subchapter relating to the qualifications or eligibility of course sponsors;
- (3) The subject matter of the course must satisfy the elective course subject matter requirements set forth in Rule .0305 of this Section and all information to be presented in the course must be current and accurate;
- (4) The course must involve a minimum of four classroom hours of instruction on acceptable subject matter. A classroom hour consists of 50 minutes of instruction and 10 minutes of break time;

- (5) The applicant and the continuing education coordinator required by Rule .0405 of this Subchapter must be truthful, honest and of high integrity. In this regard, the Commission may consider the reputation and character of any owner, officer and director of any corporation, association or organization applying for sponsor approval;
- (6) The proposed instructor(s) for the course must possess the qualifications described in Rule .0306 of this Section;
- (7) The instructional delivery methods to be utilized in the course must either involve live instruction in a traditional classroom setting or comply with the requirements described in Rule .0310 of this Section;
- (8) The applicant must submit an instructor guide that includes:
 - (A) a course outline describing the subject matter and topics to be taught in sufficient detail to permit an evaluation of the depth and accuracy of the subject matter and topics to be covered;
 - (B) the amount of time to be devoted to each major topic and to breaks;
 - (C) the learning objective(s) for each major topic; and
 - (D) the instructional methods and instructional aids that will be utilized in the course.
- (9) The proposed time allotments shown in the instructor guide must be appropriate for the proposed subject matter to be taught. Unless the applicant can demonstrate to the satisfaction of the Commission that straight lecture is the most effective instructional method for the course, the instructor guide must provide for the use of an appropriate variety of instructional methods and instructional aids intended to enhance student participation, attentiveness, and learning. Examples of instructional methods that may be appropriate include, but are not limited to, instructor-led class discussion, role-playing, and in-class individual or group work assignments. Examples of instructional aids that may be appropriate include, but are not limited to, PowerPoint slides, overhead transparencies, video recordings, and information from the internet displayed on a large screen;
- (10) The course must include handout materials for students that provide, in narrative or text form, all the information to be presented in the course. This requirement shall not be satisfied by using only copies of PowerPoint slides or a detailed course outline. All information included in the student materials must be

current, accurate, explanatory of topics covered, consistent with course learning objectives, grammatically correct, logically organized, and presented in an easy-to-read format. The scope and depth of information presented must be appropriate in view of course learning objectives and subject matter time allotments, and the information presented must, except for instruction on changes in laws, rules, or practices, include substantial coverage of subject matter at a cognitive level higher than that expected of entry-level real estate licensees, brokers. The quality of reproduced student materials must be generally comparable to that commonly seen in education materials produced by professional publishers. These standards for student materials also apply, to the extent they are relevant, to student materials other than paper materials such as material to be viewed by computer that are provided for use by students in distance education courses; ~~and~~

- (11) If an applicant proposes to use copyrighted materials in the course, such materials must be used in a form approved by the copyright holder. If any copyrighted material is to be duplicated by the applicant for use in the course, the sponsor must have the specific permission of the copyright holder; ~~holder;~~
- (12) When an applicant resubmits an elective course approval application after a previous application for the same course has been twice reviewed and found unsatisfactory by the Commission, the resubmitted application shall be treated as an original application for approval and shall be subject to the application fee prescribed in Rule .0303 of this Section; and
- (13) An application for elective course approval shall be found unsatisfactory if the applicant fails to fulfill one or more of the requirements set forth in this Rule.

(b) Applicants requesting approval of distance education courses must also comply with the requirements described in Rule .0310 of this Section.

Authority G.S. 93A-3(c); 93A-4.1.

SECTION .0400 – GENERAL SPONSOR REQUIREMENTS

21 NCAC 58E .0408 CHANGE IN SPONSOR OWNERSHIP

~~The approval granted to a course sponsor may be transferred to a new or different legal entity only with the advance approval of the Commission. In the event the ownership of an entity approved as a course sponsor is to be sold or otherwise changed, the approved sponsor must request Commission approval of the ownership change. The Commission will then advise the~~

~~sponsor if the change is acceptable or if the proposed new sponsor must apply for original approval. If the ownership change will result in no additional person being added as owner, officer or director, then the approval granted to the sponsor may be transferred to the new legal entity. However, if any additional person is to be added as owner, officer or director, then the approval granted to the sponsor may not be transferred.~~

When ownership of an approved course sponsor is transferred to a different legal entity, the sponsor approval is not transferable and terminates on the effective date of the transfer. The sponsor owner transferring ownership shall not conduct any course after the effective date of the transfer. The entity acquiring sponsor ownership must obtain an original course sponsor approval as required by G.S. 93A-4.1 and Rules .0103, .0303 and .0402 of this Subchapter prior to advertising courses, registering students, accepting tuition, conducting courses or otherwise engaging in any sponsor activity.

Authority G.S. 93A-3(c); 93A-4.1

SECTION .0600 – BROKER-IN-CHARGE ANNUAL REVIEW

21 NCAC 58E .0601 PURPOSE AND APPLICABILITY

~~This Section describes the continuing education course for brokers in charge prescribed by the Commission in 21 NCAC 58A-.0110(e) and the continuing education course sponsors and instructors who are permitted to conduct the course.~~

Authority G.S. 93A-2; 93A-3(c); 93A-4.1; 93A-4.2.

21 NCAC 58E .0602 COURSE DESCRIPTION

~~The Broker In Charge Annual Review Course is a four hour special continuing education course for brokers in charge that must be taken initially by a broker in charge during the first full license year following the license year in which the broker was designated as a broker in charge and must subsequently be taken each license year thereafter in order for the broker in charge to maintain broker in charge eligibility. The subject matter of this course shall be determined by the Commission, which shall produce course materials for use by course sponsors. The Commission shall modify the subject matter from year to year as it deems appropriate. Sponsors and instructors shall use course materials developed by the Commission for the Broker In-Charge Annual Review Course only. Course sponsors and instructors shall not alter abbreviate or add to Commission developed course materials without express permission of the Commission. The Commission shall approve alterations in materials when a different formatting will facilitate instruction to persons with special needs, to aid the use of technology in the classroom, to correct errors discovered in the material, or to reflect differences or changes in practice, industry trends, or the law.~~

Authority G.S. 93A-2; 93A-3(c); 93A-4.1; 93A-4.2.

21 NCAC 58E .0603 AUTHORITY TO CONDUCT COURSE

~~Only continuing education update course sponsors approved under Section .0100 of this Subchapter and update course instructors approved under Section .0200 of this Subchapter are authorized to conduct the Broker In Charge Annual Review Course. This authority is automatic for approved update course sponsors and instructors and no separate request for approval is required. Loss of approval to sponsor or instruct an update course automatically terminates the authority to sponsor or instruct the Broker In Charge Annual Review Course. Any action by a sponsor or instructor that occurs in connection with conducting the Broker In Charge Annual Review Course shall be considered the same under Commission rules as if the action had occurred in connection with conducting an update course. No persons or entities other than approved update course sponsors and instructors will be approved to conduct this course.~~

Authority G.S. 93A-3; 93A-3(c); 93A-4.1; 93A-4.2.

21 NCAC 58E .0604 COURSE OPERATIONAL REQUIREMENTS

~~Authorized sponsors and instructors must provide students a copy of the course materials developed by the Commission and must conduct the course in accordance with the prescribed course materials and the Commission's operational requirements for continuing education courses described in Sections .0400 and .0500 of this Subchapter.~~

Authority G.S. 93A-2; 93A-3(c); 93A-4.1; 93A-4.2.

Notice is hereby given that the Rules Review Commission intends to adopt the rule cited as 26 NCAC 05 .0211.

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://www.ncoah.com/rules/>

Proposed Effective Date: *April 1, 2014*

Public Hearing:

Date: *February 20, 2014*

Time: *11:00 a.m. or after the RRC meeting, whichever is later*

Location: *RRC Commission Meeting Room, 1711 New Hope Church Road, Raleigh, NC 27609*

Reason for Proposed Action: *The proposed adopted rule is to set the schedule by RRC for agencies to follow in the implementation of S.L. 2013-413. This law amended the APA to add G.S. 150B-21.3A, the periodic review and expiration of existing rules. This rule establishes the schedule for the initial review of existing rules.*

Comments may be submitted to: *Abigail M. Hammond, Rules Review Commission, 6714 Mail Service Center, Raleigh, NC 27699-6714, phone (919)431-3076, email abigail.hammond@oah.nc.gov.*

Comment period ends: *All comments must be received by Thursday, March 20, 2014 at 10:00 a.m.*

Fiscal impact (check all that apply).

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected
- ☐ Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Substantial economic impact (≥\$1,000,000)
- ☒ No fiscal note required

TITLE 26 – OFFICE OF ADMINISTRATIVE HEARINGS

CHAPTER 05 – RULES REVIEW COMMISSION

SECTION .0200 - PERIODIC REVIEW OF EXISTING RULES

26 NCAC 05 .0211 SCHEDULE

(a) The Commission shall review the report prepared for the identified portion of the Administrative Code on the month and year as set forth below:

July 2014	August 2014	September 2014	October 2014	November 2014
21 NCAC 23	04 NCAC 24	02 NCAC 57	15A NCAC 02T	04 NCAC 14
21 NCAC 37	21 NCAC 08	04 NCAC 17	15A NCAC 02U	11 NCAC 14
25 NCAC 01A	21 NCAC 52	15A NCAC 01A	15A NCAC 01G	11 NCAC 18
25 NCAC 01B	24 NCAC 02	15A NCAC 01S	15A NCAC 02B	11 NCAC 20
25 NCAC 01C		18 NCAC 03	15A NCAC 02H	11 NCAC 21
25 NCAC 02		18 NCAC 05		11 NCAC 22
03 NCAC 01		21 NCAC 01		13 NCAC 08
		21 NCAC 30		13 NCAC 10
		21 NCAC 42		15A NCAC 12A
		21 NCAC 45		15A NCAC 12B
				15A NCAC 12C
				15A NCAC 12D

PROPOSED RULES

				15A NCAC 12F 15A NCAC 12G 15A NCAC 12I 15A NCAC 12J 15A NCAC 12K 15A NCAC 01H 21 NCAC 20 21 NCAC 21 21 NCAC 28 21 NCAC 69
December 2014	January 2015	February 2015	March 2015	April 2015
10A NCAC 45 21 NCAC 02 21 NCAC 14 21 NCAC 62	02 NCAC 09B 02 NCAC 09C 02 NCAC 09D 02 NCAC 09E 02 NCAC 09F 02 NCAC 09G 02 NCAC 09H 02 NCAC 09J 02 NCAC 09K 02 NCAC 09M 02 NCAC 09N 02 NCAC 09O 02 NCAC 38 02 NCAC 43F 02 NCAC 51 02 NCAC 52A 02 NCAC 52K 02 NCAC 54 10A NCAC 13A 10A NCAC 13D 10A NCAC 13G 10A NCAC 14I 15A NCAC 01F	09 NCAC 03 09 NCAC 06 10A NCAC 97 15A NCAC 02S 21 NCAC 06	04 NCAC 08 10A NCAC 05 10A NCAC 09	10A NCAC 13L 10A NCAC 13M 10A NCAC 13O 10A NCAC 26A 10A NCAC 26B 10A NCAC 26D 15A NCAC 02R 15A NCAC 18D 21 NCAC 11 21 NCAC 32
May 2015	June 2015	July 2015	August 2015	September 2015
07 NCAC 04 15A NCAC 08 15A NCAC 18D 17 NCAC 03 17 NCAC 06	04 NCAC 02R 10A NCAC 21 10A NCAC 22 21 NCAC 50 21 NCAC 61	02 NCAC 20B 02 NCAC 37 02 NCAC 42 02 NCAC 59A 02 NCAC 59B 02 NCAC 59C 02 NCAC 59E 02 NCAC 59F 02 NCAC 59G 02 NCAC 60A 02 NCAC 60B 15A NCAC 01I 15A NCAC 09 21 NCAC 60 21 NCAC 63	10A NCAC 13H 10A NCAC 70I 10A NCAC 70K 19A NCAC 01 19A NCAC 04 19A NCAC 05 19A NCAC 06	04 NCAC 15 10A NCAC 63 15A NCAC 18C
October 2015	November 2015	December 2015	January 2016	February 2016
10A NCAC 40 10A NCAC 47 11 NCAC 11 11 NCAC 19 18 NCAC 01 18 NCAC 04 18 NCAC 13	10A NCAC 14J 10A NCAC 46 10A NCAC 48 13 NCAC 15 13 NCAC 20 15A NCAC 12H	15A NCAC 02Q 15A NCAC 02D 15A NCAC 07B	01 NCAC 01 01 NCAC 03 01 NCAC 04 01 NCAC 25 01 NCAC 26 10A NCAC 13P 10A NCAC 26E	10A NCAC 10 10A NCAC 89 13 NCAC 07 13 NCAC 12

PROPOSED RULES

25 NCAC 01D 06 NCAC 01 06 NCAC 02 06 NCAC 03 06 NCAC 04			10A NCAC 26F 15A NCAC 04 21 NCAC 18 21 NCAC 29	
March 2016	April 2016	May 2016	June 2016	July 2016
04 NCAC 01 10A NCAC 17 15A NCAC 01L 15A NCAC 01N 20 NCAC 01 20 NCAC 04 20 NCAC 07	10A NCAC 13J 10A NCAC 27A 10A NCAC 27B 10A NCAC 27D 11 NCAC 06 11 NCAC 13 16 NCAC 01 16 NCAC 02 16 NCAC 03 25 NCAC 01F	01 NCAC 05 10A NCAC 23 10A NCAC 25 21 NCAC 38 26 NCAC 01 26 NCAC 02 26 NCAC 03 26 NCAC 04	04 NCAC 02S 17 NCAC 01 17 NCAC 09 17 NCAC 10 17 NCAC 11 17 NCAC 12	19A NCAC 02
August 2016	September 2016	October 2016	November 2016	December 2016
10A NCAC 06 10A NCAC 67 10A NCAC 68 10A NCAC 69 10A NCAC 70A 10A NCAC 70B 10A NCAC 70C 10A NCAC 70D 10A NCAC 70E 10A NCAC 70F 10A NCAC 70G 10A NCAC 70H 10A NCAC 72	12 NCAC 01 12 NCAC 02 12 NCAC 03 12 NCAC 04 12 NCAC 06 21 NCAC 12 21 NCAC 17 21 NCAC 22 21 NCAC 64 25 NCAC 01E 25 NCAC 01K 25 NCAC 01L 25 NCAC 01M 25 NCAC 01N 25 NCAC 01O	10A NCAC 39 10A NCAC 43C 10A NCAC 43E 10A NCAC 43G 10A NCAC 43H 10A NCAC 43I 10A NCAC 43J 18 NCAC 06 18 NCAC 07 18 NCAC 10	10A NCAC 14F 15A NCAC 10F 15A NCAC 10H 20 NCAC 03 20 NCAC 08 20 NCAC 09 20 NCAC 10	01 NCAC 09 01 NCAC 15 01 NCAC 17 01 NCAC 19 01 NCAC 35 08 NCAC 01 08 NCAC 02 08 NCAC 03 08 NCAC 04 08 NCAC 05 08 NCAC 06 08 NCAC 07 08 NCAC 08 08 NCAC 09 08 NCAC 10 08 NCAC 12 08 NCAC 13 11 NCAC 10 11 NCAC 16 14B NCAC 01 14B NCAC 02 14B NCAC 03 14B NCAC 04 14B NCAC 05 14B NCAC 06 14B NCAC 07 15A NCAC 02A 15A NCAC 02C 15A NCAC 02E
January 2017	February 2017	March 2017	April 2017	May 2017
02 NCAC 48C 02 NCAC 48D 02 NCAC 48F 02 NCAC 52B 02 NCAC 52C 02 NCAC 52D 02 NCAC 52E 02 NCAC 52F 02 NCAC 52G 02 NCAC 52H 02 NCAC 52I	04 NCAC 06 10A NCAC 01 15A NCAC 01D 15A NCAC 01E 25 NCAC 01H 25 NCAC 01I 25 NCAC 01J	10A NCAC 71 21 NCAC 04 21 NCAC 31	10A NCAC 27I 10A NCAC 28A 13 NCAC 14 15A NCAC 01C 15A NCAC 13A 15A NCAC 13B 15A NCAC 13C	07 NCAC 01 07 NCAC 02 07 NCAC 03 07 NCAC 05 07 NCAC 06 07 NCAC 07 07 NCAC 08 07 NCAC 09 07 NCAC 10 07 NCAC 11 07 NCAC 12

PROPOSED RULES

02 NCAC 59D 02 NCAC 59H 10A NCAC 27E 10A NCAC 27F 10A NCAC 27H 15A NCAC 05A 15A NCAC 05B 15A NCAC 05C 15A NCAC 05F 15A NCAC 05G				10A NCAC 13B 12 NCAC 10
June 2017	July 2017	August 2017	September 2017	October 2017
04 NCAC 02T 17 NCAC 05 21 NCAC 25 21 NCAC 26	02 NCAC 29 02 NCAC 31 02 NCAC 39 02 NCAC 53 02 NCAC 58 02 NCAC 43A 02 NCAC 43B 02 NCAC 43C 02 NCAC 43D 02 NCAC 43E 02 NCAC 43G 02 NCAC 43L 02 NCAC 43M 21 NCAC 54 24 NCAC 01 24 NCAC 03	04 NCAC 12 10A NCAC 70 10A NCAC 70J 10A NCAC 70L 10A NCAC 70M 10A NCAC 70N 10A NCAC 70O 12 NCAC 11 21 NCAC 57	04 NCAC 03 10A NCAC 43A 10A NCAC 43B 10A NCAC 43F	10A NCAC 13C 10A NCAC 42 10A NCAC 43D 10A NCAC 44 15A NCAC 02K 18 NCAC 02 18 NCAC 12
November 2017	December 2017	January 2018	February 2018	March 2018
01 NCAC 38 01 NCAC 39 01 NCAC 40 01 NCAC 43 01 NCAC 44 10A NCAC 14 A 10A NCAC 14G 10A NCAC 14H 11 NCAC 08 14B NCAC 08 14B NCAC 09 14B NCAC 10 14B NCAC 11 14B NCAC 12 14B NCAC 13 14B NCAC 14 21 NCAC 39	10A NCAC 41A 10A NCAC 41B 10A NCAC 41D 10A NCAC 41E 10A NCAC 41F 10A NCAC 41G 15A NCAC 03 15A NCAC 10B 15A NCAC 10C	10A NCAC 13F 10A NCAC 28B 10A NCAC 28C 15A NCAC 07A 15A NCAC 07H 15A NCAC 07I 15A NCAC 07J 15A NCAC 07K 15A NCAC 07L 15A NCAC 07M	04 NCAC 19 15A NCAC 02L 15A NCAC 02N 15A NCAC 02O 15A NCAC 02P	21 NCAC 58 21 NCAC 68
April 2018	May 2018	June 2018	July 2018	August 2018
10A NCAC 26C 10A NCAC 27C 10A NCAC 28D 10A NCAC 28E 11 NCAC 12 15A NCAC 22 15A NCAC 28 21 NCAC 19	01 NCAC 06 01 NCAC 30 13 NCAC 01 13 NCAC 04 13 NCAC 05 13 NCAC 06 13 NCAC 13 13 NCAC 16 13 NCAC 17 13 NCAC 18 13 NCAC 19 21 NCAC 33	21 NCAC 07 21 NCAC 34 21 NCAC 46	19A NCAC 03	12 NCAC 07 20 NCAC 02 21 NCAC 48 21 NCAC 65 21 NCAC 66

PROPOSED RULES

	21 NCAC 36			
September 2018	October 2018	November 2018	December 2018	January 2019
02 NCAC 09L 02 NCAC 34 04 NCAC 16	10A NCAC 13K 10A NCAC 41H 17 NCAC 04 18 NCAC 08 18 NCAC 11 21 NCAC 40	10A NCAC 14C 11 NCAC 05 11 NCAC 07 15A NCAC 18A	10A NCAC 41C 15A NCAC 01O 15A NCAC 18B 15A NCAC 18C 15A NCAC 27 15A NCAC 02G 15A NCAC 02I 15A NCAC 02J 15A NCAC 10A 15A NCAC 10D 15A NCAC 10E 15A NCAC 10G 15A NCAC 10I 15A NCAC 10J 15A NCAC 10K	02 NCAC 46 02 NCAC 48A . 02 NCAC 48B 02 NCAC 52J 02 NCAC 61 11 NCAC 01 11 NCAC 04 11 NCAC 17 15A NCAC 18A, Sections .0100, .0300 - .0900 and .3400
February 2019	March 2019	April 2019	May 2019	June 2019
04 NCAC 20 21 NCAC 03 21 NCAC 10 21 NCAC 16 21 NCAC 53 21 NCAC 56	12 NCAC 09 17 NCAC 07	15A NCAC 11 15A NCAC 14	04 NCAC 10 10A NCAC 27G	10A NCAC 14E 10A NCAC 28F 10A NCAC 28G 10A NCAC 28H 10A NCAC 28I 10A NCAC 29C 10A NCAC 29D

(b) The report shall be filed in accordance with Rule .0203 of this Chapter.

Authority G.S. 150B-21.3A.

APPROVED RULES

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

Rules approved by the Rules Review Commission at its meeting on December 19, 2013.

**REGISTER CITATION TO THE
NOTICE OF TEXT****PUBLIC HEALTH, COMMISSION FOR**

<u>Medical Services Covered</u>	10A	NCAC	43H .0111*	28:04 NCR
<u>General</u>	10A	NCAC	45A .0101*	28:04 NCR
<u>Definitions</u>	10A	NCAC	45A .0102*	28:04 NCR
<u>Determination of Financial Eligibility</u>	10A	NCAC	45A .0202*	28:04 NCR
<u>Determination</u>	10A	NCAC	45A .0204*	28:04 NCR
<u>Authorization</u>	10A	NCAC	45A .0302*	28:04 NCR
<u>Payment</u>	10A	NCAC	45A .0303*	28:04 NCR
<u>General</u>	10A	NCAC	45A .0401*	28:04 NCR
<u>Reimbursement for Inpatient Hospitalization</u>	10A	NCAC	45A .0402*	28:04 NCR
<u>Reimbursement for Professional Outpatient Other Services</u>	10A	NCAC	45A .0403*	28:04 NCR
<u>Reimbursement for Services not Covered by Medicaid</u>	10A	NCAC	45A .0404	28:04 NCR
<u>Billing the Patient Prohibited</u>	10A	NCAC	45A .0405*	28:04 NCR

ENVIRONMENTAL MANAGEMENT COMMISSION

<u>Jordan Water Supply Nutrient Strategy: Purpose and Scope</u>	15A	NCAC	02B .0262*	27:16 NCR
<u>Applicability</u>	15A	NCAC	02D .1002*	28:04 NCR
<u>On-Board Diagnostic Standards</u>	15A	NCAC	02D .1005*	28:04 NCR
<u>Sale and Service of Analyzers</u>	15A	NCAC	02D .1006*	28:04 NCR
<u>Model Year 2008 & Subsequent Model Year</u>	15A	NCAC	02D .1009	28:04 NCR

ENVIRONMENT AND NATURAL RESOURCES, DEPARTMENT OF

<u>Firearms; Weapons; Explosives</u>	15A	NCAC	12B .0901*	28:05 NCR
--------------------------------------	-----	------	------------	-----------

PUBLIC HEALTH, COMMISSION FOR

<u>General Provisions</u>	15A	NCAC	13B .0832*	28:03 NCR
---------------------------	-----	------	------------	-----------

SECRETARY OF STATE, DEPARTMENT OF

<u>Limitations on Fee Reduction or Waiver</u>	18	NCAC	12 .0404*	n/a G.S. 150B-21.5(b)(1)
<u>Nonprofits to Which No Fee Reduction or Waiver Shall..</u>	18	NCAC	12 .0405*	n/a G.S. 150B-21.5(b)(1)
<u>Nonprofit Fee Reduction Procedure</u>	18	NCAC	12 .0406*	n/a G.S. 150B-21.5(b)(1)
<u>Submission of Reduced Fee</u>	18	NCAC	12 .0407*	n/a G.S. 150B-21.5(b)(1)
<u>Submission of Documentation Supporting Fee Reduction Request</u>	18	NCAC	12 .0408*	n/a G.S. 150B-21.5(b)(1)
<u>Fee Reduction Applies to Both Lobbyist and Principal</u>	18	NCAC	12 .0409*	n/a G.S. 150B-21.5(b)(1)
<u>Payment of Remainder of Fee if Reduction</u>	18	NCAC	12 .0410*	n/a G.S. 150B-21.5(b)(1)

APPROVED RULES

<u>Consequences of Failure to Pay Reminder of Fee</u>	18	NCAC	12	.0411*	n/a G.S. 150B-21.5(b)(1)
<u>Nonprofit Fee Waiver Procedure</u>	18	NCAC	12	.0412*	n/a G.S. 150B-21.5(b)(1)
<u>Submission of Fee with Request for Waiver</u>	18	NCAC	12	.0413*	n/a G.S. 150B-21.5(b)(1)
<u>Refund of Fee if Request for Waiver Granted</u>	18	NCAC	12	.0414*	n/a G.S. 150B-21.5(b)(1)
<u>Submission of Documentation Supporting Fee Waiver Request</u>	18	NCAC	12	.0415*	n/a G.S. 150B-21.5(b)(1)
<u>Fee Waiver Applies to Both Lobbyist and Principal</u>	18	NCAC	12	.0416*	n/a G.S. 150B-21.5(b)(1)
<u>General Proof of Nonprofit Status</u>	18	NCAC	12	.0417*	n/a G.S. 150B-21.5(b)(1)
<u>Officers or Persons Authorized to Demonstrate Nonprofit</u>	18	NCAC	12	.0418*	n/a G.S. 150B-21.5(b)(1)
<u>Submission of Federal Tax-Exempt Determination Letter</u>	18	NCAC	12	.0421*	n/a G.S. 150B-21.5(b)(1)
<u>Documents to be Submitted by Nonprofit Principals Without...</u>	18	NCAC	12	.0422*	n/a G.S. 150B-21.5(b)(1)
<u>Additional Information for Fee Reduction for Nonprofit wi...</u>	18	NCAC	12	.0423*	n/a G.S. 150B-21.5(b)(1)
<u>Additional Information for Fee Reduction for Nonprofit wi...</u>	18	NCAC	12	.0424*	n/a G.S. 150B-21.5(b)(1)
<u>Contents for Fee Reduction Request for Nonprofit Without</u>	18	NCAC	12	.0425*	n/a G.S. 150B-21.5(b)(1)
<u>Additional Information for Fee Waiver</u>	18	NCAC	12	.0426*	n/a G.S. 150B-21.5(b)(1)

CERTIFIED PUBLIC ACCOUNTANT EXAMINERS, BOARD OF

<u>Definitions</u>	21	NCAC	08A	.0301*	28:05 NCR
<u>Filing of Examination Applications and Fees</u>	21	NCAC	08F	.0103*	28:05 NCR
<u>Application for CPA Certificate</u>	21	NCAC	08F	.0502*	28:05 NCR
<u>CPE Requirements for CPAS</u>	21	NCAC	08G	.0401*	28:05 NCR
<u>Qualification of CPE Sponsors</u>	21	NCAC	08G	.0403*	28:05 NCR
<u>Computation of CPE Credits</u>	21	NCAC	08G	.0409*	28:05 NCR
<u>Professional Ethics and Conduct CPE</u>	21	NCAC	08G	.0410*	28:05 NCR
<u>Modification of Discipline</u>	21	NCAC	08I	.0104*	28:05 NCR
<u>Retired and Inactive Status: Change of Status</u>	21	NCAC	08J	.0105*	28:05 NCR
<u>Forfeiture or Inactivation of Certificate and Reissuance ...</u>	21	NCAC	08J	.0106*	28:05 NCR
<u>Mailing Addresses of Certificate Holders and CPA Firms</u>	21	NCAC	08J	.0107*	28:05 NCR
<u>Peer Review Requirements</u>	21	NCAC	08M	.0105*	28:05 NCR
<u>Deceptive Conduct Prohibited</u>	21	NCAC	08N	.0202*	28:05 NCR
<u>Discreditable Conduct Prohibited</u>	21	NCAC	08N	.0203*	28:05 NCR
<u>Reporting Convictions Judgments and Disciplinary Actions</u>	21	NCAC	08N	.0208*	28:05 NCR

COSMETIC ART EXAMINERS, BOARD OF

<u>Requirements for Operating Cosmetic Art Schools</u>	21	NCAC	14G	.0101	28:04 NCR
<u>Equipment and Teachers</u>	21	NCAC	14G	.0107	28:04 NCR
<u>Visitation</u>	21	NCAC	14G	.0108	28:04 NCR
<u>Student Credit</u>	21	NCAC	14G	.0109	28:04 NCR
<u>Transferability of Letters of Approval</u>	21	NCAC	14G	.0110	28:04 NCR
<u>Changes of Location Ownership or Management</u>	21	NCAC	14G	.0111	28:04 NCR
<u>Condition of Equipment</u>	21	NCAC	14G	.0112	28:04 NCR
<u>Teacher/Student Ratio</u>	21	NCAC	14G	.0113	28:04 NCR
<u>Changes in Teaching Staff</u>	21	NCAC	14G	.0117	28:04 NCR
<u>School Curriculum Approval (A) No Cosmetic Art Shop or..</u>	21	NCAC	14G	.0118	28:04 NCR
<u>Permanent Files</u>	21	NCAC	14I	.0101	28:04 NCR

APPROVED RULES

<u>Daily Record</u>	21	NCAC	14I	.0102	28:04 NCR
<u>Inspection Reports and Reports of Students Hours</u>	21	NCAC	14I	.0103	28:04 NCR
<u>Withdrawals</u>	21	NCAC	14I	.0104	28:04 NCR
<u>Transfer of Credit</u>	21	NCAC	14I	.0105	28:04 NCR
<u>Student Daily Records</u>	21	NCAC	14I	.0106	28:04 NCR
<u>Report of Enrollment</u>	21	NCAC	14I	.0107	28:04 NCR
<u>Seal</u>	21	NCAC	14I	.0108	28:04 NCR
<u>Summary of Cosmetic Art Education</u>	21	NCAC	14I	.0109	28:04 NCR
<u>Uniform</u>	21	NCAC	14I	.0110	28:04 NCR
<u>Reception Area</u>	21	NCAC	14I	.0201	28:04 NCR
<u>Reception Area Sign</u>	21	NCAC	14I	.0202	28:04 NCR
<u>Bulletin Board</u>	21	NCAC	14I	.0203	28:04 NCR
<u>Sanitation Rules</u>	21	NCAC	14I	.0204	28:04 NCR
<u>Dressing Room</u>	21	NCAC	14I	.0205	28:04 NCR
<u>Recitation Room</u>	21	NCAC	14I	.0301	28:04 NCR
<u>Library</u>	21	NCAC	14I	.0302	28:04 NCR
<u>Classroom Bulletin Board</u>	21	NCAC	14I	.0303	28:04 NCR
<u>Classroom Work</u>	21	NCAC	14I	.0304	28:04 NCR
<u>Department System</u>	21	NCAC	14J	.0101	28:04 NCR
<u>Uniform</u>	21	NCAC	14J	.0102	28:04 NCR
<u>Time Requirements According to Hours</u>	21	NCAC	14J	.0103	28:04 NCR
<u>Approved Rules</u>	21	NCAC	14J	.0107	28:04 NCR
<u>Eligibility for Advanced Department</u>	21	NCAC	14J	.0201	28:04 NCR
<u>Storing and Labeling of Cosmetics</u>	21	NCAC	14J	.0202	28:04 NCR
<u>Storing and Labeling of Cosmetics</u>	21	NCAC	14J	.0203	28:04 NCR
<u>Equipment in Advanced Department</u>	21	NCAC	14J	.0206	28:04 NCR
<u>Uniforms</u>	21	NCAC	14K	.0101	28:04 NCR
<u>Course of Study</u>	21	NCAC	14K	.0102	28:04 NCR
<u>Equipment and Instruments</u>	21	NCAC	14K	.0103	28:04 NCR
<u>Services Performed</u>	21	NCAC	14K	.0104	28:04 NCR
<u>Identification Pins</u>	21	NCAC	14K	.0105	28:04 NCR
<u>Supervision of Cosmetic Art Teacher Trainee</u>	21	NCAC	14L	.0208	28:04 NCR
<u>Time Requirements for Teacher Trainee Program</u>	21	NCAC	14L	.0209	28:04 NCR
<u>Effect on Student-Teacher Ratio</u>	21	NCAC	14L	.0210	28:04 NCR
<u>Work on Public Prohibited</u>	21	NCAC	14L	.0211	28:04 NCR
<u>Teacher's Manual and Supervision</u>	21	NCAC	14L	.0215	28:04 NCR
<u>Teacher Training Curriculum</u>	21	NCAC	14L	.0216	28:04 NCR
<u>Uniforms</u>	21	NCAC	14O	.0101	28:04 NCR
<u>Course of Study</u>	21	NCAC	14O	.0102	28:04 NCR
<u>Equipment and Instruments</u>	21	NCAC	14O	.0103	28:04 NCR
<u>Services Performed</u>	21	NCAC	14O	.0104	28:04 NCR
<u>Identification Pins</u>	21	NCAC	14O	.0105	28:04 NCR
<u>Sanitary Ratings and Posting of Ratings - Applicable to..</u>	21	NCAC	14P	.0112	28:04 NCR
<u>Uniform</u>	21	NCAC	14S	.0101	28:04 NCR
<u>Time Requirements According to Hours</u>	21	NCAC	14S	.0102	28:04 NCR
<u>Approved Field Trips</u>	21	NCAC	14S	.0103	28:04 NCR
<u>Equipment for Beginner Department</u>	21	NCAC	14S	.0104	28:04 NCR

APPROVED RULES

<u>Storing and Labeling of Cosmetics</u>	21	NCAC	14S .0105	28:04 NCR
<u>Equipment</u>	21	NCAC	14S .0106	28:04 NCR
<u>Performances</u>	21	NCAC	14S .0107	28:04 NCR
<u>Students' Personal Supplies</u>	21	NCAC	14S .0108	28:04 NCR
<u>Tests</u>	21	NCAC	14S .0109	28:04 NCR
<u>Approval of Credit for Natural Hair Care Instruction/Anot...</u>	21	NCAC	14S .0110	28:04 NCR
<u>Services Performed</u>	21	NCAC	14S .0111	28:04 NCR
<u>Licensing of Natural Hair Care Specialists</u>	21	NCAC	14S .0112	28:04 NCR
<u>Permanent Records, Forms and Documentation</u>	21	NCAC	14T .0502*	28:04 NCR

DENTAL EXAMINERS, BOARD OF

<u>Permitted Functions of Dental Assistant II</u>	21	NCAC	16H .0203*	28:02 NCR
---	----	------	------------	-----------

LANDSCAPE CONTRACTORS REGISTRATION BOARD

<u>Authority: Name and Location of Board</u>	21	NCAC	28 .0101*	n/a G.S. 150B-21.5(a)(4)
--	----	------	-----------	--------------------------

SOCIAL WORK CERTIFICATION AND Licensure BOARD

<u>Renewal Fees</u>	21	NCAC	63 .0403*	n/a G.S. 150B-21.5(a)(2)
<u>Required Reporting By Licensee of Changes to Board</u>	21	NCAC	63 .0405*	28:03 NCR
<u>Petitions for Adoption of Rules</u>	21	NCAC	63 .0701*	28:03 NCR
<u>Declaratory Rulings</u>	21	NCAC	63 .0704*	28:03 NCR

The following rules are subject to the next Legislative Session. (See G.S. 150B-21.3)

ENVIRONMENTAL MANAGEMENT COMMISSION

<u>Toxic Air Pollutant Guidelines</u>	15A	NCAC	02D .1104	27:20 NCR
<u>Emission Rates Requiring a Permit</u>	15A	NCAC	02Q .0711	27:20 NCR

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES**10A NCAC 43H .0111 MEDICAL SERVICES COVERED**

The following medical services are covered under the N.C. Sickie Cell Syndrome Program if the North Carolina Division of Public Health Sickie Cell Program Supervisor determines that these services are related to sickie cell disease:

- (1) hospital outpatient care including emergency room visits. The total number of emergency room visits per fiscal year shall not exceed three times the average number of emergency visits per patient over the previous two fiscal years, and it will be adjusted annually on July 1.
- (2) physicians' office visits;
- (3) drugs on a formulary established by the program based upon the following factors: the medical needs of sickie cell patients, the efficacy and cost effectiveness of the drugs,

the availability of generic or other less costly alternatives, and the need to maximize the benefits to patients utilizing finite Program dollars. A copy of this formulary may be obtained free of charge by writing to the N.C. Sickie Cell Syndrome Program, 1929 Mail Service Center, Raleigh, North Carolina, 27699-1929 or on the Purchase of Medical Care Services website at http://www.ncdhhs.gov/control/pomcs/guides/billing_sickiecell.pdf;

- (4) medical supplies and equipment;
- (5) preventive dentistry including education, examinations, cleaning, and X-rays; remedial dentistry including tooth removal, restoration, and endodontic treatment for pain prevention; and emergency dental care to control bleeding, relieve pain, and treat infection; dental care, including:

- (a) preventive dentistry including education, examinations, cleaning, and X-rays;
- (b) remedial dentistry including tooth removal, restoration, and endodontic treatment for pain prevention; and
- (c) emergency dental care to control bleeding, relieve pain, and treat infection;
- (6) eye care (when the Division of Services for the Blind will not provide coverage); and
- (7) the cost of inpatient care per client per year for a maximum of two admissions per fiscal year.

History Note: Authority G.S. 130A-129; Eff. February 1, 1976; Amended Eff. April 22, 1977; Readopted Eff. December 5, 1977; Amended Eff. July 1, 1982; January 1, 1982; Temporary Amendment Eff. November 7, 1983, for a period of 120 days to expire on March 4, 1984; Amended Eff. October 1, 1984; March 1, 1984; Temporary Amendment Eff. October 14, 1988, for a period of 180 days to expire on April 12, 1989; Temporary Amendment Expired April 12, 1989; Amended Eff. September 1, 1990; Temporary Amendment Eff. June 19, 1996; Temporary Amendment Expired March 11, 1997; Amended Eff. August 1, 2000; Temporary Amendment Eff. December 17, 2001; December 1, 2001; Amended Eff. April 1, 2003; Temporary Amendment Eff. January 27, 2004; Amended Eff. January 1, 2014; October 1, 2006; July 1, 2004.

10A NCAC 45A .0101 GENERAL

- (a) The purpose of this Subchapter is to establish uniform policies and procedures for the administration of all Department of Health and Human Services' payment programs for which the Commission for Public Health has been granted rulemaking authority.
- (b) In the event of conflict between the rules in this Subchapter and the rules adopted by the various payment programs, the rules of this Subchapter will control.
- (c) Persons who wish to receive rule-making notices concerning the rules in this Subchapter should send a written request to Purchase of Care Services Unit, Division of Public Health, 1050 Umstead Drive (Spruill Annex), 1904 Mail Service Center, Raleigh, NC 27699-1904.

History Note: Authority G.S. 130A-5(3); 130A-124; 130A-127; 130A-129, 130A-205; Eff. July 1, 1981; Amended Eff. July 1, 1983; April 1, 1982; January 1, 1982; Temporary Amendment Eff. August 31, 1983, for a period of 120 days to expire on December 29, 1983; Amended Eff. December 29, 1983;

Transferred and Recodified from 10 NCAC 4C .0101 Eff. April 4, 1990; Amended Eff. January 1, 2014; April 1, 1999; April 1, 1993, December 1, 1990.

10A NCAC 45A .0102 DEFINITIONS

The following definitions shall apply throughout this Subchapter:

- (1) "Authorization" means agreement by a payment program to pay for a medical or dental service or appliance provided all requirements in this Subchapter are met. An authorization is sent to the provider of service and copy is sent to individual receiving the service.
- (2) "Benefits" means the purchase of medical or dental care on a fee-for-service basis. "Benefits" also means the purchase of medical or dental appliances.
- (3) "Department" means the Department of Health and Human Services, or its contractor. "Inpatient services" means medical or dental care administered to a person who has been admitted to a hospital.
- (5) "Outpatient services" means medical or dental care administered to a person without admission to a hospital.
- (6) "Payment programs" refers to Department program activities involving the purchase of medical or dental care on a fee-for-service basis or the purchase of medical or dental appliances, either through direct payment or through contracts with local health departments, other agencies, or private institutions. Examples of payment programs include:
 - (a) Early Hearing Detection and Intervention;
 - (b) HIV Medications Program;
 - (c) Infant Toddler Program; and
 - (d) Sickle Cell Program.
- (7) "Provider" means a person or entity who administers medical or dental care or furnishes medical or dental appliances under any of the payment programs.
- (8) Third Party Payor for the purposes of this Subchapter means any person or entity that is or may be indirectly liable for the cost of services or appliances furnished to a patient. Third party payors include the following:
 - (a) School services, including physical or occupational therapy, speech and language pathology and audiology services, and nursing services for special needs children;
 - (b) Medicaid;
 - (c) Medicare, Part A and Part B;
 - (d) Insurance;
 - (e) Social Services;

- (f) Worker's compensation;
- (h) TRICARE, formerly Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); and
- (i) Head Start programs.

History Note: Authority G.S. 130A-5(3); 130A-124; 130A-127; 130A-129; 130A-205;

Eff. July 1, 1981;

Amended Eff. July 1, 1986; January 1, 1982;

Transferred and Recodified from 10 NCAC 4C .0102 Eff. April 4, 1990;

Amended Eff. January 1, 2014; April 1, 1999; January 1, 1996; December 1, 1990.

10A NCAC 45A .0202 DETERMINATION OF FINANCIAL ELIGIBILITY

(a) A patient must meet the financial eligibility requirements of this Subchapter to be eligible for benefits provided by the payment programs. Financial eligibility shall be determined by the NC Division of Public Health Purchase of Medical Care Services Unit through application of income scales that reflect federal poverty levels. The income scales can be found at <http://www.ncdhhs.gov/control/pomcs/pomcs.htm>. The definition of annual net family income in Rule .0203 of this Section and the definitions of family in Rule .0204 of this Section shall be used in applying the income scales, except as provided in Paragraph (c) of this Rule.

(b) A person is financially eligible for services under the Sickie Cell Program if the annual net family income is at or below the federal poverty level in effect on July 1, the beginning of each fiscal year.

(c) A person is financially eligible for the HIV Medications Program if the gross family income is at or below 300 percent of the federal poverty level in effect on July 1, the beginning of each fiscal year, with the following exceptions:

- (1) If a waiting list develops, priority for enrollment into the HIV Medications Program shall be given to those whose net family income is at or below 125 percent of the federal poverty level, and second priority to those individuals with income above 125 percent and at or below 250 percent of federal poverty guidelines; and
- (2) If the HIV Medications Program's financial eligibility level is changed, all clients enrolled in the HIV Medications Program during the most recent year or at the time the eligibility level is changed shall be eligible to continue to be enrolled in and served by the HIV Medications Program even if the clients' financial status exceeds the newly-established eligibility level. The eligibility of these clients shall remain in force until:
 - (A) they no longer qualify for the HIV Medications Program other than for financial reasons;
 - (B) they no longer require the services of the HIV Medications Program;

- (C) their income increases such that they have an income that exceeds the level under which they originally qualified for and enrolled into the HIV Medications Program; or
- (D) they fail to comply with the rules of the HIV Medications Program.

- (3) If an individual is determined to be financially eligible, pursuant to Rule .0203 of this Section, if the application for financial eligibility was received by the Department in the fourth quarter of the fiscal year, the individual shall remain financially eligible for benefits until the end of the next fiscal year unless there is a change in the individual's family size pursuant to Rule .0204 of this Section or family financial resources or expenses during that period pursuant to Rule .0203 of this Section.

The HIV Medications Program shall provide notice of changes to the financial eligibility or other eligibility requirements to interested parties within North Carolina's HIV community (e.g., persons living with HIV disease, their families and caregivers, advocates and service providers, relevant local and state agencies) via electronic or print mechanisms.

(d) A person is financially eligible for the Cancer Program if gross family income is at or below 115 percent of the federal poverty level in effect on July 1 of each year.

(e) The financial eligibility requirements of this Subchapter do not apply to:

- (1) School Health Fund financial eligibility determinations performed by a local health department which has chosen to use the financial eligibility standards of the Department of Public Instruction's free lunch program;
- (2) Prenatal outpatient services sponsored through Perinatal Program high risk maternity clinic reimbursement funds, 10A NCAC 43C .0300; and
- (3) Diagnostic assessments for infants up to 12 months of age with sickle cell syndrome.

(f) Except as provided in Paragraphs (c) and (g) of this Rule, once an individual is determined financially eligible for payment program benefits, benefits pursuant to Rule .0203 of this Section, the individual remains financially eligible for a period of one year after the date of application for financial eligibility unless there is a change in the individual's family size pursuant to Rule .0204 of this Section or there is a change in his family's financial resources or expenses during that period. If there is a change, financial eligibility for payment program benefits must be redetermined. Financial eligibility must be redetermined by the NC Division of Public Health Purchase of Medical Care Services Unit at least once a year.

(g) If the most current financial eligibility form on file with the Department shows that the patient was financially eligible on the date an Authorization Request for payment for drugs was received, the Authorization Request shall be approved so long as the Authorization Request is received prior to the expiration of

financial eligibility and the authorized service does not extend more than 30 days after the expiration of financial eligibility.

History Note: Authority G.S. 130A-4.2; 130A-5(3); 130A-124; 130A-127; 130A-129; 130A-205;

Eff. July 1, 1981;

Amended Eff. July 1, 1986; April 1, 1984; July 1, 1983; October 1, 1982;

Transferred and Recodified from 10 NCAC 4C .0202 Eff. April 4, 1990;

Temporary Amendment Eff. August 9, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Amended Eff. January 1, 1996; July 1, 1995; April 1, 1995; October 1, 1994;

Temporary Amendment Eff. July 1, 1997; April 1, 1997; March 1, 1997;

Amended Eff. August 1, 1998;

Temporary Amendment Eff. November 1, 2006;

Amended Eff. October 1, 2007;

Temporary Amendment Eff. October 1, 2008;

Amended Eff. January 1, 2014; August 1, 2009.

10A NCAC 45A .0204 DETERMINATION OF FAMILY SIZE

(a) For the purpose of determining eligibility for benefits provided by any of the payment programs, a patient's family shall be defined as the patient and all individuals living in the same household with the patient who are:

- (1) parents, not including step-parents, of the patient, if the patient is unmarried and less than 18 years of age;
- (2) siblings or half-siblings of the patient, but not step-siblings, if the siblings are unmarried and less than 18 years of age;
- (3) siblings or half-siblings of the patient, but not step-siblings, if the siblings are 18 years of age or over and have no income;
- (4) the spouse of the patient; and
- (5) individuals related to the patient by blood, marriage, or adoption, if the individual has no income, and if no parent(s) or spouse of the individual lives in the same household and has income.

(b) Individuals who are students and are temporarily living away from their permanent home while attending school and using their home address as their permanent address are for the purposes of the Rule considered to be living in the household of the permanent home.

(c) An adopted child shall be considered the same as a biological child and an adoptive parent shall be considered the same as a biological parent.

(d) For the purpose of this Rule, a half-sibling is a child who has one biological parent in common with the patient. A step-sibling is the child of a step-parent who has no biological parent in common with the patient.

History Note: Authority G.S. 130A-5(3); 130A-124; 130A-127; 130A-129; 130A-205;

Eff. July 1, 1981;

Amended Eff. May 1, 1987;

Transferred and Recodified from 10 NCAC 4C .0204 Eff. April 4, 1990;

Amended Eff. January 1, 2014.

10A NCAC 45A .0302 AUTHORIZATIONS AND CLAIMS PROCESSING TIME FRAMES

(a) The following time frames shall apply to all payment programs:

- (1) An Authorization Request must be received by the Department within one year after the date of service or it will be denied.
- (2) The Department shall respond to an Authorization Request within 45 days after receipt.
- (3) If the Department requests additional information, this information must be received within one year after the date of service or within 30 days after the date of the Department's request, whichever is later, or the Authorization Request will be denied.
- (4) The Department shall approve or deny an Authorization Request within 45 days after receipt of all information.

(b) The following timeframes apply to claims payments:

- (1) A claim for payment must be received by the Department within one year after the date of service or within 45 days after the date of authorization approval, whichever is later, or the claim will be denied. Corrections to claims and requests for payment adjustment made by the provider must be received by the Department within one year after the date of service or within 45 days after the date the claim is paid or returned for additional information, whichever is later, or the claim will be denied.
- (2) If there are other third party payors, a claim must show payments by those payors or it must include copies of the denials of payment from those payors. Providers must bill other payors and wait at least six months after the date of service to receive payment or denial of payment before billing the Department. If no response has been received within six months after the date of service, the provider may bill the Department, but the claim must state the date that the other payors were billed.
- (3) The Department shall pay or deny a claim within 45 days after receipt of a completed claim.

(c) Authorization Requests and claims for payment shall be submitted on forms provided by the Department. Providers may download forms and the Provider Manual for Division of Public Health Payment Programs at <http://www.ncdhhs.gov/control/pomcs/pomcs.htm>.

History Note: Authority G.S. 130A-5(3); 130A-124; 130A-127; 130A-129; 130A-205;

Eff. July 1, 1981;

Amended Eff. February 1, 1990; August 1, 1987; October 1, 1985; April 1, 1983;

Transferred and Recodified from 10 NCAC 4C .0302 Eff. April 4, 1990;

Amended Eff. January 1, 2014; April 1, 1999; January 4, 1994; February 1, 1992; December 1, 1990.

10A NCAC 45A .0303 PAYMENT LIMITATIONS

(a) Payment program payments shall be made for authorized services only when funds are available.

(b) During the last six months of the fiscal year, the State Health Director may limit payment program payments that can be authorized when the total amount of outstanding authorizations, plus the estimated authorizations for the remainder of the fiscal year, less estimated cancellations, exceeds 100 percent of the program's cash balance. The State Health Director shall rescind the limitations at the end of the fiscal year, or prior to the end of the fiscal year if sufficient funds become available to authorize full program benefits for the remainder of the fiscal year.

(c) Payment program benefits shall be available only for services or appliances which are not covered by another third party payor or which cannot be paid for out of funds received in settlement of a civil claim. Patients shall be advised to apply for Medicaid or Medicare benefits to which they may be entitled. However, Early Intervention Program payment shall be available for services based on Title 34, Code of Federal Regulations, Part 303.520, which is hereby incorporated by reference along with all subsequent amendments and editions. A copy of 34 C.F.R. Part 303.520 is available for inspection at the Department of Health and Human Services, Division of Public Health, Women's and Children's Health Section, Early Intervention Branch, 5605 Six Forks Road, Raleigh, North Carolina. Copies of 34 C.F.R. Part 303.520 may be downloaded and printed from the Internet at <http://www.gpo.gov/fdsys/pkg/FR-2011-09-28/pdf/2011-22783.pdf>. Providers shall take reasonable measures to collect other third party payments.

(d) The Department shall not pay Medicaid co-payments or in any other way supplement Medicaid payments for the services governed by this Subchapter.

(e) If prior to the Department's payment for particular services or appliances, the provider, the patient, or a person responsible for the patient receives partial or total payment for the services or appliances from a third party payor, or receives funds in settlement of a civil claim, the Department shall pay only the amount, if any, by which the Department's payment rate exceeds the amount received by the person. For the purpose of this Rule the Department's payment rate means the rate of reimbursement established in 10A NCAC 45A .0400.

(f) If after the Department makes payment for particular services or appliances, the provider, the patient, or a person responsible for the patient receives partial or total payment for the services or appliances from a third party payor, or receives funds in settlement of a civil claim which are available to pay for the services or appliances, the person receiving the payment shall reimburse the Department to the extent of the amount received by the person without exceeding the amount of the

Department's prior payment to the provider. This reimbursement shall be made to the Department within 45 days after receipt of the third party payment.

(g) If the Department requests a refund of a payment made to a provider, the refund shall be made to the Department within 45 days after the date of the refund request.

History Note: Authority G.S. 130A-5(3); 130A-27; 130A-124; 130A-127; 130A-129; 130A-205;

Eff. July 1, 1981;

Amended Eff. February 1, 1990; September 1, 1989; March 1, 1989;

Transferred and Recodified from 10 NCAC 4C .0303 Eff. April 4, 1990;

Amended Eff. January 1, 2014; June 1, 2004; April 1, 1992; February 1, 1992; May 1, 1991; February 1, 1991.

10A NCAC 45A .0401 GENERAL

(a) The purpose of this Section is to establish rates of reimbursement for services provided under the Department's payment programs and governed by the Commission for Public Health.

(b) The reimbursement rates established in the rules of this Section shall not apply to perinatal program high risk maternity clinic reimbursement funds, as set forth in 10A NCAC 43C .0300, or school health funds, as set forth in 10A NCAC 43E .0100. Rates of reimbursement for these programs are individually negotiated with providers by the Department's contractor, usually a local health department. These rates shall be negotiated and established in accordance with guidelines found in the respective program rules, and shall not exceed the Medicaid rate of reimbursement in effect on the date of service.

History Note: Authority G.S. 130A-5(3); 130A-124; 130A-127; 130A-129; 130A-205;

Eff. October 1, 1982;

Amended Eff. July 1, 1983;

Transferred and Recodified from 10 NCAC 4C .0401 Eff. April 4, 1990;

Amended Eff. January 1, 2014; December 1, 1990.

10A NCAC 45A .0402 REIMBURSEMENT FOR INPATIENT HOSPITALIZATION

(a) The Department shall reimburse providers of authorized inpatient services for payment programs governed by Commission for Public Health at the Medicaid rate in effect on the date of service.

(b) In addition to the requirements of Paragraph (a) of this Rule, in the Cancer Program there shall be a limit on the payment for an inpatient admission of one percent of the program's current annual budget.

History Note: Authority G.S. 130A-5(3); 130A-124; 130A-127; 130A-129; 130A-205; 130A-223;

Eff. October 1, 1982;

Temporary Amendment Eff. August 31, 1983, for a Period of 120 Days to Expire on December 29, 1983;

Amended Eff. May 1, 1987; July 1, 1986; January 1, 1985;

Transferred and Recodified from 10 NCAC 4C .0402 Eff. April 4, 1990;
Amended Eff. February 1, 1992; December 1, 1990;
Temporary Amendment Eff. July 6, 1992 for a Period of 180 Days or Until the Permanent Rule is Effective, Whichever is Sooner;
Amended Eff. April 1, 1999; July 1, 1995; October 1, 1992;
Temporary Amendment Eff. August 23, 1999;
Amended Eff. January 1, 2014; August 1, 2000.

10A NCAC 45A .0403 REIMBURSEMENT FOR PROFESSIONAL, OUTPATIENT, OTHER SERVICES

- (a) The Department shall reimburse providers of authorized outpatient services, professional services, and all other services for payment programs governed by the Commission for Public Health not otherwise covered in the rules of this Section at the Medicaid rate in effect on the date of service.
- (b) In addition to the reimbursement rate in Paragraph (a) of this Rule, for professional and outpatient services under the Cancer Program, there shall be a per claim payment limit of one percent of the program's current annual budget.

History Note: Authority G.S. 130A-5(3); 130A-124; 130A-127; 130A-129; 130A-205; 130A-223;
Eff. February 1, 1976;
Amended Eff. April 22, 1977;
Readopted Eff. December 5, 1977;
Amended Eff. July 1, 1982; January 1, 1982;
Temporary Amendment Eff. November 7, 1983, for a period of 120 days to expire on March 4, 1984;
Amended Eff. October 1, 1984; March 1, 1984;
Temporary Amendment Eff. October 14, 1988, for a period of 180 days to expire on April 12, 1989;
Temporary Amendment Expired April 12, 1989;
Amended Eff. September 1, 1990;
Temporary Amendment Eff. June 19, 1996;
Temporary Amendment Expired March 11, 1997;
Amended Eff. January 1, 2014; August 1, 2000.

10A NCAC 45A .0404 REIMBURSEMENT RATES FOR SERVICES NOT COVERED BY MEDICAID

- (a) The Department shall reimburse providers of authorized mobility systems (including components and accessories), environmental control units, and custom seating systems for which there are no Medicaid reimbursement rates at the manufacturer's catalog price less five percent.
- (b) The Department shall reimburse providers of authorized prosthetics and orthotics at the Medicare rate of reimbursement when there is no Medicaid rate of reimbursement for the item. When there is neither a Medicaid rate nor a Medicare rate for the item, the Department shall reimburse at the provider's usual charge to the general public.
- (c) The Department shall reimburse providers of authorized equipment repair services for which there are no Medicaid reimbursement rates at forty five dollars (\$45.00) per hour.
- (d) The Department shall reimburse physicians and dentists for authorized services for which there are no Medicaid rates at the Medicaid rate for a comparable procedure as determined by the

- program's medical director or at 80 percent of the amount billed, whichever is less.
- (e) The Department shall reimburse providers of authorized assistive listening devices and those types of hearing aids for which there are no Medicaid rates at invoice cost plus the Medicaid dispensing fee for a new hearing aid(s).
- (f) The Department shall reimburse providers of authorized amplification-related services for which there are no Medicaid rates at the rates paid for audiology services under Medicaid's Independent Practitioner Program.
- (g) The Department shall reimburse providers of authorized services not otherwise specified in this Section, for which there are no Medicaid reimbursement rates, at the provider's usual charge to the general public.

History Note: Authority G.S. 130A-5(3); 130A-124; 130A-127; 130A-129; 130A-205;
Eff. October 1, 1982;
Transferred and Recodified from 10 NCAC 4C .0404 Eff. April 4, 1990;
Amended Eff. December 1, 1990;
RRC Objection Eff. November 17, 1994 due to lack of statutory authority;
Amended Eff. January 1, 2014; April 1, 1999; October 1, 1995;
February 1, 1995.

10A NCAC 45A .0405 BILLING THE PATIENT PROHIBITED

If a provider has accepted partial or total payment from the Department for particular services, the Department's reimbursement rate for those services shall be considered payment in full for those authorized services for all payment programs and the provider shall not bill the patient or his family for any amount exceeding the payment received.

History Note: Authority G.S. 130A-5(3); 130A-124; 130A-127; 130A-129; 130A-205;
Eff. October 1, 1982;
Transferred and Recodified from 10 NCAC 4C .0405 Eff. April 4, 1990;
Amended Eff. January 1, 2014; April 1, 1995; December 1, 1990.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

15A NCAC 02B .0262 JORDAN WATER SUPPLY NUTRIENT STRATEGY: PURPOSE AND SCOPE

PURPOSE. The purpose of this Rule, 15A NCAC 02B .0263 through .0273 and .0311(p) shall be to restore and maintain nutrient-related water quality standards in B. Everett Jordan Reservoir; protect its classified uses as set out in 15A NCAC 02B .0216, including use as a source of water supply for drinking water, culinary and food processing purposes; and maintain or enhance protections currently implemented by local governments in existing water supply watersheds. These Rules, as further enumerated in Item (3) of this Rule, together shall constitute the Jordan water supply nutrient strategy, or Jordan

nutrient strategy. Additional provisions of this Rule include establishing the geographic and regulatory scope of the Jordan nutrient strategy, defining its relationship to existing water quality regulations, setting specific nutrient mass load goals for Jordan Reservoir, providing for the use of adaptive management to restore Jordan Reservoir, and citing general enforcement authorities. The following provisions further establish the framework of the Jordan water supply nutrient strategy:

- (1) **SCOPE.** B. Everett Jordan Reservoir is hereafter referred to as Jordan Reservoir. All lands and waters draining to Jordan Reservoir are hereafter referred to as the Jordan watershed. Jordan Reservoir and all waters draining to it have been supplementally classified as Nutrient Sensitive Waters (NSW) pursuant to 15A NCAC 02B .0101(e)(3) and 15A NCAC 02B .0223. Water supply waters designated WS-II, WS-III, and WS-IV within the Jordan watershed shall retain their classifications. The remaining waters in the Jordan watershed are classified WS-V as of the initial effective date of this Rule, August 11, 2009. The requirements of all of these water supply classifications shall be retained and applied except as specifically noted in Item (6) of this Rule and elsewhere within the Jordan nutrient strategy. Pursuant to G.S. 143-214.5(b), the entire Jordan watershed shall be designated a critical water supply watershed and through the Jordan nutrient strategy given additional, more stringent requirements than the state minimum water supply watershed management requirements. These requirements supplement the water quality standards applicable to Class C waters, as described in Rule .0211 of this Section, which apply throughout the Jordan watershed.
- (2) **STRATEGY GOAL.** Pursuant to G.S. 143-215.1(c5), 143-215.8B, and 143B-282(c) and (d) of the Clean Water Responsibility Act of 1997, the Environmental Management Commission establishes the goal of reducing the average annual loads of nitrogen and phosphorus delivered to Jordan Reservoir from all point and nonpoint sources of these nutrients located within its watershed, as specified in Item (5) of this Rule, and provides for adaptive management of the strategy and goal, as specified in Item (8) of this Rule.
- (3) **RULES ENUMERATED.** The second rule in the following list provides definitions for terms that are used in more than one rule of the Jordan nutrient strategy. An individual rule may contain additional definitions that are specific to that Rule. The rules of the Jordan nutrient strategy are titled as follows:
 - (a) Rule. 0262 - Purpose and Scope;
 - (b) Rule. 0263 - Definitions;
 - (c) Rule. 0264 - Agriculture;

- (d) Rule. 0265 - Stormwater Management for New Development;
 - (e) Rule. 0266 - Stormwater Management for Existing Development;
 - (f) Rule. 0267 - Protection of Existing Riparian Buffers;
 - (g) Rule. 0268 - Mitigation for Riparian Buffers;
 - (h) Rule. 0269 - Riparian Buffer Mitigation Fees to the NC Ecosystem Enhancement Program;
 - (i) Rule. 0270 - Wastewater Discharge Requirements;
 - (j) Rule. 0271 - Stormwater Requirements for State and Federal Entities;
 - (k) Rule. 0272 - Fertilizer Management;
 - (l) Rule. 0273 - Options for Offsetting Nutrient Loads; and
 - (m) Rule. 0311 - Cape Fear River Basin.
- (4) **RESERVOIR ARMS AND SUBWATERSHEDS.** For the purpose of the Jordan nutrient strategy, Jordan Reservoir is divided into three arms and the Jordan watershed is divided into three tributary subwatersheds as follows:
- (a) The Upper New Hope arm of the reservoir, identified by index numbers 16-41-1-(14), 16-41-2-(9.5), and 16-41-(0.5) in the Schedule of Classifications for the Cape Fear River Basin, 15A NCAC 02B .0311, encompasses the upper end of the reservoir upstream of SR 1008, and its subwatershed encompasses all lands and waters draining into it.
 - (b) The Lower New Hope arm of the reservoir, identified by index number 16-41-(3.5) in the Schedule of Classifications for the Cape Fear River Basin, 15A NCAC 02B .0311, lies downstream of SR 1008 and upstream of the Jordan Lake Dam, excluding the Haw River arm of the reservoir, and its subwatershed encompasses all lands and waters draining into the Lower New Hope arm of the reservoir excluding those that drain to the Upper New Hope arm of the reservoir and the Haw River arm of the reservoir.
 - (c) The Haw River arm of the reservoir, identified by index number 16-(37.5) in the Schedule of Classifications for the Cape Fear River Basin, 15A NCAC 02B .0311, lies immediately upstream of Jordan Lake Dam, and its subwatershed includes all lands and

waters draining into the Haw River arm of the reservoir excluding those draining into the Upper and Lower New Hope arms.

- (5) **NUTRIENT REDUCTION GOALS.** Each arm of the lake has reduction goals, total allowable loads, point source wasteload allocations, and nonpoint source load allocations for both nitrogen and phosphorus based on a field-calibrated nutrient response model developed pursuant to provisions of G.S. 143-215.1(c5). The reduction goals and allocations shall be met collectively by the sources regulated under the Jordan nutrient strategy. The reduction goals are expressed in terms of a percentage reduction in delivered loads from the baseline years, 1997-2001, while allocations are expressed in pounds per year of allowable delivered load. Each arm and subwatershed shall conform to its respective allocations for nitrogen and phosphorus as follows:

- (a) The at-lake nitrogen goals for the arms of Jordan Reservoir are as follows:

- (i) The Upper New Hope arm has a 1997-2001 baseline nitrogen load of 986,186 pounds per year and a nitrogen Total Maximum Daily Load (TMDL) reduction goal of 35 percent. The resulting TMDL includes a total allowable load of 641,021 pounds of nitrogen per year: a point source mass wasteload allocation of 336,079 pounds of nitrogen per year, and a nonpoint source mass load allocation of 304,942 pounds of nitrogen per year.

- (ii) The Lower New Hope arm has a 1997-2001 baseline nitrogen load of 221,929 pounds per year and a nitrogen TMDL capped at the baseline nitrogen load. The resulting TMDL includes a total allowable load of 221,929 pounds of nitrogen per year: a point source mass wasteload allocation of 6,836 pounds of nitrogen per year, and a nonpoint source mass load allocation of 215,093 pounds of nitrogen per year.

- (iii) The Haw River arm has a 1997-2001 baseline nitrogen load of 2,790,217 pounds per year and a nitrogen TMDL reduction goal of eight percent. The resulting TMDL includes a total allowable load of 2,567,000 pounds of nitrogen per year: a point source mass wasteload allocation of 895,127 pounds of nitrogen per year, and a nonpoint source mass load allocation of 1,671,873 pounds of nitrogen per year.

- (b) The at-lake phosphorus goals for the arms of Jordan Reservoir are as follows:

- (i) The Upper New Hope arm has a 1997-2001 baseline phosphorus load of 87,245 pounds per year and a phosphorus TMDL reduction goal of five percent. The resulting TMDL includes a total allowable load of 82,883 pounds of phosphorus per year: a point source mass wasteload allocation of 23,108 pounds of phosphorus per year, and a nonpoint source mass load allocation of 59,775 pounds of phosphorus per year.

- (ii) The Lower New Hope arm has a 1997-2001 baseline phosphorus load of 26,574 pounds per year and a phosphorus TMDL capped at the baseline phosphorus load. The resulting TMDL includes a total allowable load of 26,574 pounds of phosphorus per year: a point source mass wasteload allocation of 498 pounds of phosphorus per year, and a nonpoint source mass load allocation of 26,076 pounds of phosphorus per year.

- (iii) The Haw River arm has a 1997-2001 baseline phosphorus load of 378,569 pounds per year and a phosphorus TMDL reduction goal of five percent. The resulting

- TMDL includes a total allowable load of 359,641 pounds of phosphorus per year: a point source mass wasteload allocation of 106,001 pounds of phosphorus per year, and a nonpoint source mass load allocation of 253,640 pounds of phosphorus per year.
- (c) The allocations established in this Item may change as a result of allocation transfer between point and nonpoint sources to the extent provided for in rules of the Jordan nutrient strategy and pursuant to requirements on the sale and purchase of load reduction credit set out in 15A NCAC 02B .0273.
- (6) **RELATION TO WATER SUPPLY REQUIREMENTS.** The following water supply requirements shall apply:
- (a) For all waters designated as WS-II, WS-III, or WS-IV within the Jordan watershed, the requirements of water supply 15A NCAC 02B .0214 through .0216 shall remain in effect with the exception of Sub-Item (3)(b) of those Rules addressing nonpoint sources. The nonpoint source requirements of Sub-Item (3)(b) of those Rules are superseded by the requirements of this Rule and 15A NCAC 02B .0263 through .0269, and .0271 through .0273, except as specifically stated in any of these Rules. For WS-II, WS-III, and WS-IV waters, the retained requirements of 15A NCAC 02B .0214 through .0216 are the following:
- (i) Item (1) of 15A NCAC 02B .0214 through .0216 addressing best usages;
- (ii) Item (2) of 15A NCAC 02B .0214 through .0216 addressing predominant watershed development conditions, discharges expressly allowed watershed-wide, general prohibitions on and allowances for domestic and industrial discharges, Maximum Contaminant Levels following treatment, and the local option to seek more protective classifications for portions of existing water supply watersheds;
- (iii) Sub-Item (3)(a) of 15A NCAC 02B .0214 through .0216 addressing waste discharge limitations; and
- (iv) Sub-Items (3)(c) through (3)(h) of 15A NCAC 02B .0214 through .0216 addressing aesthetic and human health standards.
- (b) For waters designated WS-V in the Jordan Watershed, the requirements of Rules .0263 through .0273 and .0311 of this Subchapter shall apply. The requirements of 15A NCAC 02B .0218 shall also apply except for Sub-Items (3)(e) through (3)(h) of that Rule, which shall only apply where:
- (i) The designation of WS-V is associated with a water supply intake used by an industry to supply drinking water for their employees; or
- (ii) Standards set out in 15A NCAC 02B .0218(3)(e) through (3)(h) are violated at the upstream boundary of waters within those watersheds that are classified as WS-II, WS-III, or WS-IV. This Sub-Item shall not be construed to alter the nutrient reduction requirements set out in 15A NCAC 02B .0262(5) or 15A NCAC 2B .0275(3).
- (7) **APPLICABILITY.** Types of parties responsible for implementing rules within the Jordan nutrient strategy and, as applicable, their geographic scope of responsibility, are identified in each rule. The specific local governments responsible for implementing Rules .0265, .0266, .0267, .0268, and .0273 of this Subchapter shall be as follows:
- (a) Rules .0265, .0266, .0267, .0268, and .0273 of this Subchapter shall be implemented by all incorporated municipalities, as identified by the Office of the Secretary of State, with planning jurisdiction within or partially within the Jordan watershed. As of August 11, 2009, those municipalities are:
- (i) Alamance;
- (ii) Apex;
- (iii) Burlington;
- (iv) Carrboro;
- (v) Cary;

- (vi) Chapel Hill;
 - (vii) Durham;
 - (viii) Elon;
 - (ix) Gibsonville;
 - (x) Graham;
 - (xi) Green Level;
 - (xii) Greensboro;
 - (xiii) Haw River;
 - (xiv) Kernersville;
 - (xv) Mebane;
 - (xvi) Morrisville;
 - (xvii) Oak Ridge;
 - (xviii) Ossipee;
 - (xix) Pittsboro;
 - (xx) Pleasant Garden;
 - (xxi) Reidsville;
 - (xxii) Sedalia;
 - (xxiii) Stokesdale;
 - (xxiv) Summerfield; and
 - (xxv) Whitsett.
- (b) Rules .0265, .0266, .0267, .0268, and .0273 of this Subchapter shall be implemented by the following counties for the portions of the counties where the municipalities listed in Sub-Item (7)(a) do not have an implementation requirement:
- (i) Alamance;
 - (ii) Caswell;
 - (iii) Chatham;
 - (iv) Durham;
 - (v) Guilford;
 - (vi) Orange;
 - (vii) Rockingham; and
 - (viii) Wake.
- (c) A unit of government may arrange through interlocal agreement or other instrument of mutual agreement for another unit of government to implement portions or the entirety of a program required or allowed under any of the rules listed in Item (3) of this Rule to the extent that such an arrangement is otherwise allowed by statute. The governments involved shall submit documentation of any such agreement to the Division. No such agreement shall relieve a unit of government from its responsibilities under these Rules.
- (8) **ADAPTIVE MANAGEMENT.** The Division shall evaluate the effectiveness of the Jordan nutrient strategy no sooner than ten years following the effective date and periodically thereafter as part of the review of the *Cape Fear River Basinwide Water Quality Plan*. The Division shall base its evaluation on, at a minimum, trend analyses as described in the monitoring section of the *B. Everett Jordan*

Reservoir, North Carolina Nutrient Management Strategy and Total Maximum Daily Load, and lake use support assessments. Both of these documents can be found on the Division's website at www.ncwater.org. The Division may also develop additional watershed modeling or other source characterization work. Any nutrient response modeling and monitoring on which any recommendation for adjustment to strategy goals may be based shall meet the criteria set forth in G.S. 143-215.1(c5) and meet or exceed criteria used by the Division for the monitoring and modeling used to establish the goals in Item (5) of this Rule. Any modification to these Rules as a result of such evaluations would require additional rulemaking.

- (9) **LIMITATION.** The Jordan nutrient strategy may not fully address significant nutrient sources in the Jordan watershed in that these Rules do not directly address atmospheric sources of nitrogen to the watershed from sources located both within and outside of the watershed. As better information becomes available from ongoing research on atmospheric nitrogen loading to the watershed from these sources, and on measures to control this loading, the Commission may undertake separate rule making to require such measures it deems necessary from these sources to support the goals of the Jordan nutrient strategy.

- (10) **ENFORCEMENT.** Failure to meet requirements of Rules .0262, .0264, .0265, .0266, .0267, .0268, .0269, .0270, .0271, .0272 and .0273 of this Subchapter may result in imposition of enforcement measures as authorized by G.S. 143-215.6A (civil penalties), G.S. 143-215.6B (criminal penalties), and G.S. 143-215.6C (injunctive relief).

History Note: Authority G.S. 143-214.1; 143-214.5; 143-214.7; 143-215.1; 143-215.3(a)(1); 143-215.6A; 143-215.6B; 143-215.6C; 143-215.8B; 143B-282(c); 143B-282(d); S.L. 2005-190; S.L. 2006-259; S.L. 2012-187;

Eff. August 11, 2009;

Amended Eff. January 1, 2014; September 1, 2011.

15A NCAC 02D .1002 APPLICABILITY

(a) Rules .1002 through .1006 of this Section are applicable to all light-duty gasoline vehicles for model years 1996 or more recent model years, excluding the current model year, and applies to all vehicles that are:

- (1) required to be registered by the North Carolina Division of Motor Vehicles in the counties identified in Paragraph (d) of this Rule;

- (2) part of a fleet primarily operated within the counties identified in Paragraph (d) of this Rule; or
- (3) operated on a federal installation located in a county identified in Paragraph (d) of this Rule and that meet the requirements of 40 CFR 51.356(a)(4); or
- (4) otherwise required under G.S. 20-183.2(b)(5).

(b) The first day of a month that is 30 days after the U.S. Environmental Protection Agency approves the State Implementation Plan revision and the replacement of the Motor Vehicle Inspection and Law Enforcement System being certified by the Commissioner of Motor Vehicles, whichever occurs later, Rules .1002 through .1006 of this Section shall apply to 1996 or more recent model for motor vehicles under Paragraph (a) of this Rule, excluding the three most recent model years with less than 70,000 miles on their odometers.

(c) Rules .1002 through .1006 of this Section shall not apply to motorcycles, plug-in electric vehicles or fuel cell electric vehicles as specified in G.S. 20-183.2(b).

(d) The emission control standards of this Section shall become effective in the counties identified in G.S. 143-215.107A.

History Note: Authority G.S. 20-128.2(a); 20-183.2; 143-215.3(a)(1); 143-215.107(a)(3); 143-215.107(a)(6); 143-215.107(a)(7); 143-215.107A;

Eff. December 1, 1982;

Amended Eff. July 1, 1992; April 1, 1991;

Temporary Amendment Eff. January 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Amended Eff. January 1, 2014; August 1, 2002; July 1, 1994; July 1, 1993.

15A NCAC 02D .1005 ON-BOARD DIAGNOSTIC STANDARDS

(a) This Rule shall apply to all vehicles set forth in Rule .1002 of this Section.

(b) Vehicles covered under this Rule shall pass annually the on-board diagnostic test described in 40 CFR 85.2222. The vehicle shall fail the on-board diagnostic test if any of the conditions of 40 CFR 85.2207 are met. Equipment used to perform on-board diagnostic tests shall meet the requirements of 40 CFR 85.2231.

(c) The tester shall provide the owner of a vehicle that fails the on-board diagnostic test described in Paragraph (b) of this Rule a report of the test results. This report shall include the codes retrieved per 40 CFR 85.2223(a), the status of the malfunction indicator light illumination command, and the customer alert statement described in 40 CFR 85.2223(c).

(d) Persons performing on-board diagnostic tests shall provide the Division of Air Quality data necessary to determine the effectiveness of the on-board diagnostic testing program. The data submitted shall be what is necessary to satisfy the requirements of 40 CFR 51.365, Data Collection, and 40 CFR 51.366, Data Analysis and Reporting, and 40 CFR 51.358, Test Equipment.

(e) All references to federal regulations include subsequent amendments and editions. All federal regulations referenced in this Rule can be accessed free of charge at

<http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>.

History Note: Authority G.S. 20-128.2(a); 143-215.3(a)(1); 143-215.107(a)(6); 143-215.107(a)(7); 143-215.107A(b); Eff. December 1, 1982;

Amended Eff. January 1, 2014; August 1, 2002; July 1, 1998; April 1, 1991; November 1, 1986.

15A NCAC 02D .1006 SALE AND SERVICE OF ANALYZERS

(a) Requirements. A vendor shall not sell or lease equipment unless it meets the requirements of 40 CFR 85.2231 Onboard Diagnostic Test Equipment Requirements, and has the software necessary to record and transmit the data required by the Division of Motor Vehicles and the Division of Air Quality to determine compliance with the inspection/maintenance program requirements of this Section.

(b) Hardware repair. When equipment hardware fails to meet the requirements of Paragraph (a) of this Rule for a particular analyzer, the vendor, after receiving a call from an inspection station to its respective service call center, shall communicate with the impacted station within 24 hours and:

- (1) Where the hardware problem is stopping 20 percent or more inspections for a particular analyzer or is compromising the security of the inspection system, the vendor shall repair the problem within 48 hours after the initial call to its respective service call center.
- (2) Where the hardware problem is stopping less than 20 percent of all inspections for a particular analyzer and is not compromising the security of the inspection system, the vendor shall repair the problem within 72 hours after the initial call to its respective service call center.
- (3) Where the hardware problem is not stopping inspections and is not compromising the security of the inspection system, the vendor shall repair the problem within 96 hours after the initial call to its respective service call center.

(c) Software repair revisions. When analyzer software fails to meet the requirements of Paragraph (a) of this Rule, the vendor, after receiving a call from an inspection station to its respective service call center, shall communicate with the station within 24 hours. The vendor shall identify and characterize the software problem within 5 days. The vendor shall, within that same 5-day period, inform the station owner and the Division as to the nature of the problem and the proposed corrective course of action; and:

- (1) Where the software problem is stopping 20 percent or more inspections for a particular analyzer or is compromising the security of the inspection system, the vendor shall submit a new revision of the software to the Division for approval within 19 days after receiving the initial call to its service call center.

- (2) Where the software problem is stopping less than 20 percent of all inspections for a particular analyzer and is not compromising the security of the inspection system, the vendor shall submit a new revision of the software to the Division for approval within 33 days after receiving the initial call to its service call center.
- (3) The vendor shall distribute the new revision of the software to all impacted stations within 14 days after the vendor receives written notification from the Division that the software has been approved as meeting the requirements of Paragraph (a) of this Rule.
- (d) Documentation of the initial service call. The vendor's service call center shall assign a unique service response number to every reported new hardware or software problem. The time and date of the initial call shall be recorded and identified with

the service response number. The service response number shall be communicated to the inspection station operator at the time of the initial contact.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(6),(14); Eff. January 1, 2007; Amended Eff. January 1, 2014.

15A NCAC 02D .1009 MODEL YEAR 2008 AND SUBSEQUENT MODEL YEAR HEAVY-DUTY DIESEL VEHICLE REQUIREMENTS

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(6)-(7); Eff. December 1, 2004; Repealed Eff. January 1, 2014.

15A NCAC 02D .1104 TOXIC AIR POLLUTANT GUIDELINES

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

Pollutant (CAS Number)	Annual (Carcinogens)	24-hour (Chronic Toxicants)	1-hour (Acute Systemic Toxicants)	1-hour (Acute Irritants)
acetaldehyde (75-07-0)				27
acetic acid (64-19-7)				3.7
acrolein (107-02-8)				0.08
acrylonitrile (107-13-1)		0.03	1	
ammonia (7664-41-7)				2.7
aniline (62-53-3)			1	
arsenic and inorganic arsenic compounds	2.1×10^{-6}			
asbestos (1332-21-4)	2.8×10^{-11} fibers/ml			
aziridine (151-56-4)		0.006		
benzene (71-43-2)	1.2×10^{-4}			
benzidine and salts (92-87-5)	1.5×10^{-8}			
benzo(a)pyrene (50-32-8)	3.3×10^{-5}			
benzyl chloride (100-44-7)			0.5	
beryllium (7440-41-7)	4.1×10^{-6}			
beryllium chloride (7787-47-5)	4.1×10^{-6}			
beryllium fluoride (7787-49-7)	4.1×10^{-6}			
beryllium nitrate (13597-99-4)	4.1×10^{-6}			
bioavailable chromate pigments, as chromium (VI) equivalent	8.3×10^{-8}			
bis-chloromethyl ether (542-88-1)	3.7×10^{-7}			
bromine (7726-95-6)				0.2
1,3-butadiene (106-99-0)	4.4×10^{-4}			
cadmium (7440-43-9)	5.5×10^{-6}			
cadmium acetate (543-90-8)	5.5×10^{-6}			
cadmium bromide (7789-42-6)	5.5×10^{-6}			

APPROVED RULES

carbon disulfide (75-15-0)		0.186		
carbon tetrachloride (56-23-5)	6.7×10^{-3}			
chlorine (7782-50-5)		0.0375		0.9
chlorobenzene (108-90-7)		2.2		
chloroform (67-66-3)	4.3×10^{-3}			
chloroprene (126-99-8)		0.44	3.5	
cresol (1319-77-3)			2.2	
p-dichlorobenzene (106-46-7)				66
dichlorodifluoromethane (75-71-8)		248		
dichlorofluoromethane (75-43-4)		0.5		
di(2-ethylhexyl)phthalate (117-81-7)		0.03		
dimethyl sulfate (77-78-1)		0.003		
1,4-dioxane (123-91-1)		0.56		
epichlorohydrin (106-89-8)	8.3×10^{-2}			
ethyl acetate (141-78-6)			140	
ethylenediamine (107-15-3)		0.3	2.5	
ethylene dibromide (106-93-4)	4.0×10^{-4}			
ethylene dichloride (107-06-2)	3.8×10^{-3}			
ethylene glycol monoethyl ether (110-80-5)		0.12	1.9	
ethylene oxide (75-21-8)	2.7×10^{-5}			
ethyl mercaptan (75-08-1)			0.1	
fluorides		0.016	0.25	
formaldehyde (50-00-0)				0.15
hexachlorocyclopentadiene (77-47-4)		0.0006	0.01	
hexachlorodibenzo-p-dioxin (57653-85-7)	7.6×10^{-8}			
n-hexane (110-54-3)		1.1		
hexane isomers except n-hexane				360
hydrazine (302-01-2)		0.0006		
hydrogen chloride (7647-01-0)				0.7
hydrogen cyanide (74-90-8)		0.14	1.1	
hydrogen fluoride (7664-39-3)		0.03		0.25
hydrogen sulfide (7783-06-4)		0.12		
maleic anhydride (108-31-6)		0.012	0.1	
manganese and compounds		0.031		
manganese cyclopentadienyl tricarbonyl (12079-65-1)		0.0006		
manganese tetroxide (1317-35-7)		0.0062		
mercury, alkyl		0.00006		
mercury, aryl and inorganic compounds		0.0006		
mercury, vapor (7439-97-6)		0.0006		
methyl chloroform (71-55-6)		12		245
methylene chloride (75-09-2)	2.4×10^{-2}		1.7	
methyl ethyl ketone (78-93-3)		3.7		88.5
methyl isobutyl ketone (108-10-1)		2.56		30
methyl mercaptan (74-93-1)			0.05	
nickel carbonyl (13463-39-3)		0.0006		
nickel metal (7440-02-0)		0.006		
nickel, soluble compounds, as nickel		0.0006		
nickel subsulfide (12035-72-2)	2.1×10^{-6}			
nitric acid (7697-37-2)				1
nitrobenzene (98-95-3)		0.06	0.5	
n-nitrosodimethylamine (62-75-9)	5.0×10^{-5}			

non-specific chromium (VI) compounds, as chromium (VI) equivalent	8.3 x 10 ⁻⁸			
pentachlorophenol (87-86-5)		0.003	0.025	
perchloroethylene (127-18-4)	1.9 x 10 ⁻¹			
phenol (108-95-2)			0.95	
phosgene (75-44-5)		0.0025		
phosphine (7803-51-2)				0.13
polychlorinated biphenyls (1336-36-3)	8.3 x 10 ⁻⁵			
soluble chromate compounds, as chromium (VI) equivalent		6.2 x 10 ⁻⁴		
styrene (100-42-5)			10.6	
sulfuric acid (7664-93-9)		0.012	0.1	
tetrachlorodibenzo-p-dioxin (1746-01-6)	3.0 x 10 ⁻⁹			
1,1,1,2-tetrachloro-2,2,-difluoroethane (76-11-9)		52		
1,1,2,2-tetrachloro-1,2-difluoroethane (76-12-0)		52		
1,1,2,2-tetrachloroethane (79-34-5)	6.3 x 10 ⁻³			
toluene (108-88-3)		4.7		56
toluene diisocyanate, 2,4- (584-84-9) and 2,6- (91-08-7) isomers		0.0002		
trichloroethylene (79-01-6)	5.9 x 10 ⁻²			
trichlorofluoromethane (75-69-4)			560	
1,1,2-trichloro-1,2,2-trifluoroethane (76-13-1)				950
vinyl chloride (75-01-4)	3.8 x 10 ⁻⁴			
vinylidene chloride (75-35-4)		0.12		
xylene (1330-20-7)		2.7		65

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3),(4),(5); 143B-282; Eff. May 1, 1990;
Amended Eff. September 1, 1992; March 1, 1992;
Temporary Amendment Eff. July 20, 1997;
Amended Eff. March 1, 2010; June 1, 2008; April 1, 2005; April 1, 2001; July 1, 1998;
Amended Eff. Pending Legislative Review.

15A NCAC 02Q .0711 EMISSION RATES REQUIRING A PERMIT

(a) A permit to emit toxic air pollutants is required for any facility whose actual (or permitted if higher) rate of emissions from all sources are greater than any one of the following toxic air pollutant permitting emissions rates:

Pollutant (CAS Number)	Carcinogens lb/yr	Chronic Toxicants lb/day	Acute Systemic Toxicants lb/hr	Acute Irritants lb/hr
acetaldehyde (75-07-0)				6.8
acetic acid (64-19-7)				0.96
acrolein (107-02-8)				0.02
acrylonitrile (107-13-1)		0.4	0.22	
ammonia (7664-41-7)				0.68
aniline (62-53-3)			0.25	
arsenic and inorganic arsenic compounds	0.053			
asbestos (1332-21-4)	1.9 X 10 ⁻⁶			
aziridine (151-56-4)		0.13		

APPROVED RULES

benzene (71-43-2)	8.1			
benzidine and salts (92-87-5)	0.0010			
benzo(a)pyrene (50-32-8)	2.2			
benzyl chloride (100-44-7)			0.13	
beryllium (7440-41-7)	0.28			
beryllium chloride (7787-47-5)	0.28			
beryllium fluoride (7787-49-7)	0.28			
beryllium nitrate (13597-99-4)	0.28			
bioavailable chromate pigments, as chromium (VI) equivalent	0.0056			
bis-chloromethyl ether (542-88-1)	0.025			
bromine (7726-95-6)				0.052
1,3-butadiene (106-99-0)	11			
cadmium (7440-43-9)	0.37			
cadmium acetate (543-90-8)	0.37			
cadmium bromide (7789-42-6)	0.37			
carbon disulfide (75-15-0)		3.9		
carbon tetrachloride (56-23-5)	460			
chlorine (7782-50-5)		0.79		0.23
chlorobenzene (108-90-7)		46		
chloroform (67-66-3)	290			
chloroprene (126-99-8)		9.2	0.89	
cresol (1319-77-3)			0.56	
p-dichlorobenzene (106-46-7)				16.8
dichlorodifluoromethane (75-71-8)		5200		
dichlorofluoromethane (75-43-4)		10		
di(2-ethylhexyl)phthalate (117-81-7)		0.63		
dimethyl sulfate (77-78-1)		0.063		
1,4-dioxane (123-91-1)		12		
epichlorohydrin (106-89-8)	5600			
ethyl acetate (141-78-6)			36	
ethylenediamine (107-15-3)		6.3	0.64	
ethylene dibromide (106-93-4)	27			
ethylene dichloride (107-06-2)	260			
ethylene glycol monoethyl ether (110-80-5)		2.5	0.48	
ethylene oxide (75-21-8)	1.8			
ethyl mercaptan (75-08-1)			0.025	
fluorides		0.34	0.064	
formaldehyde (50-00-0)				0.04
hexachlorocyclopentadiene (77-47-4)		0.013	0.0025	
hexachlorodibenzo-p-dioxin (57653- 85-7)	0.0051			
n-hexane (110-54-3)		23		
hexane isomers except n-hexane				92
hydrazine (302-01-2)		0.013		
hydrogen chloride (7647-01-0)				0.18
hydrogen cyanide (74-90-8)		2.9	0.28	
hydrogen fluoride (7664-39-3)		0.63		0.064
hydrogen sulfide (7783-06-4)		1.7		
maleic anhydride (108-31-6)		0.25	0.025	
manganese and compounds		0.63		
manganese cyclopentadienyl tricarbonyl (12079-65-1)		0.013		
manganese tetroxide (1317-35-7)		0.13		
mercury, alkyl		0.0013		
mercury, aryl and inorganic compounds		0.013		

APPROVED RULES

mercury, vapor (7439-97-6)		0.013		
methyl chloroform (71-55-6)		250		64
methylene chloride (75-09-2)	1600		0.39	
methyl ethyl ketone (78-93-3)		78		22.4
methyl isobutyl ketone (108-10-1)		52		7.6
methyl mercaptan (74-93-1)			0.013	
nickel carbonyl (13463-39-3)		0.013		
nickel metal (7440-02-0)		0.13		
nickel, soluble compounds, as nickel		0.013		
nickel subsulfide (12035-72-2)	0.14			
nitric acid (7697-37-2)				0.256
nitrobenzene (98-95-3)		1.3	0.13	
n-nitrosodimethylamine (62-75-9)	3.4			
non-specific chromium (VI) compounds, as chromium (VI) equivalent	0.0056			
pentachlorophenol (87-86-5)		0.063	0.0064	
perchloroethylene (127-18-4)	13000			
phenol (108-95-2)			0.24	
phosgene (75-44-5)		0.052		
phosphine (7803-51-2)				0.032
polychlorinated biphenyls (1336-36-3)	5.6			
soluble chromate compounds, as chromium (VI) equivalent		0.013		
styrene (100-42-5)			2.7	
sulfuric acid (7664-93-9)		0.25	0.025	
tetrachlorodibenzo-p-dioxin (1746-01-6)	0.00020			
1,1,1,2-tetrachloro-2,2-difluoroethane (76-11-9)		1100		
1,1,2,2-tetrachloro-1,2-difluoroethane (76-12-0)		1100		
1,1,2,2-tetrachloroethane (79-34-5)	430			
toluene (108-88-3)		98		14.4
toluene diisocyanate, 2,4-(584-84-9) and 2,6-(91-08-7) isomers		0.003		
trichloroethylene (79-01-6)	4000			
trichlorofluoromethane (75-69-4)			140	
1,1,2-trichloro-1,2,2-trifluoroethane (76-13-1)				240
vinyl chloride (75-01-4)	26			
vinylidene chloride (75-35-4)		2.5		
xylene (1330-20-7)		57		16.4

(b) For the following pollutants, the highest emissions occurring for any 15-minute period shall be multiplied by four and the product shall be compared to the value in Paragraph (a). These pollutants are:

- (1) acetaldehyde (75-07-0);
- (2) acetic acid (64-19-7);
- (3) acrolein (107-02-8);
- (4) ammonia (7664-41-7);
- (5) bromine (7726-95-6);
- (6) chlorine (7782-50-5);
- (7) formaldehyde (50-00-0);
- (8) hydrogen chloride (7647-01-0);
- (9) hydrogen fluoride (7664-39-3); and
- (10) nitric acid (7697-37-2).

History Note: Authority G.S. 143-215.3(a)(1); 143-215.108; 143B-282;

Rule originally codified as part of 15A NCAC 02H .0610;

Eff. July 1, 1998;

Amended Eff. January 1, 2010; June 1, 2008; April 1, 2005; February 1, 2005; April 1, 2001;

Amended Eff. Pending Legislative Review.

15A NCAC 12B .0901 FIREARMS: WEAPONS: EXPLOSIVES

(a) Except as provided in Paragraph (b) or G.S. 14-269, no person except authorized park employees, their agents, or contractors, shall carry or possess firearms, air guns, air soft guns, paint ball guns, bows and arrows, sling shots, or lethal missiles of any kind within any park.

(b) A person with a valid concealed handgun permit issued by one of the United States that adheres to the requirements set forth in G.S. 14-415.11 may carry a concealed handgun on the grounds and waters of a state park. Persons acting under this exception should take notice that certain Division managed properties are owned by the U.S. Army Corps of Engineers and subject to separate regulations governing firearms. Accordingly, concealed handguns are prohibited at Falls Lake, Jordan Lake and Kerr Lake State Recreation Areas.

(c) The possession or use of cap pistols is prohibited. The possession or use of dynamite or other powerful explosives as defined in G.S. 14-284.1 is prohibited.

(d) The possession or use of pyrotechnics is prohibited except for pyrotechnics exhibited, used, or discharged in connection with an authorized public exhibition and approved by the Director of the Division of Parks and Recreation, or designee. Persons wishing to possess or use pyrotechnics in connection with a public exhibition, such as a public celebration, shall file an application for a special use permit with the park superintendent. All applicants shall enter an indemnification agreement with the Department and obtain general liability and property damage insurance, with limits as determined by the Secretary or designee, which are reasonably necessary to cover possible liability for damage to property and bodily injury or damage to persons which may result from, or be caused by, the public exhibition of pyrotechnics or any act(s) or omission(s) on the part of the applicant(s) or the applicant's agents, servants, employees, or subcontractors presenting the public exhibition. The Division Director or designee may deny an application as deemed necessary to protect the public health, safety, and welfare, or to protect the natural resources of the park unit.

History Note: Authority G.S. 14-269; 14-410; 14-415; 14-415.11; 14-415.24; 113-8; 113-23; 113-35;

Eff. February 1, 1976;

Amended Eff. October 1, 1984; January 1, 1983;

Temporary Amendment Eff. July 2, 1997;

Temporary Amendment Expired September 29, 1998;

Amended Eff. January 1, 2014; April 1, 1999.

15A NCAC 13B .0832 GENERAL PROVISIONS

(a) General permitting requirements.

- (1) No person shall manage septage, or any part of septage, or operate a Septage Management Firm without first obtaining a permit from the Division as required under G.S. 130A-291.1(c);
- (2) The permit requirement of G.S. 130A-291.1(c) applies to persons who remove septage, and other waste materials or spent media from wastewater systems permitted by the Division of Environmental Health, under the authority of Article 11, Chapter 130A of the North Carolina General Statutes;
- (3) The permit requirement of G.S. 130A-291.1(c) applies to persons who manage septage generated from properties which they own, lease or manage as part of a business, including but not limited to mobile homes, mobile home parks, restaurants, and other residential and commercial property;
- (4) The Division may deny a permit application, in accordance with G.S. 130A-295.3(c);
- (5) The Division may require an applicant to demonstrate substantial compliance in accordance with G.S. 130A-294(b2)(2);
- (6) All conditions for permits issued in accordance with this Section shall be followed;
- (7) Where specified in this Section, permit applications or specific portions of applications shall be prepared by a qualified environmental professional in accordance with Rule .0202(a)(3) of this Subchapter; and
- (8) Initial septage land application site and detention and treatment facility permits shall be issued for a maximum of one year. Renewal permits shall be issued for five years if the facility has not had a major violation and records have been maintained in accordance with this Section.

(b) Portable sanitation permitting provisions.

- (1) A mobile or modular office that meets the criteria of G.S. 130A-291.2 shall be considered a chemical or portable toilet as defined in G.S. 130A-290(a)(1c). Leaks or overflows of the storage tank at a mobile or modular office shall be considered illegal land application. The office occupant and owner of the mobile or modular office shall be considered to be the responsible party and will be subject to the requirements of Paragraph (a) of this Rule.
- (2) No person shall rent or lease portable toilet(s) or contract or subcontract to rent or lease portable toilet(s) or manage or dispose of waste from portable toilet(s), regardless of ownership

- of the toilet(s) unless that person is permitted to operate a septage management firm.
- (3) Placement of a chemical or portable toilet as defined in G.S. 130A-290(a)(1c) for potential use in North Carolina shall be considered operation of a septage management firm which requires a permit.
- (c) Recreational vehicle waste provisions.
- (1) Domestic septage from a recreational vehicle shall be managed in accordance with this Section or shall flow directly into a wastewater treatment system permitted by the Department of Environment and Natural Resources.
- (2) Wastewater from recreational vehicles that are tied down, blocked up, or that are not relocated on a regular basis, and that are not connected to an approved wastewater system shall be managed in accordance with Article 11, Chapter 130A of the NC General Statutes.
- (3) Recreational vehicle dump stations that do not discharge directly to a wastewater treatment system permitted by the Department of Environment and Natural Resources shall be permitted as a septage detention and treatment facility in accordance with this Section.
- (d) Alternate septage management method limitations.
- (1) Grease septage, or any part of grease septage, shall not be introduced or reintroduced into a grease trap, interceptor, separator, or other appurtenance used for the purpose of removing cooking oils, fats, grease, and food debris from the waste flow generated from food handling, preparation, and cleanup unless the Division has received written approval from the wastewater treatment plant operator or the onsite wastewater system permitting authority that reintroduction is acceptable.
- (2) Septage, or any part of septage, shall not be reintroduced into an onsite wastewater system unless approved pursuant to G.S. 130A-343(c).
- (3) Septage, or any part of septage, shall not be placed in containers at restaurants designated for yellow grease.
- (4) Septage, or any part of septage, shall not be disposed of in a municipal solid waste landfill unless the waste passes the paint filter test and the landfill receiving the waste has provided the Division written documentation that the specific material will be accepted.
- (5) Septage, or any part of septage, shall not be disposed of in a dumpster unless the waste passes the Paint Filter Liquids Test as defined by EPA S.W. 846 Method 9095B which can be accessed at no cost at <http://www.epa.gov/osw/hazard/testmethods/sw846/online/index.htm>, the landfill receiving the waste is a properly permitted municipal solid waste landfill, in accordance with Section .1600 of this Subchapter, and the landfill operator has provided the Division written documentation that the specific material will be accepted.
- (6) Septage, or any part of septage, managed through subsurface disposal shall be considered a treatment facility and shall require a permit in accordance with this Section and G.S. 130A-343.
- (7) Facilities receiving septage, or any part of septage, for composting shall be permitted in accordance with Section .1400 of this Subchapter.
- (e) All training, to meet the requirements of G.S. 130A-291.3(a) and (b), must be pre-approved by the Division.
- (f) Waste from holding tanks not otherwise addressed in this Section, and from wastewater systems pumped more often than every 30 days, shall not be considered domestic septage and shall not be land applied at a permitted septage land application site.
- (g) Inspection and entry. The permit holder of a septage management firm or facility shall allow a representative of the Division to:
- (1) Enter the permit holder's premises where a regulated facility or activity is located or conducted;
- (2) Access and copy any records required in accordance with this Section or conditions of the permit;
- (3) Inspect any facilities, equipment (including monitoring and control equipment), practices or operations regulated by the Division;
- (4) Sample or monitor for the purposes of assuring permit compliance or as otherwise authorized by the Federal Clean Water Act or the North Carolina Solid Waste Management Act, any substances, parameters or soils at any location; and
- (5) Photograph for the purpose of documenting times of compliance or noncompliance at septage management facilities or to require the permit holder to make such photos for the Division.
- (h) Failure of a person to follow a requirement in any rule set forth in this Section or the taking of any action prohibited by any rule in this Section shall constitute a violation of that rule.
- History Note: Authority G.S. 130A-291.1, 130A-291.2, 130A-295.3(c), 130A-335;
Eff. October 1, 2009;
Amended Eff. January 1, 2014.*
-
- TITLE 18 – DEPARTMENT OF SECRETARY OF STATE**
- 18 NCAC 12 .0404 LIMITATION ON FEE
REDUCTION OR WAIVER**
- 18 NCAC 12 .0405 NONPROFITS TO WHICH NO
FEE REDUCTION OR WAIVER SHALL BE GRANTED**
- 18 NCAC 12 .0406 NONPROFIT FEE REDUCTION**

PROCEDURE

18 NCAC 12 .0407 SUBMISSION OF REDUCED FEE
18 NCAC 12 .0408 SUBMISSION OF DOCUMENTATION SUPPORTING FEE REDUCTION REQUEST
18 NCAC 12 .0409 FEE REDUCTION APPLIES TO BOTH LOBBYIST AND PRINCIPAL
18 NCAC 12 .0410 PAYMENT OF REMAINDER OF FEE IF REDUCTION DENIED
18 NCAC 12 .0411 CONSEQUENCES OF FAILURE TO PAY REMAINDER OF FEE
18 NCAC 12 .0412 NONPROFIT FEE WAIVER PROCEDURE
18 NCAC 12 .0413 SUBMISSION OF FEE WITH REQUEST FOR WAIVER
18 NCAC 12 .0414 REFUND OF FEE IF REQUEST FOR WAIVER GRANTED
18 NCAC 12 .0415 SUBMISSION OF DOCUMENTATION SUPPORTING FEE WAIVER REQUEST
18 NCAC 12 .0416 FEE WAIVER APPLIES TO BOTH LOBBYIST AND PRINCIPAL
18 NCAC 12 .0417 GENERAL PROOF OF NONPROFIT STATUS
18 NCAC 12 .0418 OFFICERS OR PERSONS AUTHORIZED TO DEMONSTRATE NONPROFIT STATUS

History Note: Authority G.S. 120C-101(a); 120C-201; 120C-207; 120C-600; 120C-603; 26 U.S.C. Sec. 501(c)(3); Temporary Adoption January 1, 2007; Eff. December 1, 2007; Repealed Eff. January 1, 2014.

18 NCAC 12 .0421 SUBMISSION OF FEDERAL TAX-EXEMPT DETERMINATION LETTER
18 NCAC 12 .0422 DOCUMENTS TO BE SUBMITTED BY NONPROFIT PRINCIPALS WITHOUT TAX EXEMPT DETERMINATION LETTER
18 NCAC 12 .0423 ADDITIONAL INFORMATION FOR FEE REDUCTION FOR NONPROFIT WITH TAX-EXEMPT DETERMINATION LETTER
18 NCAC 12 .0424 ADDITIONAL INFORMATION FOR FEE REDUCTION FOR NONPROFIT WITH TAX-EXEMPT DETERMINATION LETTER AND CERTAIN FEDERAL FORMS NOT REQUIRED
18 NCAC 12 .0425 CONTENTS FOR FEE REDUCTION REQUEST FOR NONPROFIT WITHOUT TAX-EXEMPT DETERMINATION LETTER
18 NCAC 12 .0426 ADDITIONAL INFORMATION FOR FEE WAIVER

History Note: Authority G.S. 120C-101(a); 120C-201; 120C-207; 120C-600; 120C-603; 26 U.S.C. Sec. 501(c)(3); Temporary Adoption Eff. January 1, 2007; Eff. December 1, 2007; Repealed Eff. January 1, 2014.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 08 – BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

21 NCAC 08A .0301 DEFINITIONS

(a) The definitions set out in G.S. 93-1(a) apply when those defined terms are used in this Chapter.
 (b) In addition to the definitions set out in G.S. 93-1(a), other definitions in this Section, and the following definitions apply when these terms are used in this Chapter:

- (1) "Active," when used to refer to the status of a person, describes a person who possesses a North Carolina certificate of qualification and who has not otherwise been granted "Inactive" status;
- (2) "Agreed upon procedures" means a professional service whereby a CPA is engaged to issue a report of findings based on specific procedures performed on financial information prepared by a party;
- (3) "AICPA" means the American Institute of Certified Public Accountants;
- (4) "Applicant" means a person who has applied to take the CPA examination or applied for a certificate of qualification;
- (5) "Attest service or assurance service" means:
 - (A) any audit or engagement to be performed in accordance with the Statements on Auditing Standards, Statements on Generally Accepted Governmental Auditing Standards, and Public Company Accounting Oversight Board Auditing Standards;
 - (B) any review or engagement to be performed in accordance with the Statements on Standards for Accounting and Review Services;
 - (C) any compilation or engagement to be performed in accordance with the Statements on Standards for Accounting and Review Services; or
 - (D) any agreed-upon procedure or engagement to be performed in accordance with the Statements on Standards for Attestation Engagements;
- (6) "Audit" means a professional service whereby a CPA is engaged to examine financial statements, items, accounts, or elements of a financial statement, prepared by management, in order to express an opinion on whether the financial statements, items, accounts, or elements of a financial statement are presented in conformity with generally accepted accounting principles or other comprehensive basis of accounting;

- | | |
|--|--|
| <p>(7) "Calendar year" means the 12 months beginning January 1 and ending December 31;</p> <p>(8) "Candidate" means a person whose application to take the CPA examination has been accepted by the Board and who may sit for the CPA examination;</p> <p>(9) "Client" means a person or an entity who orally or in writing agrees with a licensee to receive any professional services performed or delivered in this State;</p> <p>(10) "Commission" means compensation, except a referral fee, for recommending or referring any product or service to be supplied by another person;</p> <p>(11) "Compilation" means a professional service whereby a CPA is engaged to present, in the form of financial statements, information that is the representation of management without undertaking to express any assurance on the statements;</p> <p>(12) "Contingent fee" means a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service;</p> <p>(13) "CPA" means certified public accountant;</p> <p>(14) "CPA firm" means a sole proprietorship, a partnership, a professional corporation, a professional limited liability company, or a registered limited liability partnership which uses "certified public accountant(s)" or "CPA(s)" in or with its name or offers to or renders any attest services in the public practice of accountancy;</p> <p>(15) "CPE" means continuing professional education;</p> <p>(16) "Disciplinary action" means revocation or suspension of, or refusal to grant, a certificate, or the imposition of a reprimand, probation, constructive comment, or any other penalty or condition;</p> <p>(17) "FASB" means the Financial Accounting Standards Board;</p> <p>(18) "Forecast" means prospective financial statements that present, to the best of the responsible party's knowledge and belief, an entity's expected financial position, results of operations, and changes in financial position or cash flows that are based on the responsible party's assumptions reflecting conditions the entity expects to exist and the course of action the entity expects to take;</p> <p>(19) "GASB" means the Governmental Accounting Standards Board;</p> <p>(20) "Inactive," when used to refer to the status of a person, describes a person who has requested inactive status and been approved by the</p> | <p>Board and who does not use the title "certified public accountant" nor does he or she allow anyone to refer to him or her as a "certified public accountant," and neither he nor she nor anyone else refers to him or her in any representation as described in Rule .0308(b) of this Section;</p> <p>(21) "IRS" means the Internal Revenue Service;</p> <p>(22) "Jurisdiction" means any state or territory of the United States or the District of Columbia;</p> <p>(23) "License year" means the 12 months beginning July 1 and ending June 30;</p> <p>(24) "Member of a CPA firm" means any CPA who has an equity ownership interest in a CPA firm;</p> <p>(25) "NASBA" means the National Association of State Boards of Accountancy;</p> <p>(26) "NCACPA" means the North Carolina Association of Certified Public Accountants;</p> <p>(27) "North Carolina office" means any office physically located in North Carolina;</p> <p>(28) "Person" means any natural person, corporation, partnership, professional limited liability company, registered limited liability partnership, unincorporated association, or other entity;</p> <p>(29) "Professional" means arising out of or related to the particular knowledge or skills associated with CPAs;</p> <p>(30) "Projection" means prospective financial statements that present, to the best of the responsible party's knowledge and belief, given one or more hypothetical assumptions, an entity's expected financial position, results of operations, and changes in financial position or cash flows that are based on the responsible party's assumptions reflecting conditions it expects would exist and the course of action it expects would be taken given such hypothetical assumptions;</p> <p>(31) "Referral fee" means compensation for recommending or referring any service of a CPA to any person;</p> <p>(32) "Revenue Department" means the North Carolina Department of Revenue;</p> <p>(33) "Review" means a professional service whereby a CPA is engaged to perform procedures, limited to analytical procedures and inquiries, to obtain a reasonable basis for expressing limited assurance on whether any material modifications should be made to the financial statements for them to be in conformity with generally accepted accounting principles or other comprehensive basis of accounting;</p> <p>(34) "Reviewer" means a member of a review team including the review team captain;</p> <p>(35) "Suspension" means a revocation of a certificate for a specified period of time. A</p> |
|--|--|

CPA may be reinstated after a specific period of time if the CPA has met all conditions imposed by the Board at the time of suspension;

- (36) "Trade name" means a name used to designate a business enterprise;
- (37) "Work papers" mean the CPA's records of the procedures applied, the tests performed, the information obtained, and the conclusions reached in attest services, tax services, consulting services, special report services, or other engagements. Work papers include programs used to perform professional services, analyses, memoranda, letters of confirmation and representation, checklists, copies or abstracts of company documents, and schedules of commentaries prepared or obtained by the CPA. The forms include handwritten, typed, printed, word processed, photocopied, photographed, and computerized data, or any other form of letters, words, pictures, sounds or symbols; and
- (38) "Work product" means the end result of the engagement for the client which may include a tax return, attest or assurance report, consulting report, and financial plan. The forms include handwritten, typed, printed, word processed, photocopied, photographed, and computerized data, or in any other form of letters, words, pictures, sounds, or symbols.

(c) Any requirement to comply by a specific date to the Board that falls on a weekend or federal holiday shall be received as in compliance if postmarked by U.S. Postal Service cancellation by that date, if received by a private delivery service by that date, or received in the Board office on the next business day.

History Note: Authority G.S. 93-1; 93-12; 93-12(3); Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. January 1, 2014; February 1, 2011; January 1, 2006; January 1, 2004; April 1, 1999; August 1, 1998; February 1, 1996; April 1, 1994; September 1, 1992.

21 NCAC 08F .0103 FILING OF EXAMINATION APPLICATIONS AND FEES

(a) All applications for CPA examinations shall be filed with the Board and accompanied by the examination fee. The Board sets the fee for each examination at the amount that enables the Board to recover its actual costs of examination services. If a check or credit card authorization fails to clear the bank, the application shall be deemed incomplete and returned. CPA Exam applications and fee information are on the Board's website at www.nccpaboard.gov and may be requested from the Board.

(b) The initial application filed to take the examination shall include supporting documentation demonstrating that all legal requirements have been met, including:

- (1) minimum legal age;
- (2) education; and

- (3) good moral character.

(c) Any person born outside the United States shall furnish to the Board office evidence of citizenship; evidence of resident alien status; or

- (1) other bona fide evidence that the applicant is legally allowed to remain in the United States;
- (2) a notarized affidavit of intention to become a U.S. citizen; or
- (3) evidence that the applicant is a citizen of a foreign jurisdiction which extends to citizens of this state like or similar privileges to be examined.

(d) Official transcripts (originals – not photocopies) signed by the college registrar and bearing the college seal are required to prove education and degree requirements. A letter from the college registrar of the school may be filed as documentation that the applicant has met the graduation requirements if the degree has not been awarded and posted to the transcript. No examination grades shall be released until an official transcript is filed with the Board confirming the education requirement as stated in the college registrar's letter.

(e) Applications for re-examination shall not re-submit official transcripts, additional statements, or affidavits regarding education.

(f) To document good moral character as required by G.S. 93-12(5), three persons not related by blood or marriage to the applicant shall sign the application certifying the good moral character of the applicant.

(g) An applicant shall include as part of any application for the CPA examination a statement of explanation and a certified copy of the final disposition if the applicant has been arrested, charged, convicted or found guilty of, received a prayer for judgment continued, or pleaded *nolo contendere* to any criminal offense.

(h) If an applicant has been denied any license by any state or federal agency, the applicant shall include as part of the application for the CPA examination a statement explaining such denial. An applicant shall include a statement of explanation and a certified copy of applicable license records if the applicant has been registered with or licensed by a state or federal agency and has been disciplined by that agency.

(i) Two identical photographs shall accompany the application for the CPA examination and the application for the CPA certificate. These photographs shall be of the applicant alone, 2x2 inches in size, front view, full face, taken in normal street attire without a hat or dark glasses, printed on paper with a plain light background and taken within the last six months. Photographs may be in black and white or in color. Retouched photographs shall not be accepted. Applicants shall write their names on the back of their photos.

(j) If an applicant's name has legally changed and is different from the name on any transcript or other document supplied to the Board, the applicant shall furnish copies of the documents legally authorizing the name change.

(k) Candidates shall file initial and re-exam applications to sit for the CPA Examination on forms provided by the Board.

(l) Examination fees are valid for a six-month period from the date of the applicant's notice to schedule for the examination from the examination vendor.

(m) No application for examination shall be considered while the applicant is serving a sentence for any criminal offense. Serving a sentence includes incarceration, probation (supervised or unsupervised), parole, or conditionally suspended sentence, any of which are imposed as a result of having been convicted or having pled to a criminal charge.

History Note: Authority G.S. 93-12(3); 93-12(4); 93-12(5); 93-12(7);

Eff. February 1, 1976;

Readopted Eff. September 26, 1977;

Amended Eff. January 1, 2014; February 1, 2011; January 1, 2006; January 1, 2004; August 1, 1998; February 1, 1996; April 1, 1994; March 1, 1990; May 1, 1989.

21 NCAC 08F .0502 APPLICATION FOR CPA CERTIFICATE

(a) A person applying for a certificate of qualification must file with the Board an application and an experience affidavit on forms provided by the Board and supporting documentation to determine that the applicant has met the statutory and rule requirements. CPA certificate applications and fee information are on the Board's website at www.nccpaboard.gov or may be requested from the Board.

(b) The application for a CPA certificate shall include three certificates of good moral character provided by the Board and completed by CPAs.

(c) An applicant shall include as part of any application for a CPA certificate a statement of explanation and a certified copy of final disposition if the applicant has been arrested, charged, convicted or found guilty of, received a prayer for judgment continued, or pleaded *nolo contendere* to any criminal offense.

(d) If an applicant has been denied any license by any state or federal agency, the applicant shall also include as part of the application for the CPA certificate a statement explaining such denial. An applicant shall include a statement of explanation and a certified copy of applicable license records if the applicant has been registered with or licensed by a state or federal agency and has been disciplined by that agency.

(e) No application for a certificate shall be considered while the applicant is serving a sentence for any criminal offense. Serving a sentence includes incarceration, probation (supervised or unsupervised), parole, or conditionally suspended sentence, any of which are imposed as a result of having been convicted or having pled to a criminal charge.

History Note: Authority G.S. 93-12(3); 93-12(5);

Eff. December 1, 1982;

Amended Eff. January 1, 2014; March 1, 1990; May 1, 1989; October 1, 1984.

21 NCAC 08G .0401 CPE REQUIREMENTS FOR CPAS

(a) In order for a CPA to receive CPE credit for a course:

- (1) the CPA must attend or complete the course and receive a certificate of completion as set forth in Rule .0403(c)(13) of this Section;
- (2) the course must meet the requirements set out in Rule .0404(a) and (c) of this Section; and

- (3) the course must increase the professional competency of the CPA.

(b) A course that increases the professional competency of a CPA is a course in an area of accounting in which the CPA practices or is planning to practice in the future, or in the area of professional ethics, or an area of the profession.

(c) Because of differences in the education and experience of CPAs, a course may contribute to the professional competence of one CPA but not another. Each CPA must therefore exercise judgment in selecting courses for which CPE credit is claimed and choose only those that contribute to that CPA's professional competence.

(d) Active CPAs must complete 40 CPE hours, computed in accordance with Rule .0409 of this Section by December 31 of each year, except as follows:

- (1) CPAs having certificate applications approved by the Board in April-June must complete 30 CPE hours during the same calendar year;
- (2) CPAs having certificate applications approved by the Board in July-September must complete 20 CPE hours during the same calendar year; or
- (3) CPAs having certificate applications approved by the Board in October-December must complete 10 CPE hours during the same calendar year.

(e) There are no CPE requirements for inactive CPAs.

(f) Any CPE hours completed during the calendar year in which the certificate is approved may be used for that year's requirement even if the hours were completed before the certificate was granted. When a CPA has completed more than the required number of hours of CPE in any one calendar year, the extra hours, not in excess of 20 hours, may be carried forward and treated as hours earned in the following year. Ethics CPE hours may not be included in any carry forward hours. A CPA may not claim CPE credit for courses taken in any year prior to the year of certification.

(g) Any CPE hours used to satisfy the requirements for change of status as set forth in 21 NCAC 08J .0105, for reissuance as set forth in 21 NCAC 08J .0106, or for application for a new certificate as set forth in 21 NCAC 08I .0104 may be used to satisfy the annual CPE requirement set forth in Paragraph (d) of this Rule.

(h) It is the CPA's responsibility to maintain records substantiating the CPE credits claimed for the current year and for each of the four calendar years prior to the current year.

(i) A non-resident licensee may satisfy the annual CPE requirements including 21 NCAC 08G .0401 in the jurisdiction in which he or she is licensed and currently works or resides. If there is no annual CPE requirement in the jurisdiction in which he or she is licensed and currently works or resides, he or she must comply with Paragraph (d) of this Rule.

History Note: Authority G.S. 93-12(3); 93-12(8b);

Eff. May 1, 1981;

Amended Eff. January 1, 2014; January 1, 2007; January 1, 2004; August 1, 1995; April 1, 1994; May 1, 1989; September 1, 1988.

21 NCAC 08G .0403 QUALIFICATION OF CPE

SPONSORS

(a) The Board shall not register either sponsors of CPE courses or CPE courses.

(b) Sponsors of continuing education programs that are listed in good standing on the NASBA National Registry of CPE Sponsors shall be considered by the Board as compliant with the CPE requirements of Paragraph (c) of this Rule.

(c) CPE providers not in good standing on the NASBA National Registry of CPE Sponsors shall meet the following requirements:

- (1) have an individual who did not prepare the course review each course to be sure it meets the standards for CPE;
- (2) state the following in every brochure or other publication or announcement concerning a course:
 - (A) the general content of the course and the specific knowledge or skill taught in the course;
 - (B) any prerequisites for the course and any advance preparation required for the course and if none, that shall be stated;
 - (C) the level of the course, such as basic, intermediate, or advanced;
 - (D) the teaching methods to be used in the course;
 - (E) the amount of sponsor recommended CPE credit a CPA who takes the course may claim; and
 - (F) the date the course is offered, if the course is offered only on a certain date, and, if applicable, the location;
- (3) ensure that the instructors or presenters of the course are qualified to teach the subject matter of the course and to apply the instructional techniques used in the course;
- (4) evaluate the performance of an instructor or presenter of a course to determine whether the instructor or presenter is suited to serve as an instructor or presenter in the future as follows:
 - (A) before the course's conclusion, provide for the attendees an opportunity to evaluate the quality of the course by questionnaires, oral feedback, or other means, in order to determine whether the course's objectives have been met, its prerequisites were necessary or desirable, the facilities used were satisfactory, and the course content was appropriate for the level of the course; and
 - (B) systematically review the evaluation process to ensure its effectiveness;
- (5) encourage participation in a course only by those who have the education and experience for the level of the course;

- (6) distribute course materials to participants;
- (7) use physical facilities for conducting the course that are consistent with the instructional techniques used;
- (8) accurately assign the number of CPE credits each participant may be eligible to receive by either:
 - (A) monitoring attendance at a group course; or
 - (B) testing in order to determine if the participant has learned the material presented;
- (9) inform instructors and presenters of the results of the evaluation of their performance;
- (10) retain for five years from the date of the course presentation or completion:
 - (A) a record of participants completing course credit requirements;
 - (B) an outline of the course (or equivalent);
 - (C) the date and location of presentation;
 - (D) the participant evaluations or summaries of evaluations;
 - (E) the documentation of the instructor's qualifications; and
 - (F) the number of contact hours recommended for each participant;
- (11) have a visible, continuous, and identifiable contact person who is charged with the administration of the sponsor's CPE programs and has the responsibility and is accountable for assuring and demonstrating compliance with this Rule by the sponsor or by any other organization working with the sponsor for the development, distribution or presentation of CPE courses;
- (12) develop and promulgate policies and procedures for the management of grievances including tuition and fee refunds; and
- (13) provide persons completing course requirements with written proof of completion indicating the participant's name, the name of the course, the date the course was held or completed, the sponsor's name and address, and the number of CPE hours calculated and recommended in accordance with 21 NCAC 08G .0409.

(d) Failure of a National Registry of CPE Sponsor to comply with the terms of this Rule shall be grounds for the Board to disqualify the sponsor as a CPE sponsor with this Board and to notify NASBA and the public of this action.

History Note: Authority G.S. 93-12(3); 93-12(8b);

Eff. May 1, 1981;

Amended Eff. January 1, 2014; January 1, 2007; January 1, 2004; March 1, 1990; May 1, 1989; August 1, 1988; February 1, 1983.

21 NCAC 08G .0409 COMPUTATION OF CPE CREDITS

(a) Group Courses: Non-College. CPE credit for a group course that is not part of a college curriculum shall be given based on contact hours. A contact hour shall be 50 minutes of instruction. One-half credit shall be equal to 25 minutes after the first credit hour has been earned in a formal learning activity. For example, a group course lasting 100 minutes shall be two contact hours equaling two CPE credits. A group course lasting 75 minutes shall be one and one-half contact hours equaling one and one-half CPE credits. When individual segments of a group course are less than 50 minutes, the sum of the individual segments shall be added to determine the number of contact hours. For example, five 30-minute presentations shall be 150 minutes, which shall be three contact hours and three CPE credits. No credit shall be allowed for a segment unless the participant completes the entire segment. Internet based programs shall employ a monitoring mechanism to verify that participants are participating during the duration of the course.

(b) Completing a College Course. CPE credit for completing a college course in the college curriculum shall be granted based on the number of credit hours the college gives the CPA for completing the course. One semester hour of college credit shall be 15 CPE credits; one quarter hour of college credit shall be 10 CPE credits; and one continuing education unit shall be 10 CPE credits. No CPE credit shall be given to a CPA who audits a college course.

(c) Self Study. CPE credit for a self-study course shall be given based on the average number of contact hours needed to complete the course. The average completion time shall be allowed for CPE credit. A sponsor must determine on the basis of pre-tests or NASBA word count formula the average number of contact hours it takes to complete a course.

(d) Instructing a CPE Course. CPE credit for teaching or presenting a CPE course for CPAs shall be given based on the number of contact hours spent in preparing and presenting the course. No more than 50 percent of the CPE credits required for a year shall be credits for preparing or presenting CPE courses. CPE credit for preparing or presenting a course shall be allowed only once a year for a course presented more than once in the same year by the same CPA.

(e) Authoring a Publication. CPE credit for published articles and books shall be given based on the number of contact hours the CPA spent writing the article or book. No more than 25 percent of a CPA's required CPE credits for a year shall be credits for published articles or books. An article written for a CPA's client or business newsletter shall not receive CPE credit.

(f) Instructing a Graduate Level College Course. CPE credit for instructing a graduate level college course shall be given based on the number of credit hours the college gives a student for successfully completing the course, using the calculation set forth in Paragraph (b) of this Rule. Credit shall not be given for instructing a course in which there is credit given towards an undergraduate degree.

(g) No more than 50 percent of the CPE credits required for a year shall be credits claimed under Paragraphs (d) and (f) of this Rule.

History Note: Authority G.S. 93-12(3); 93-12(8b);

Eff. May 1, 1989;

Amended Eff. January 1, 2014; February 1, 2012; January 1, 2007; January 1, 2004; February 1, 1996; April 1, 1994; March 1, 1990.

21 NCAC 08G .0410 PROFESSIONAL ETHICS AND CONDUCT CPE

(a) As part of the annual CPE requirement, all active CPAs shall complete CPE on professional ethics and conduct. They shall complete two contact hours in either a group study format or in a self-study format of a course on regulatory or behavioral professional ethics and conduct. This CPE shall be offered by a CPE sponsor registered with NASBA pursuant to Rule .0403(b) of this Section.

(b) A non-resident licensee whose primary office is in North Carolina must comply with Paragraph (a) of this Rule. All other non-resident licensees may satisfy Paragraph (a) of this Rule by completing the ethics requirements in the jurisdiction in which he or she is licensed as a CPA and works or resides. If there is no ethics CPE requirement in the jurisdiction where he or she is licensed and currently works or resides, he or she must comply with Paragraph (a) of this Rule.

History Note: Authority G.S. 93-12(3); 93-12(8b); 93-12(9); *Eff. January 1, 2005;*

Amended Eff. January 1, 2014; February 1, 2012; January 1, 2007; January 1, 2006.

21 NCAC 08I .0104 MODIFICATION OF DISCIPLINE

(a) A person whose certificate or CPA firm whose registration has been permanently revoked by the Board may apply to the Board for modification of the discipline at any time after five years from the date of the original discipline, or more often than three years after the Board's last decision on any prior application for modification.

(b) The application for modification of discipline shall be in writing and show good cause for the relief sought. The application for an individual shall be accompanied by at least three supporting recommendations, made under oath, from CPAs who have personal knowledge of the facts relating to the revocation and of the activities of the applicant since the discipline was imposed. The application for a CPA firm shall be accompanied by at least three supporting recommendations, made under oath, for each CPA partner, CPA member, or CPA shareholder from CPAs who have personal knowledge of the facts relating to the revocation and of the activities of the CPA partner, CPA member, or CPA shareholder since the discipline was imposed.

(c) "Good cause" as used in Paragraph (b) of this Rule means that the applicant is rehabilitated with respect to the conduct that was the basis of the discipline. Evidence demonstrating such rehabilitation shall include evidence that:

- (1) the person has not engaged in any conduct during the discipline period that, if that person had been licensed or registered during such period, would have constituted the basis for discipline pursuant to G.S. 93-12(9);

- (2) the person has completed the sentence imposed with respect to any criminal conviction that constituted any part of the previous discipline; and
- (3) restitution has been made to any aggrieved party with respect to a court order, civil settlement, lien or other agreement.

(d) In determining good cause, the Board may consider all the applicant's activities since the disciplinary penalty was imposed, the offense for which the applicant was disciplined, the applicant's activities during the time the applicant was in good standing with the Board, the applicant's rehabilitative efforts, restitution to damaged parties in the matter for which the penalty was imposed, and the applicant's general reputation for truth and professional probity. For the purpose of this Paragraph, "applicant" shall, in the case of a CPA firm, include CPA partners, CPA members, or CPA shareholders.

(e) Any person who applies for a modification of discipline and for a new certificate after revocation shall, in addition to the other requirements of this Section, comply with all qualifications and requirements for initial certification as identified by the Board that existed at the time of the original application.

(f) No application for a new certificate or for modification of discipline shall be considered while the applicant is serving a sentence for any criminal offense. Serving a sentence includes incarceration, probation (supervised or unsupervised), parole, or conditionally suspended sentence, any of which are imposed as a result of having been convicted or having pled to a criminal charge.

(g) An application shall be ruled upon by the Board on the basis of the recommendations and evidence submitted in support thereof. However, the Board may make additional inquiries of any person or persons, or request additional evidence it deems appropriate.

(h) As a condition for a new certificate or modification of discipline, the Board may impose terms and conditions it considers suitable to ensure the licensee's or CPA firm's future compliance with the statutory and rule requirements of the Board including the rules of Professional Ethics and Conduct.

History Note: Authority G.S. 55B-12; 93-2; 93-12(3); 93-12(7a); 93-12(7b); 93-12(9); Eff. September 1, 1982;

Temporary Amendment Eff. September 15, 1983, for a period of 108 days to expire January 1, 1984;

Amended Eff. January 1, 2014; April 1, 1999; August 1, 1998; February 1, 1996; April 1, 1994; March 1, 1990; May 1, 1989.

21 NCAC 08J .0105 INACTIVE STATUS: CHANGE OF STATUS

(a) A CPA may apply to the Board for change of status to inactive status provided the CPA meets the description of inactive status as defined in Rule 08A .0301 of this Chapter. Application for any status change shall be made on the form provided by the Board.

(b) A CPA who does not meet the definition of inactive may not remain on inactive status.

(c) A CPA on inactive status may change to active status by:

- (1) paying the certificate renewal fee for the license year in which the application for change of status is received;
- (2) furnishing the Board with evidence of satisfactory completion of 40 hours of CPE courses during the 12-month period immediately preceding the application for change of status. Eight of the required hours must be credits derived from a course or examination in North Carolina accountancy statutes and rules (including the Code of Professional Ethics and Conduct contained therein) as set forth in Rule 08F .0504 of this Chapter; and
- (3) submitting three certificates of good moral character provided by the Board and completed by CPAs.

History Note: Authority G.S. 93-12(3); 93-12(8); 93-12(8b); Eff. December 1, 1982;

Curative Adopted Eff. January 25, 1983;

Legislative Objection Lodged Eff. January 31, 1983;

Amended Eff. January 1, 2014; February 1, 2012; February 1, 2011; August 1, 1998; August 1, 1995; April 1, 1994; March 1, 1990; May 1, 1989.

21 NCAC 08J .0106 FORFEITURE OF CERTIFICATE AND REISSUANCE

(a) A person who has forfeited a certificate is no longer a CPA and thus is not subject to the renewal fee or CPE requirements contained in these Rules.

(b) A person who requests reissuance of a forfeited certificate shall make application and provide the following to the Board:

- (1) payment of the current certificate application fee;
- (2) three certificates of moral character provided by the Board and completed by CPAs; and
- (3) evidence of satisfactory completion of the CPE requirement described in Rule .0105(c)(2) of this Section.

(c) The certificate may be reissued if determined by the Board that the person meets the requirements as listed in Paragraph (b) of this Rule.

History Note: Authority G.S. 93-12(3); 93-12(5); 93-12(8a); 93-12(8b);

Eff. October 1, 1984;

Amended Eff. January 1, 2014; July 1, 2010; August 1, 1998; February 1, 1996; April 1, 1994; May 1, 1989.

21 NCAC 08J .0107 MAILING ADDRESSES OF CERTIFICATE HOLDERS AND CPA FIRMS

All certificate holders and CPA firms shall notify the Board in writing within 30 days of any change in home address and phone number; CPA firm address and phone number; business location and phone number; and email address.

History Note: Authority G.S. 55B-12; 93-12(3); 93-12(7b)(5);

*Eff. October 1, 1984;
Amended Eff. January 1, 2014; April 1, 1999; April 1, 1991;
August 1, 1986.*

21 NCAC 08M .0105 PEER REVIEW REQUIREMENTS

(a) A CPA or CPA firm providing any of the following services to the public shall participate in a peer review program:

- (1) audits;
- (2) reviews of financial statements;
- (3) compilations of financial statements; or
- (4) agreed-upon procedures or engagement to be performed in accordance with the Statements on Standards for Attestation Engagements.

(b) A CPA or CPA firm not providing any of the services listed in Paragraph (a) of this Rule is exempt from peer review until the issuance of the first report provided to a client. A CPA of CPA firm shall register with the peer review program as listed in Paragraph (d) of this Rule within 30 days of the issuance of the first report provided to a client.

(c) A CPA, a new CPA firm or a CPA firm exempt from peer review that starts providing any of the services in Paragraph (a) of this Rule shall furnish to the peer review program selected financial statements, corresponding work papers, and any additional information or documentation required for the peer review program within 18 months of the issuance of the first report provided to a client.

(d) Participation in and completion of one of the following peer review programs is required:

- (1) AICPA Peer Review Program; or
- (2) Any other peer review program found to be equivalent to Subparagraph (1) of this Paragraph with advance approval by the Board.

(e) CPA firms shall not rearrange their structure or act in any manner with the intent to avoid participation in peer review.

(f) A CPA firm that does not have offices in North Carolina and that has provided any services as listed in G.S. 93-10(c)(3) to North Carolina clients is required to participate in a peer review program.

(g) Subsequent peer reviews of a CPA firm are due three years and six months from the year end of the 12 month period of the first peer review unless granted an extension by the peer review program.

*History Note: Authority G.S. 93-12(3); 93-12(8c);
Eff. January 1, 2004;
Amended Eff. January 1, 2014; February 1, 2011; January 1, 2006.*

21 NCAC 08N .0202 DECEPTIVE CONDUCT PROHIBITED

(a) A CPA shall not engage in deceptive conduct. "Deception" means any fraud, misrepresentations, representations, or omissions that a CPA either knows or should have known have a capacity or tendency to be misleading. Deceptive conduct is prohibited whether or not anyone has actually been deceived.

(b) Prohibited conduct under this Section includes deception in:

- (1) obtaining or maintaining employment;

- (2) obtaining or keeping clients;
- (3) obtaining or maintaining certification, inactive status, or exemption from peer review;
- (4) reporting CPE credits;
- (5) certifying the character or experience of exam or certificate applicants;
- (6) implying abilities not supported by education, professional attainments, or licensing recognition;
- (7) asserting that services or products sold in connection with use of the CPA title are of a particular quality or standard when they are not;
- (8) creating false or unjustified expectations of favorable results;
- (9) using or permitting another to use the CPA title in a form of business not permitted by the accountancy statutes or rules;
- (10) permitting anyone not certified in this state (including one licensed in another state) to unlawfully use the CPA title in this state or to unlawfully operate as a CPA firm in this state; or
- (11) falsifying a review, report, or any required program or checklist of any peer review program.

*History Note: Authority G.S. 55B-12; 57C-2-01; 93-12(3); 93-12(9);
Eff. April 1, 1994;
Amended Eff. January 1, 2014; January 1, 2004; April 1, 1999.*

21 NCAC 08N .0203 DISCREDITABLE CONDUCT PROHIBITED

(a) A CPA shall not engage in conduct discreditable to the accounting profession.

(b) Prohibited discreditable conduct includes:

- (1) acts that reflect adversely on the CPA's honesty, integrity, trustworthiness, good moral character, or fitness as a CPA;
- (2) stating or implying an ability to improperly influence a governmental agency or official;
- (3) failing to comply with any order issued by the Board;
- (4) failing to fulfill the terms of a peer review engagement contract;
- (5) misrepresentation in reporting CPE credits; or
- (6) entering into any settlement or other resolution of a dispute that purports to keep its contents confidential from the Board.

*History Note: Authority G.S. 55B-12; 57C-2-01; 93-12(3); 93-12(9);
Eff. April 1, 1994;
Amended Eff. January 1, 2014; January 1, 2004; August 1, 1995.*

**21 NCAC 08N .0208 REPORTING CONVICTIONS,
JUDGMENTS, AND DISCIPLINARY ACTIONS**

(a) Criminal Actions. A CPA shall notify the Board within 30 days of any conviction or finding of guilt of, pleading of nolo contendere, or receiving a prayer for judgment continued to any criminal offense.

(b) Civil Actions. A CPA shall notify the Board within 30 days of the following:

- (1) any judgment or settlement in a civil suit, bankruptcy action, administrative proceeding, or binding arbitration;
- (2) which is grounded upon an allegation of professional negligence, gross negligence, dishonesty, fraud, misrepresentation, incompetence, or violation of any federal or state tax law; and
- (3) that was brought against either the CPA or a North Carolina office of a CPA firm of which the CPA was a managing partner.

(c) Settlements. A CPA shall notify the Board within 30 days of any settlement in lieu of a civil suit or criminal charge which is grounded upon an allegation of professional negligence; gross negligence; dishonesty; fraud; misrepresentation; incompetence; or violation of any federal, state, or local law. Notification is required regardless of any confidentiality clause in the settlement.

(d) Investigations. A CPA shall notify the Board within 30 days of any inquiry or investigation by the Internal Revenue Service (IRS) or any state department of revenue criminal investigation divisions pertaining to any personal or business tax matters.

(e) Liens. A CPA shall notify the Board within 30 days of the filing of any liens by the Internal Revenue Service (IRS) or any state department of revenue regarding the failure to pay or apparent failure to pay for any amounts due any tax matters.

History Note: Authority G.S. 55B-12; 57C-2-01; 93-12(3); 93-12(9);
Eff. April 1, 1994;
Amended Eff. January 1, 2014; January 1, 2006; April 1, 2003;
April 1, 1999.

**CHAPTER 14 – BOARD OF COSMETIC ART
EXAMINERS**

**21 NCAC 14G .0101 REQUIREMENTS FOR
OPERATING COSMETIC ART SCHOOLS**

History Note: Authority G.S. 88-23; 88-30;
Eff. February 1, 1976;
Amended Eff. April 1, 1991; January 1, 1989;
Repealed Eff. January 1, 2014.

21 NCAC 14G .0107 EQUIPMENT AND TEACHERS
21 NCAC 14G .0108 VISITATION
21 NCAC 14G .0109 STUDENT CREDIT
**21 NCAC 14G .0110 TRANSFERABILITY OF
LETTERS OF APPROVAL**

**21 NCAC 14G .0111 CHANGE OF LOCATION:
OWNERSHIP OR MANAGEMENT**

21 NCAC 14G .0112 CONDITION OF EQUIPMENT
21 NCAC 14G .0113 TEACHER/STUDENT RATIO

History Note: Authority G.S. 88-23; 88-30; 88B-4; 88B-4(a)(9); 88B-11; 88B-16; 88B-22;
Eff. February 1, 1976;
Amended Eff. April 1, 2011; July 1, 2010; December 1, 2008;
November 1, 2005; August 1, 2004; April 1, 1999; August 1,
1998; May 1, 1991; April 1, 1991; January 1, 1989; May 1,
1988; April 1, 1988;
Repealed Eff. January 1, 2014.

**21 NCAC 14G .0117 CHANGES IN TEACHING
STAFF**

History Note: Authority G.S. 88-23;
Eff. January 1, 1989;
Amended Eff. September 1, 1991;
Repealed Eff. January 1, 2014.

**21 NCAC 14G .0118 SCHOOL CURRICULUM
APPROVAL**

History Note: Authority G.S. 88B-4; 88B-16;
Eff. April 1, 2011;
Repealed Eff. January 1, 2014.

21 NCAC 14I .0101 PERMANENT FILES
21 NCAC 14I .0102 DAILY RECORD
**21 NCAC 14I .0103 INSPECTION REPORTS AND
REPORTS OF STUDENTS HOURS**
21 NCAC 14I .0104 WITHDRAWALS
21 NCAC 14I .0105 TRANSFER OF CREDIT
21 NCAC 14I .0106 STUDENT DAILY RECORDS
21 NCAC 14I .0107 REPORT OF ENROLLMENT
21 NCAC 14I .0108 SEAL
**21 NCAC 14I .0109 SUMMARY OF COSMETIC ART
EDUCATION**

History Note: Authority G.S. 88-23; 88B-4; 88B-4(7a); 88B-7; 88B-8; 88B-9; 88B-10; 88B-10.1; 88B-16;
Eff. February 1, 1976;
August 1, 1998; April 1, 1995; December 1, 1993; May 1, 1991;
April 1, 1991; January 1, 1991; January 1, 1989; April 1, 1988;
Temporary Amendment Eff. January 1, 1999;
Amended Eff. April 1, 1999;
Temporary Amendment Eff. February 10, 2000;
Amended Eff. April 1, 2011; July 1, 2010; December 1, 2008;
July 1, 2006; December 1, 2004; February 1, 2004; April 1,
2001; August 1, 2000;
Repealed Eff. January 1, 2014.

21 NCAC 14I .0110 UNIFORM

History Note: Authority G.S. 88B-4(a)(10);
Eff. April 1, 2011;
Repealed Eff. January 1, 2014.

21 NCAC 14I .0201 RECEPTION AREA
21 NCAC 14I .0202 RECEPTION AREA SIGN
21 NCAC 14I .0203 BULLETIN BOARD
21 NCAC 14I .0204 SANITATION RULES
21 NCAC 14I .0205 DRESSING ROOM

History Note: Authority G.S. 88-23; 88-30;
Eff. February 1, 1976;
Amended Eff. April 1, 1991; January 1, 1989;
Repealed Eff. January 1, 2014.

21 NCAC 14I .0301 RECITATION ROOM
21 NCAC 14I .0302 LIBRARY
21 NCAC 14I .0303 CLASSROOM BULLETIN BOARD
21 NCAC 14I .0304 CLASSROOM WORK

History Note: Authority G.S. 88-23; 88-30; 88B-4; 88B-16;
 88B-23;
Eff. February 1, 1976;
Amended Eff. July 1, 2010; December 1, 2008; September 1, 1991; June 1, 1991; April 1, 1991; October 1, 1990; January 1, 1989; May 1, 1988;
Repealed Eff. January 1, 2014.

21 NCAC 14J .0101 DEPARTMENT SYSTEM
21 NCAC 14J .0102 UNIFORM
21 NCAC 14J .0103 TIME REQUIREMENTS ACCORDING TO HOURS

History Note: Authority G.S. 88-23; 88-26(1); 88B-4;
Eff. February 1, 1976;
Amended Eff. August 1, 1998; January 1, 1989; April 1, 1988;
Temporary Amendment Eff. January 1, 1999;
Amended Eff. December 1, 2004; August 1, 2000;
Repealed Eff. January 1, 2014.

21 NCAC 14J .0107 APPROVED FIELD TRIPS

History Note: Authority G.S. 88B-4;
Eff. October 1, 1990;
Amended Eff. April 1, 2001;
Repealed Eff. January 1, 2014.

21 NCAC 14J .0201 ELIGIBILITY FOR ADVANCED DEPARTMENT
21 NCAC 14J .0202 PRACTICAL WORK FOR ADVANCED STUDENTS
21 NCAC 14J .0203 STORING AND LABELING OF COSMETICS

History Note: Authority G.S. 88-23;
Eff. February 1, 1976;
Amended Eff. July 1, 2010; August 1, 1998; January 1, 1989;
Repealed Eff. January 1, 2014.

21 NCAC 14J .0206 EQUIPMENT IN ADVANCED DEPARTMENT

History Note: Authority G.S. 88B-4;
Eff. February 1, 1976;
Amended Eff. June 1, 2010; May 1, 2007; April 1, 2004; August 1, 1998; October 1, 1990; January 1, 1989; April 1, 1988;
Repealed Eff. January 1, 2014.

21 NCAC 14K .0101 UNIFORMS
21 NCAC 14K .0102 COURSE OF STUDY
21 NCAC 14K .0103 EQUIPMENT AND INSTRUMENTS
21 NCAC 14K .0104 SERVICES PERFORMED
21 NCAC 14K .0105 IDENTIFICATION PINS

History Note: Authority G.S. 88B-4; 88-8; 88B-10; 88B-14;
 88B-16; 88-23; 88B-23;
Eff. February 1, 1976;
Amended Eff. August 1, 1998; April 1, 1991; December 1, 1990; January 1, 1989; April 1, 1988; Temporary Amendment Eff. January 1, 1999;
Amended Eff. December 1, 2008; December 1, 2004; April 1, 2001; August 1, 2000;
Repealed Eff. January 1, 2014.

21 NCAC 14L .0208 SUPERVISION OF COSMETIC ART TEACHER TRAINEE
21 NCAC 14L .0209 TIME REQUIREMENTS FOR TEACHER TRAINEE PROGRAM
21 NCAC 14L .0210 EFFECT ON STUDENT-TEACHER RATIO
21 NCAC 14L .0211 WORK ON PUBLIC PROHIBITED

History Note: Authority G.S. 88-23; 88B-4; 88B-11;
Eff. February 1, 1976;
Amended Eff. July 1, 2010; December 1, 2008; December 1, 2004; April 1, 1999; June 1, 1991; April 1, 1991; August 1, 1989; April 1, 1989;
Repealed Eff. January 1, 2014.

21 NCAC 14L .0215 TEACHER'S MANUAL AND SUPERVISION
21 NCAC 14L .0216 TEACHER TRAINING CURRICULUM

History Note: Authority G.S. 88-23; 88B-4; 88B-11;
Eff. April 1, 1991;
Amended Eff. March 2, 1992;
Temporary Amendment Eff. January 1, 1999;
Amended Eff. August 1, 2000;
Repealed Eff. January 1, 2014.

21 NCAC 14O .0101 UNIFORMS
21 NCAC 14O .0102 COURSE OF STUDY
21 NCAC 14O .0103 EQUIPMENT AND INSTRUMENTS
21 NCAC 14O .0104 SERVICES PERFORMED

History Note: Authority G.S. 88B-4; 88B-9; 88B-16;
Temporary Adoption Eff. January 1, 1999;

Eff. August 1, 2000;

Amended Eff. December 1, 2008; February 1, 2004;

Repealed Eff. January 1, 2014.

21 NCAC 140 .0105 IDENTIFICATION PINS

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

Temporary Adoption Eff. January 1, 1999;

Temporary Adoption Expired October 12, 1999;

Temporary Adoption Eff. February 10, 2000;

Eff. April 1, 2001;

Amended Eff. December 1, 2008;

Repealed Eff. January 1, 2014.

21 NCAC 14P .0112 SANITARY RATINGS AND POSTING OF RATINGS - APPLICABLE TO ESTABLISHMENTS WITH A SANITATION GRADE OF LESS THAN 80%

History Note: Authority G.S. 88B-4; 88B-29;

Temporary Adoption Eff. January 1, 1999;

Eff. August 1, 2000;

Amended Eff. September 1, 2012; December 1, 2008; February 1, 2006;

Repealed Eff. January 1, 2014.

21 NCAC 14S .0101 UNIFORM

21 NCAC 14S .0102 TIME REQUIREMENTS

ACCORDING TO HOURS

21 NCAC 14S .0103 APPROVED FIELD TRIPS

21 NCAC 14S .0104 EQUIPMENT FOR BEGINNER DEPARTMENT

21 NCAC 14S .0105 STORING AND LABELING OF COSMETICS

21 NCAC 14S .0106 EQUIPMENT

21 NCAC 14S .0107 PERFORMANCES

21 NCAC 14S .0108 STUDENTS' PERSONAL SUPPLIES

21 NCAC 14S .0109 TESTS

21 NCAC 14S .0110 APPROVAL OF CREDIT FOR NATURAL HAIR CARE INSTRUCTION/ANOTHER STATE

21 NCAC 14S .0111 SERVICES PERFORMED

21 NCAC 14S .0112 LICENSING OF NATURAL HAIR CARE SPECIALISTS

21 NCAC 14S .0112 LICENSING OF NATURAL HAIR CARE SPECIALISTS

History Note: Authority G.S. 88B-4; 88B-4(a)(7a); 88B-4(a)(9); 88B-4(a)(10); 88B-10.1; 88B-13; S.L. 2009-521;

Eff. July 1, 2010;

Amended Eff. April 1, 2011;

Repealed Eff. January 1, 2014.

21 NCAC 14T .0502 PERMANENT RECORDS, FORMS AND DOCUMENTATION

(a) Cosmetic art schools must maintain a secure and locked permanent file of matriculations for all enrolled students and students who have withdrawn or graduated within the last six

months together in one room within the approved square footage of the cosmetic art school. Withdrawal and graduation forms reviewed by the Board or an agent of the Board may be removed from this room. The permanent file shall include a copy of:

- (1) Board Enrollment Form;
- (2) Documentation of student receipt of school policies, school and student contract and the Board felony policy;
- (3) All applicable Board Withdrawal Forms;
- (4) Social security card for any individual who has a social security number or tax ID card or student visa information;
- (5) Government issued ID and proof of date of birth;
- (6) Grades for all examinations and documentation for pass/fail performances;
- (7) Documentation for any leave of absence over 30 days;
- (8) Transfer of hours form documenting hours earned in other schools and hours accepted by current school; and
- (9) Graduation Form.

(b) The school shall keep records of hours earned daily including field trip hours and documentation of field trip hours updated with a running grand total:

- (1) A daily record shall be kept of the performances for each student, showing the actual date of the performance and the teacher who approved;
- (2) A daily record shall be kept of the actual number of hours of attendance; and
- (3) An updated Performance Record.

(c) When a student enrolled in a cosmetic art school withdraws from such school, the cosmetic art school shall report to the Board its administrative decision to withdraw the student.

(d) If a student withdraws from a cosmetic art program within the first five days, the school need not submit the enrollment to the Board.

(e) The graduation form documentation must be signed by on site school staff or on site school administrators and must have the seal of the school affixed. The original graduation form documentation must be prepared on the Board form. The cosmetic art school shall mail the graduation form to the Board at the Board's address set forth in Rule 14A .0104 within 30 days of the student's graduation date with the school seal affixed.

(f) All forms submitted to the Board must be sealed originals and a copy shall be maintained in the school file. All forms submitted to the Board must be completed, except for student signatures as necessary, by on site school staff or on site school administrators. Board forms shall be used for the sole purpose of documenting to the Board student records and shall not be used to notify students of enrollment, transfer of hours, withdrawal or graduation.

(g) Changes or corrections made by the school to any Board form must be submitted to the Board with supporting documentation.

(h) All cosmetic art schools must maintain on file at the school an original daily record of enrolled students' hour and performances. This record must be kept in a secured location

under lock and key but made available for review by the Board or its agent at any time.

(i) All records kept by a cosmetic art school on a student who has withdrawn or graduated must be kept in the school's locked files for future reference until the date the student is accepted for the Board examination or five years after the date the student first enrolled in the school, whichever occurs earlier. Forms reviewed by the Board or an agent of the Board may be removed from this room.

(j) The record of all hours and performances must be documented in writing. Credit issued to students that cannot be verified may be eliminated from the student record by an agent of the Board.

(k) Access to student records must be limited to agents of the Board, teachers and administrators of the school. Records cannot be altered offsite. Records altered onsite must have documentation supporting the change attached.

(l) All individuals in a cosmetic art school receiving cosmetic art education, earning hours, performing or practicing cosmetic art services must be enrolled in the school.

(m) Only teachers reported to the Board as employees of a cosmetic art school may grade practical student examinations and evaluate pass/fail of student performances. Only on site teachers, on site school administrators or on site school staff shall record student hours and performances, grade examinations and determine completion and record credit of live model and mannequin performances.

(n) Minimum scores required for examinations and the successful completion of live model/mannequin performances as determined through the school's evaluation plan that is approved by the Board at the time of application shall be disclosed to students at the time of enrollment. Passing grades and performances cannot be credited to students who fail to meet the requirements of the evaluation plan.

(o) Cosmetic art schools must provide to each student a copy of school policies, the Board felony policies and shall retain for the permanent file a copy of the student's acknowledgement of receipt of these policies.

(p) The names of students with unsatisfied academic obligations shall not be submitted to the Board as graduates but may be submitted as withdrawn.

(q) Cosmetic art schools shall not report to the Board the unsatisfied financial obligations of any cosmetic art student. Cosmetic art schools shall not prevent the graduation of students who have met the Board minimum requirements and passed all school academic requirements.

(r) Records of hours must be rounded to no more than the nearest quarter hour. Cosmetic art schools shall not give or deduct hours or performances as a rewards or penalties.

(s) An applicant may receive credit for instruction taken in another state if the conditions set forth in this Rule are met. In order to determine if the conditions have been met the applicant's record shall be certified by the state agency or department that issues licenses to practice in the cosmetic arts. If this agency or department does not maintain any student records or if the state does not give license to practice in the cosmetic arts, then the records may be certified by any state department or state agency that does maintain such records and is willing to certify their accuracy. If no state department or board will certify

the accuracy of the student's records, then the Board shall review the student's records on a case-by-case basis.

(t) Hours transferred between open North Carolina schools must be obtained by the submission of the Board transfer form mailed directly from the school in which the hours are earned with the school seal affixed, with grades for examinations and performances to the new school in which a student enrolls. Such original documentation shall be submitted to the Board with enrollment.

(u) A student must pass an entrance examination given by the school to which the student is transferring for the hours to be transferred from one cosmetic art school to another.

*History Note: Authority G.S. 88B-4; 88B-16;
Eff. January 1, 2012;
Amended Eff. January 1, 2014; June 1, 2013.*

CHAPTER 16 – BOARD OF DENTAL EXAMINERS

21 NCAC 16H .0203 PERMITTED FUNCTIONS OF DENTAL ASSISTANT II

(a) A Dental Assistant II may perform all acts or procedures which may be performed by a Dental Assistant I. In addition, a Dental Assistant II may be delegated the following functions to be performed under the direct control and supervision of a dentist who shall be personally and professionally responsible and liable for any and all consequences or results arising from the performance of such acts and functions:

- (1) Take impressions for study models and opposing casts that will not be used for construction of dental appliances, but that may be used for the fabrication of adjustable orthodontic appliances, nightguards and the repair of dentures or partials;
- (2) Apply sealants to teeth that do not require mechanical alteration prior to the application of such sealants, provided a dentist has examined the patient and prescribed the procedure;
- (3) Insert matrix bands and wedges;
- (4) Place cavity bases and liners;
- (5) Place and remove rubber dams;
- (6) Cement temporary restorations using temporary cement;
- (7) Apply acid etch materials/rinses;
- (8) Apply bonding agents;
- (9) Remove periodontal dressings;
- (10) Remove sutures;
- (11) Place gingival retraction cord;
- (12) Remove excess cement;
- (13) Flush, dry and temporarily close root canals;
- (14) Place and remove temporary restorations;
- (15) Place and tie in or untie and remove orthodontic arch wires;
- (16) Insert interdental spacers;
- (17) Fit (size) orthodontic bands or brackets;
- (18) Apply dentin desensitizing solutions;

- (19) Perform extra-oral adjustments which affect function, fit or occlusion of any temporary restoration or appliance;
- (20) Initially form and size orthodontic arch wires and place arch wires after final adjustment and approval by the dentist; and
- (21) Polish the clinical crown using only;
 - (A) a hand-held brush and appropriate polishing agents; or
 - (B) a combination of a slow speed handpiece (not to exceed 10,000 rpm) with attached rubber cup or bristle brush, and appropriate polishing agents.

(b) A Dental Assistant II must complete a course in coronal polishing taught by a licensed North Carolina hygienist or dentist lasting at least seven clock hours before using a slow speed handpiece with rubber cup or bristle brush attachment. The course must include instruction on dental morphology, the periodontal complex, operation of handpieces, polishing aids and patient safety. A coronal polishing procedure shall not be represented to the patient as a prophylaxis and no coronal polishing procedure may be billed as a prophylaxis unless the dentist has also performed an evaluation for calculus, deposits, or accretions and a dentist or dental hygienist has removed any substances detected.

History Note: Authority G.S. 90-29(c)(9); 90-48; Eff. September 3, 1976; Readopted Eff. September 26, 1977; Amended Eff. January 1, 2014; September 1, 2009; September 1, 2008; August 1, 2000; October 1, 1996; January 1, 1994; May 1, 1989; October 1, 1985; March 1, 1985.

CHAPTER 28 - LANDSCAPE CONTRACTORS REGISTRATION BOARD

21 NCAC 28 .0101 AUTHORITY: NAME AND LOCATION OF BOARD

All communications to the North Carolina Landscape Contractors' Registration Board, hereafter called the "Board," shall be addressed to the Board at Post Office Box 20875, Raleigh, North Carolina 27619.

History Note: Authority G.S. 89D-4; Eff. February 1, 1976; Readopted Eff. September 30, 1977; Amended Eff. January 1, 2014; May 1, 2007.

CHAPTER 63 – SOCIAL WORK CERTIFICATION AND LICENSURE BOARD

21 NCAC 63 .0403 RENEWAL FEES

(a) Fees for renewal of certificates or licenses are as follows:

- (1) For Certified Social Workers (CSW's), the renewal fee is seventy dollars (\$70.00).
- (2) For Certified Master Social Workers (CMSW's), the renewal fee is ninety dollars (\$90.00)
- (3) For Licensed Clinical Social Workers (LCSW's), the renewal fee is one hundred and fifty dollars (\$150.00).
- (4) For Licensed Clinical Social Worker Associates (LCSWA's), the renewal fee is one hundred and forty dollars (\$140.00).
- (5) For Certified Social Work Managers (CSWM's), the renewal fee shall be one hundred and fifty dollars (\$150.00).

(b) Persons whose applications for renewal are received by the Board after the renewal date of their certificate or license, but no later than 60 days after the renewal date, shall pay a late renewal fee of fifty dollars (\$50.00) in addition to any other applicable fees.

History Note: Authority G.S. 90B-6; 90B-6.2; 90B-9(b); Eff. August 1, 1987; Amended Eff. August 1, 1990; Temporary Amendment Eff. October 1, 1999; Amended Eff. January 1, 2014; August 1, 2012; January 1, 2009; March 1, 2006; July 1, 2000.

21 NCAC 63 .0405 REQUIRED REPORTING BY LICENSEE OF CHANGES TO BOARD

(a) Each licensee shall notify the Board in writing of the following changes within 30 days of the effective date of the changes:

- (1) Change of the licensee's name, which shall be accompanied by documentation such as a certified marriage certificate or driver's license;
- (2) Change in the licensee's residence or business address, including street and mailing address;
- (3) Change in the licensee's residence or business telephone number; and
- (4) Any adverse action or disciplinary action against a licensee or certificate holder from a licensing board, professional certifying body, or professional organization for any conduct described in G.S. 90B-11(a).

(b) Within 30 days of the effective date of a disposition in a criminal matter in which the licensee is defendant, including driving under the influence, each licensee shall send to the Board a certified copy of any plea of guilty, finding of guilty, plea of nolo contendere, or deferred judgment.

(c) The licensee's failure to report the dispositions addressed by Subparagraph (a)(4) and Paragraph (b) of this Rule to the Board shall be considered a violation of the Ethical Guidelines, Section .0500.

History Note: Authority G.S. 90B-6; 90B-9; 90B-11; Eff. September 1, 2005; Amended Eff. January 1, 2014.

21 NCAC 63 .0701 PETITIONS FOR ADOPTION OF RULES

(a) The procedure for petitioning the Board to adopt, amend, or repeal a rule is governed by G.S. 150B-20.

(b) Submission. Rule-making petitions shall be sent to the executive director of the Board. Contact information for the Board can be found on the Board's website at www.ncswboard.org. No special form is required. The rule-making petition shall contain the following information:

- (1) the name and address of the person making the request;
- (2) the proposed text of any requested rule change; and
- (3) a statement of the effect of the requested change.

(c) The Board does not require the following information to be submitted with the petition, but does consider the following information to be pertinent:

- (1) the reason for its proposal;
- (2) data supporting the proposed rule;
- (3) practices likely to be affected by the proposed rule; and
- (4) persons likely to be affected by the proposed rule.

(d) Disposition. The executive director shall present the petition and his or her recommendation to the Board at its next regular meeting following receipt of the petition, and the Board shall render its decision to either deny the petition or initiate rule-making. The Board shall notify the petitioner of its decision in writing within the 120-day period set by G.S. 150B-20.

History Note: Authority G.S. 90B-6(h); 150B-20; Eff. September 1, 1989; Temporary Amendment Eff. October 1, 1999;

Amended Eff. January 1, 2014; July 1, 2000.

21 NCAC 63 .0704 DECLARATORY RULINGS

(a) General. The issuance of declaratory rulings by the Board is governed by G.S. 150B-4.

(b) Contents of a Request for Declaratory Ruling. A request for a declaratory ruling shall be in writing and addressed to the executive director of the Board. The request shall contain the following information:

- (1) The name and address of the person making the request;
- (2) The statute or rule to which the request relates;
- (3) A concise statement of the need for a declaratory ruling as set forth in G.S. 150B-4(a);
- (4) A statement as to whether a hearing is desired, and if desired, the reason therefore.

(c) Refusal to Issue Ruling. The Board may refuse to issue a declaratory ruling under the following circumstances:

- (1) When the Board has already made a controlling decision on substantially similar facts in a contested case;
- (2) When the facts underlying the request for a ruling were specifically considered at the time of the adoption of the Rule in question; or
- (3) When the subject matter of the request is involved in any pending litigation in North Carolina.

History Note: Authority G.S. 90B-6(h); 150B-4; Eff. September 1, 1989; Temporary Amendment Eff. October 1, 1999; Amended Eff. January 1, 2014; July 1, 2000.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission on January 16, 2014 and February 20, 2014 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-431-3000. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

Jeff Hyde
Margaret Currin
Jay Hemphill
Faylene Whitaker

Appointed by House

Ralph A. Walker
Anna Baird Choi
Jeanette Doran
Garth K. Dunklin
Stephanie Simpson

COMMISSION COUNSEL

Joe Deluca	(919)431-3081
Amanda Reeder	(919)431-3079
Abigail Hammond	(919)431-3076

RULES REVIEW COMMISSION MEETING DATES

February 20, 2014	March 20, 2014
April 17, 2014	May 15, 2014

RULES REVIEW COMMISSION MEETING MINUTES

January 16, 2014

The Rules Review Commission met on Thursday, January 16, 2014, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Anna Choi, Margaret Currin, Garth Dunklin, Jeff Hyde, Stephanie Simpson and Ralph Walker.

Staff members present were: Commission Counsels Amanda Reeder and Abigail Hammond; and Molly Masich, Dana Vojtko, Julie Brincefield, and Tammara Chalmers.

The meeting was called to order at 10:00 a.m. with Vice-Chairman Currin presiding. She read the notice required by NCGS 138A-15(e) and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts.

APPROVAL OF MINUTES

Vice-Chairman Currin asked for any discussion, comments, or corrections concerning the minutes of the December 19, 2013 meeting. There were none and the minutes were approved as distributed

FOLLOW-UP MATTERS

NC Rural Electrification Authority

04 NCAC 08 .0101, .0102, .0107, .0108, .0109, .0110, .0111, .0112, .0201, .0202, .0203, .0204, .0205, .0206, .0207, .0208, .0209, .0210, .0211, .0212, .0301, .0302, .0303, .0305, .0306, .0307, .0308, .0309, .0310, .0311, .0312, .0401, .0404 - There has been no response from the agency and no action was taken.

Home Inspector Licensure Board

All rules were unanimously approved.

Environmental Management Commission

The rule was unanimously approved.

Board of Occupational Therapy

Both rules were unanimously approved.

LOG OF FILINGS

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

Child Care Commission

The Commission extended the period of review on 10A NCAC 09 .0302, .1702, .2506, .2701, .2702, .2703, .2704 and .2903 in accordance with G.S. 150B-21.13. The Commission extended the period of review to allow the Child Care Commission additional time to review staff's Request for Technical Changes.

Commission for Mental Health

The Commission objected to Rule 10A NCAC 27G .0504 based on lack of statutory authority, as there does not appear to be any authority for the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services to alter the language of G.S. 122C-64 as set forth in Subparagraph (b)(5) of the Rule.

W. Denise Baker with the agency addressed the Commission.

Criminal Justice Education and Training Standards Commission

All rules were unanimously approved.

Sheriffs' Education and Training Standards Commission

All of the rules were unanimously approved with the following exception:

The Commission objected to Rule 12 NCAC 10B .1901 based on lack of statutory authority to abrogate the statute by requiring the military trained applicant to have a Military Occupational Specialty or equivalent training, testing or completed a military training of program, when both are required by the law. Further, the Rule is unclear what will constitute equivalent experience for this licensure.

Marine Fisheries Commission

All of the rules were unanimously approved with the following exceptions:

15A NCAC 03J .0207 and 15A NCAC 03Q .0202 were withdrawn by the agency.

Wildlife Resources Commission

Both rules were unanimously approved.

Appraisal Board

21 NCAC 57A .0202 was unanimously approved.

Speech and Language Pathologists and Audiologists, Board of Examiners for

The Commission objected to Rules 21 NCAC 64 .0206, .0219 and .0307 because the agency failed to comply with the Administrative Procedure Act, as it adopted the Rules before the close of the comment period.

The Commission also objected to Rule .0219 on the grounds of ambiguity. It is unclear in Paragraph (d) what the "requirements of the patient site" are.

The Commission additionally objected to Rule .0307 based upon ambiguity, as it is unclear what the Board meant to references to the "Article" in this context, and ambiguity regarding what will constitute "inconsistent and in conflict."

G.S 150B-19.1(h) RRC CERTIFICATION

Vice-Chairman Currin presided over the review of the log of RRC Certification.

Department of Justice

The Commission certified that the agency adhered to the principles in G.S. 150B-19.1 for proposed rules 12 NCAC 12 .0101, .0102, .0202, .0204, .0205, .0208, .0210, .0214, .0304, and .0501.

The Commission did not certify Rules 02I .0104, .0203, .0206, .0211, .0212, .0213 and .0306.

Trevor Allen, who is with the agency, addressed the Commission.

2014 STATE MEDICAL FACILITIES PLAN

The Commission found that the Department of Health and Human Services and the State Health Coordinating Council complied with G.S. 131E-176(25) in the adoption of the 2014 Plan.

COMMISSION BUSINESS

The Commission discussed the adoption of Rule 26 NCAC 05 .0211, which sets forth the schedule the Commission will use in implementing the HB 74 rule review process. RRC Rule .0211 was proposed for adoption and publication in the NCR and is attached. The Commission approved publishing the rule for a 45 day comment period.

Vice-Chairman Currin opened the meeting for a public hearing on the proposed adoption of Rules 26 NCAC 05 .0201-.0210 at 11:00 a.m. Vice-Chairman Currin called on anyone present who wished to comment on or object to the adoption of 26 NCAC 05 .0201-.0210 as they were noticed in the NC Register. Nadia Luhr from the NC Conservation Network, Brooks Rainey Pearson from the Southern Environmental Law Center, and Lacy Presnell from the Department of Environment and Natural Resources made their comments before the Commission. Staff informed the Commission that it received four written comments before the meeting, and that the comments will become part of the rulemaking record. The period to receive comments will expire at 5:00 p.m., February 14, 2014. The Commission may vote on the adoption of 26 NCAC 05 .0201-.0210 at its regularly scheduled meeting in February.

The public hearing portion of the meeting was closed at 11:12 a.m.

The Commission's Bylaws require that elections be held at the January meeting. The following members were elected as officers:

Margaret Currin was elected Chairman.

Garth Dunklin was elected 1st Vice-Chairman.

Stefanie Simpson was elected 2nd Vice-Chairman.

The Commission thanked Judge Walker for his service as Chairman.

The meeting adjourned at 11:25 a.m.

A special meeting for the review of Temporary Rules is scheduled on Wednesday, January 29th, at 9:30 a.m.

The next regularly scheduled meeting of the Commission is Thursday, February 20th at 10:00 a.m.

There is a digital recording of the entire meeting available from the Office of Administrative Hearings / Rules Division.

Respectfully Submitted,

Dana Vojtko
Publications Coordinator

26 NCAC 05 .0211 is proposed for adoption as follows:

TITLE 26 – OFFICE OF ADMINISTRATIVE HEARINGS

CHAPTER 05 – RULES REVIEW COMMISSION

SECTION .0200 PERIODIC REVIEW OF EXISTING RULES

26 NCAC 05 .0211 SCHEDULE

(a) The Commission shall review the report prepared for the identified portion of the Administrative Code on the month and year as set forth below:

July 2014	August 2014	September 2014	October 2014	November 2014
21 NCAC 23 21 NCAC 37 25 NCAC 01A 25 NCAC 01B 25 NCAC 01C 25 NCAC 02 03 NCAC 01	04 NCAC 24 21 NCAC 08 21 NCAC 52 24 NCAC 02	02 NCAC 57 04 NCAC 17 15A NCAC 01A 15A NCAC 01S 18 NCAC 03 18 NCAC 05 21 NCAC 01 21 NCAC 30 21 NCAC 42 21 NCAC 45	15A NCAC 02T 15A NCAC 02U 15A NCAC 01G 15A NCAC 02B 15A NCAC 02H	04 NCAC 14 11 NCAC 14 11 NCAC 18 11 NCAC 20 11 NCAC 21 11 NCAC 22 13 NCAC 08 13 NCAC 10 15A NCAC 12A 15A NCAC 12B 15A NCAC 12C 15A NCAC 12D 15A NCAC 12F 15A NCAC 12G 15A NCAC 12I 15A NCAC 12J 15A NCAC 12K 15A NCAC 01H 21 NCAC 20 21 NCAC 21 21 NCAC 28 21 NCAC 69
December 2014	January 2015	February 2015	March 2015	April 2015
10A NCAC 45 21 NCAC 02 21 NCAC 14 21 NCAC 62	02 NCAC 09B 02 NCAC 09C 02 NCAC 09D 02 NCAC 09E 02 NCAC 09F 02 NCAC 09G 02 NCAC 09H 02 NCAC 09J 02 NCAC 09K 02 NCAC 09M 02 NCAC 09N 02 NCAC 09O 02 NCAC 38 02 NCAC 43F 02 NCAC 51 02 NCAC 52A 02 NCAC 52K 02 NCAC 54 10A NCAC 13A	09 NCAC 03 09 NCAC 06 10A NCAC 97 15A NCAC 02S 21 NCAC 06	04 NCAC 08 10A NCAC 05 10A NCAC 09	10A NCAC 13L 10A NCAC 13M 10A NCAC 13O 10A NCAC 26A 10A NCAC 26B 10A NCAC 26D 15A NCAC 02R 15A NCAC 18D 21 NCAC 11 21 NCAC 32

RULES REVIEW COMMISSION

	10A NCAC 13D 10A NCAC 13G 10A NCAC 14I 15A NCAC 01F			
May 2015	June 2015	July 2015	August 2015	September 2015
07 NCAC 04 15A NCAC 08 15A NCAC 18D 17 NCAC 03 17 NCAC 06	04 NCAC 02R 10A NCAC 21 10A NCAC 22 21 NCAC 50 21 NCAC 61	02 NCAC 20B 02 NCAC 37 02 NCAC 42 02 NCAC 59A 02 NCAC 59B 02 NCAC 59C 02 NCAC 59E 02 NCAC 59F 02 NCAC 59G 02 NCAC 60A 02 NCAC 60B 15A NCAC 01I 15A NCAC 09 21 NCAC 60 21 NCAC 63	10A NCAC 13H 10A NCAC 70I 10A NCAC 70K 19A NCAC 01 19A NCAC 04 19A NCAC 05 19A NCAC 06	04 NCAC 15 10A NCAC 63 15A NCAC 18C
October 2015	November 2015	December 2015	January 2016	February 2016
10A NCAC 40 10A NCAC 47 11 NCAC 11 11 NCAC 19 18 NCAC 01 18 NCAC 04 18 NCAC 13 25 NCAC 01D 06 NCAC 01 06 NCAC 02 06 NCAC 03 06 NCAC 04	10A NCAC 14J 10A NCAC 46 10A NCAC 48 13 NCAC 15 13 NCAC 20 15A NCAC 12H	15A NCAC 02Q 15A NCAC 02D 15A NCAC 07B	01 NCAC 01 01 NCAC 03 01 NCAC 04 01 NCAC 25 01 NCAC 26 10A NCAC 13P 10A NCAC 26E 10A NCAC 26F 15A NCAC 04 21 NCAC 18 21 NCAC 29	10A NCAC 10 10A NCAC 89 13 NCAC 07 13 NCAC 12
March 2016	April 2016	May 2016	June 2016	July 2016
04 NCAC 01 10A NCAC 17 15A NCAC 01L 15A NCAC 01N 20 NCAC 01 20 NCAC 04 20 NCAC 07	10A NCAC 13J 10A NCAC 27A 10A NCAC 27B 10A NCAC 27D 11 NCAC 06 11 NCAC 13 16 NCAC 01 16 NCAC 02 16 NCAC 03 25 NCAC 01F	01 NCAC 05 10A NCAC 23 10A NCAC 25 21 NCAC 38 26 NCAC 01 26 NCAC 02 26 NCAC 03 26 NCAC 04	04 NCAC 02S 17 NCAC 01 17 NCAC 09 17 NCAC 10 17 NCAC 11 17 NCAC 12	19A NCAC 02
August 2016	September 2016	October 2016	November 2016	December 2016
10A NCAC 06 10A NCAC 67 10A NCAC 68 10A NCAC 69 10A NCAC 70A 10A NCAC 70B 10A NCAC 70C 10A NCAC 70D 10A NCAC 70E 10A NCAC 70F 10A NCAC 70G 10A NCAC 70H 10A NCAC 72	12 NCAC 01 12 NCAC 02 12 NCAC 03 12 NCAC 04 12 NCAC 06 21 NCAC 12 21 NCAC 17 21 NCAC 22 21 NCAC 64 25 NCAC 01E 25 NCAC 01K 25 NCAC 01L 25 NCAC 01M	10A NCAC 39 10A NCAC 43C 10A NCAC 43E 10A NCAC 43G 10A NCAC 43H 10A NCAC 43I 10A NCAC 43J 18 NCAC 06 18 NCAC 07 18 NCAC 10	10A NCAC 14F 15A NCAC 10F 15A NCAC 10H 20 NCAC 03 20 NCAC 08 20 NCAC 09 20 NCAC 10	01 NCAC 09 01 NCAC 15 01 NCAC 17 01 NCAC 19 01 NCAC 35 08 NCAC 01 08 NCAC 02 08 NCAC 03 08 NCAC 04 08 NCAC 05 08 NCAC 06 08 NCAC 07 08 NCAC 08

RULES REVIEW COMMISSION

	25 NCAC 01N 25 NCAC 01O			08 NCAC 09 08 NCAC 10 08 NCAC 12 08 NCAC 13 11 NCAC 10 11 NCAC 16 14B NCAC 01 14B NCAC 02 14B NCAC 03 14B NCAC 04 14B NCAC 05 14B NCAC 06 14B NCAC 07 15A NCAC 02A 15A NCAC 02C 15A NCAC 02E
January 2017	February 2017	March 2017	April 2017	May 2017
02 NCAC 48C 02 NCAC 48D 02 NCAC 48F 02 NCAC 52B 02 NCAC 52C 02 NCAC 52D 02 NCAC 52E 02 NCAC 52F 02 NCAC 52G 02 NCAC 52H 02 NCAC 52I 02 NCAC 59D 02 NCAC 59H 10A NCAC 27E 10A NCAC 27F 10A NCAC 27H 15A NCAC 05A 15A NCAC 05B 15A NCAC 05C 15A NCAC 05F 15A NCAC 05G	04 NCAC 06 10A NCAC 01 15A NCAC 01D 15A NCAC 01E 25 NCAC 01H 25 NCAC 01I 25 NCAC 01J	10A NCAC 71 21 NCAC 04 21 NCAC 31	10A NCAC 27I 10A NCAC 28A 13 NCAC 14 15A NCAC 01C 15A NCAC 13A 15A NCAC 13B 15A NCAC 13C	07 NCAC 01 07 NCAC 02 07 NCAC 03 07 NCAC 05 07 NCAC 06 07 NCAC 07 07 NCAC 08 07 NCAC 09 07 NCAC 10 07 NCAC 11 07 NCAC 12 10A NCAC 13B 12 NCAC 10
June 2017	July 2017	August 2017	September 2017	October 2017
04 NCAC 02T 17 NCAC 05 21 NCAC 25 21 NCAC 26	02 NCAC 29 02 NCAC 31 02 NCAC 39 02 NCAC 53 02 NCAC 58 02 NCAC 43A 02 NCAC 43B 02 NCAC 43C 02 NCAC 43D 02 NCAC 43E 02 NCAC 43G 02 NCAC 43L 02 NCAC 43M 21 NCAC 54 24 NCAC 01 24 NCAC 03	04 NCAC 12 10A NCAC 70 10A NCAC 70J 10A NCAC 70L 10A NCAC 70M 10A NCAC 70N 10A NCAC 70O 12 NCAC 11 21 NCAC 57	04 NCAC 03 10A NCAC 43A 10A NCAC 43B 10A NCAC 43F	10A NCAC 13C 10A NCAC 42 10A NCAC 43D 10A NCAC 44 15A NCAC 02K 18 NCAC 02 18 NCAC 12
November 2017	December 2017	January 2018	February 2018	March 2018
01 NCAC 38 01 NCAC 39 01 NCAC 40	10A NCAC 41A 10A NCAC 41B 10A NCAC 41D	10A NCAC 13F 10A NCAC 28B 10A NCAC 28C	04 NCAC 19 15A NCAC 02L 15A NCAC 02N	21 NCAC 58 21 NCAC 68

RULES REVIEW COMMISSION

01 NCAC 43 01 NCAC 44 10A NCAC 14 A 10A NCAC 14G 10A NCAC 14H 11 NCAC 08 14B NCAC 08 14B NCAC 09 14B NCAC 10 14B NCAC 11 14B NCAC 12 14B NCAC 13 14B NCAC 14 21 NCAC 39	10A NCAC 41E 10A NCAC 41F 10A NCAC 41G 15A NCAC 03 15A NCAC 10B 15A NCAC 10C	15A NCAC 07A 15A NCAC 07H 15A NCAC 07I 15A NCAC 07J 15A NCAC 07K 15A NCAC 07L 15A NCAC 07M	15A NCAC 02O 15A NCAC 02P	
April 2018	May 2018	June 2018	July 2018	August 2018
10A NCAC 26C 10A NCAC 27C 10A NCAC 28D 10A NCAC 28E 11 NCAC 12 15A NCAC 22 15A NCAC 28 21 NCAC 19	01 NCAC 06 01 NCAC 30 13 NCAC 01 13 NCAC 04 13 NCAC 05 13 NCAC 06 13 NCAC 13 13 NCAC 16 13 NCAC 17 13 NCAC 18 13 NCAC 19 21 NCAC 33 21 NCAC 36	21 NCAC 07 21 NCAC 34 21 NCAC 46	19A NCAC 03	12 NCAC 07 20 NCAC 02 21 NCAC 48 21 NCAC 65 21 NCAC 66
September 2018	October 2018	November 2018	December 2018	January 2019
02 NCAC 09L 02 NCAC 34 04 NCAC 16	10A NCAC 13K 10A NCAC 41H 17 NCAC 04 18 NCAC 08 18 NCAC 11 21 NCAC 40	10A NCAC 14C 11 NCAC 05 11 NCAC 07 15A NCAC 18A	10A NCAC 41C 15A NCAC 01O 15A NCAC 18B 15A NCAC 18C 15A NCAC 27 15A NCAC 02G 15A NCAC 02I 15A NCAC 02J 15A NCAC 10A 15A NCAC 10D 15A NCAC 10E 15A NCAC 10G 15A NCAC 10I 15A NCAC 10J 15A NCAC 10K	02 NCAC 46 02 NCAC 48A . 02 NCAC 48B 02 NCAC 52J 02 NCAC 61 11 NCAC 01 11 NCAC 04 11 NCAC 17 15A NCAC 18A, Sections .0100, .0300 - .0900 and .3400
February 2019	March 2019	April 2019	May 2019	June 2019
04 NCAC 20 21 NCAC 03 21 NCAC 10 21 NCAC 16 21 NCAC 53 21 NCAC 56	12 NCAC 09 17 NCAC 07	15A NCAC 11 15A NCAC 14	04 NCAC 10 10A NCAC 27G	10A NCAC 14E 10A NCAC 28F 10A NCAC 28G 10A NCAC 28H 10A NCAC 28I 10A NCAC 29C 10A NCAC 29D

(b) The report shall be filed in accordance with Rule .0203 of this Chapter.

History Note: Authority G.S. 150B-21.3A.

Rules Review Commission

Meeting

Please Print Legibly

JANUARY 16, 2014

Name	Agency
<i>Ann Wall</i>	<i>Sec of State</i>
CATHERINE BLUM	DENR-DMF
Joelle Burleson	DENR-DAQ
Julia Lohman	NCDOT - Sheriff's Stds
Trevor Allen	CETS
Steve Schliesser	DENR-DAQ
Megan Langhorne	DHHS
Nadine Pfeiffer	DHHS
Mine Hgduh	NCDzi/NCHLB
Don Steele	City of Durham
RETE BURICE	NC Bd of Funeral Service
Anca GROZAV	NC OSBM
PATRICIA BUCKIN	NCAEC
Karen Waddell	NCDOT
Elizabeth Kirk	NCBMBT/NCBOT
Charles Wilkins	NCBMBT/NCBOT
Denise Stanford	NC HILB
Jennifer Percy	NCHFA
Janice Davidson	DOR
<i>Denise Baker</i>	<i>DHHS</i> <i>DMH / OHS</i>
Robert O'Neill	NC DOT

Rules Review Commission

Meeting

Please Print Legibly

Name	Agency
Charla Burill	NCRDN
Jennifer Everett	NC DENR
Stacey Caraway	NC DHSR
Chris Evans	NCBSN
Cassie Gann	Senior Club
Leu Martin	SBE
Curtis Aldendifer	NC REC
Brooks Rainey Pearson	SELC
Nadia Luhr	NCCN
Anne Coan	NC Farm Bureau Federation
Lacy Presnell	DENR
Jeff Manning	DENR-DWR
May Made Asili	SELC
Alene Weaver	DENR-DWR
Lisa Martin	NC Home Builders Assoc
Stewart Weiss	NCHBA

LIST OF APPROVED PERMANENT RULES
January 16, 2014 Meeting

HOME INSPECTOR LICENSURE BOARD

<u>Complaints</u>	11	NCAC 08	.1202
<u>Board Staff</u>	11	NCAC 08	.1203
<u>Investigation</u>	11	NCAC 08	.1204
<u>Disciplinary Hearing</u>	11	NCAC 08	.1205

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Basic Law Enforcement Training</u>	12	NCAC 09B	.0205
<u>Completion of Basic Law Enforcement Training Course</u>	12	NCAC 09B	.0405
<u>Minimum Training Specifications: Annual In-Service Training</u>	12	NCAC 09E	.0105
<u>Filing and Fees</u>	12	NCAC 09F	.0107

SHERIFFS EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Minimum Standards for Justice Officers</u>	12	NCAC 10B	.0301
<u>Basic Law Enforcement Training Course for Deputies</u>	12	NCAC 10B	.0502
<u>Detention Officer Certification Course</u>	12	NCAC 10B	.0601
<u>Evaluation for Training Waiver</u>	12	NCAC 10B	.0603
<u>Completion of Detention Officer Certification Course</u>	12	NCAC 10B	.0605
<u>Intermediate Law Enforcement Certificate</u>	12	NCAC 10B	.1004
<u>Advanced Law Enforcement Certificate</u>	12	NCAC 10B	.1005
<u>Intermediate Detention Officer Professional Certificate</u>	12	NCAC 10B	.1204
<u>Advanced Detention Officer Professional Certificate</u>	12	NCAC 10B	.1205
<u>Intermediate Telecommunicator Certificate</u>	12	NCAC 10B	.1604
<u>Advanced Telecommunicator Certificate</u>	12	NCAC 10B	.1605
<u>Minimum Training Requirements</u>	12	NCAC 10B	.2005

ENVIRONMENTAL MANAGEMENT COMMISSION

<u>Definitions</u>	15A	NCAC 02D	.1003
--------------------	-----	----------	-------

MARINE FISHERIES COMMISSION

<u>Definitions</u>	15A	NCAC 03I	.0101
<u>Trawl Nets</u>	15A	NCAC 03J	.0104
<u>Pots</u>	15A	NCAC 03J	.0301
<u>Public Health and Control of Oysters, Clams, Scallops and...</u>	15A	NCAC 03K	.0110
<u>Crab Harvest Restrictions</u>	15A	NCAC 03L	.0201
<u>Crab Trawling</u>	15A	NCAC 03L	.0202
<u>Crab Dredging</u>	15A	NCAC 03L	.0203
<u>Crab Pots</u>	15A	NCAC 03L	.0204
<u>Crab Spawning Sanctuaries</u>	15A	NCAC 03L	.0205
<u>Peeler Crabs</u>	15A	NCAC 03L	.0206
<u>Recreational Harvest of Crabs</u>	15A	NCAC 03L	.0209
<u>Minimum Size Limits</u>	15A	NCAC 03M	.0103
<u>Hybrid Striped Bass Culture</u>	15A	NCAC 03M	.0206
<u>Sheepshead</u>	15A	NCAC 03M	.0521

RULES REVIEW COMMISSION

<u>Permit Conditions; Specific</u>	15A NCAC 03O .0503
<u>Designated Pot Areas</u>	15A NCAC 03R .0107
<u>Designated Seed Oyster Management Areas</u>	15A NCAC 03R .0116
<u>Exempted Crab Pot Escape Ring Areas</u>	15A NCAC 03R .0118

WILDLIFE RESOURCES COMMISSION

<u>Hyde County</u>	15A NCAC 10F .0313
<u>Camden County</u>	15A NCAC 10F .0352

OCCUPATIONAL THERAPY, BOARD OF

<u>License Number: Display of License</u>	21 NCAC 38 .0301
<u>Continuing Competence Requirements for Licensure</u>	21 NCAC 38 .0802

APPRAISAL BOARD

<u>Fitness for Registration or Certification</u>	21 NCAC 57A .0202
--	-------------------

**LIST OF CERTIFIED RULES
January 16, 2014 Meeting**

JUSTICE, DEPARTMENT OF

<u>Location</u>	12 NCAC 02I .0101
<u>Purposes</u>	12 NCAC 02I .0102
<u>Minimum Standards for Company Police Officers</u>	12 NCAC 02I .0202
<u>Application for Company Police Officer</u>	12 NCAC 02I .0204
<u>Background Investigation</u>	12 NCAC 02I .0205
<u>Oath</u>	12 NCAC 02I .0208
<u>Liability Insurance</u>	12 NCAC 02I .0210
<u>Summary Suspensions</u>	12 NCAC 02I .0214
<u>Prohibited Acts</u>	12 NCAC 02I .0304
<u>Agency Retention of Records of Commission</u>	12 NCAC 02I .0501

**AGENDA
RULES REVIEW COMMISSION
Thursday, February 20, 2014 10:00 A.M.
1711 New Hope Church Rd., Raleigh, NC 27609**

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters:
 - A. NC Rural Electrification Authority – 04 NCAC 08 .0101, .0102, .0107, .0108, .0109, .0110, .0111, .0112, .0201, .0202, .0203, .0204, .0205, .0206, .0207, .0208, .0209, .0210, .0211, .0212, .0301, .0302, .0303, .0305, .0306, .0307, .0308, .0309, .0310, .0311, .0312, .0401, .0404 (Reeder)
 - B. Child Care Commission – 10A NCAC 09 .0302, .1702, .2506, .2701, .2702, .2703, .2704, .2903 (Hammond)
 - C. Commission for Mental Health – 10A NCAC 27G .0504 (Hammond)

- D. Sheriffs Education and Training Standards Commission – 12 NCAC 10B .1901 (Reeder)
 - E. Board of Examiners for Speech and Language Pathologists – 21 NCAC 64 .0206, .0219, .0307 (DeLuca)
 - IV. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
 - V. Review of Log of Filings (Permanent Rules) for rules filed between December 23, 2013 and January 21, 2014
 - VI. G.S. 150B-19.1 Certification
 - VII. Commission Business
 - Next meeting: March 20, 2014
-

**Commission Review
Log of Permanent Rule Filings
December 23, 2013 through January 21, 2014**

EDUCATION, STATE BOARD OF

The rules in Subchapter 6D cover instruction including curriculum (.0100), textbooks (.0200), testing programs (.0300), and accountability standards and graduation requirements (.0500).

<u>NC General Assembly's Read to Achieve Program</u>	16	NCAC	06D	.0508
Adopt/*				

The rules in Subchapter 6G relate to education agency relations including rules about the school-based management and accountability program (.0300) and charter schools (.0500).

<u>High School Accreditation Framework</u>	16	NCAC	06G	.0504
Adopt/*				

CEMETERY COMMISSION

The rules in Subchapter 7A concern the organization of the Cemetery Commission including general provisions (.0100); and structure (.0200).

<u>Name and Address</u>	21	NCAC	07A	.0101
Amend/*				
<u>Areas of Responsibility</u>	21	NCAC	07A	.0103
Repeal/*				
<u>Functions</u>	21	NCAC	07A	.0104
Repeal/*				
<u>Fees</u>	21	NCAC	07A	.0106
Amend/*				
<u>Cemetery Commission Members</u>	21	NCAC	07A	.0201
Repeal/*				
<u>Administrator of Cemetery Commission</u>	21	NCAC	07A	.0202
Repeal/*				
<u>Cemetery Commission Examiners</u>	21	NCAC	07A	.0203
Repeal/*				
<u>Clerical</u>	21	NCAC	07A	.0204
Repeal/*				
<u>Meetings</u>	21	NCAC	07A	.0205
Repeal/*				

The rules in Subchapter 7B rulemaking and declaratory rulings.

<u>Hearings</u> Amend/*	21	NCAC	07B	.0103
<u>Temporary Rules</u> Repeal/*	21	NCAC	07B	.0104
<u>Declaratory Rulings</u> Amend/*	21	NCAC	07B	.0105

The rules in Subchapter 7C concern licensing cemeteries (.0100); cemetery sales organizations, management organizations and brokers (.0200); and individual pre-need salespeople (.0300).

<u>Change of Control</u> Amend/*	21	NCAC	07C	.0103
<u>Quality Specifications</u> Amend/*	21	NCAC	07C	.0104
<u>Meeting Requirement</u> Amend/*	21	NCAC	07C	.0105

The rules in Subchapter 7D concern trust funds including maintenance and care funds (perpetual care funds) (.0100); and pre-need cemetery merchandise, pre-constructed mausoleums and below ground crypts trust funds (.0200).

<u>Report</u> Amend/*	21	NCAC	07D	.0101
<u>Location of Fund</u> Amend/*	21	NCAC	07D	.0102
<u>Fee for Late Deposits</u> Amend/*	21	NCAC	07D	.0104
<u>Deposit for Multiple Burials</u> Amend/*	21	NCAC	07D	.0105
<u>Report</u> Amend/*	21	NCAC	07D	.0201
<u>Delivery</u> Amend/*	21	NCAC	07D	.0202
<u>Trust Accounts</u> Amend/*	21	NCAC	07D	.0203

PHARMACY, BOARD OF

The rules in Chapter 46 cover organization of the board (.1200); general definitions (.1300); hospitals and other health facilities (.1400); admission requirements and examinations (.1500); licenses and permits (.1600); drugs dispensed by nurse and physician assistants (.1700); prescriptions (.1800); forms (.1900); administrative provisions (.2000); elections (.2100); continuing education (.2200); prescription information and records (.2300); dispensing in health departments (.2400); miscellaneous provisions (.2500); devices (.2600); nuclear pharmacy (.2700); sterile parenteral pharmaceuticals (.2800); product selection (.2900); disposal of unwanted drugs (.3000); clinical pharmacist practitioner (.3100); impaired pharmacist peer review program (.3200); and registry of pharmacist technicians (.3300).

<u>Reports from the Controlled Substances Reporting System</u> Adopt/*	21	NCAC	46	.3501
---	----	------	----	-------

PLUMBING, HEATING AND FIRE SPRINKLER CONTRACTORS, EXAMINERS OF BOARD OF

The rules in Chapter 50 are from the Plumbing, Heating and Fire Sprinkler Contractors including rules about organization (.0100); forms (.0200); examinations (.0300); general procedures (.0400); policy statements and interpretative rules (.0500); contested cases (.1000); fees (.1100); petitions for rules (.1200); declaratory rulings (.1300); and continuing education (.1400).

<u>Qualifications Determined by Examination</u>	21	NCAC	50	.0301
Amend/*				
<u>Applications: Issuance of License</u>	21	NCAC	50	.0306
Amend/*				
<u>Limited Plumbing Contractor License</u>	21	NCAC	50	.0518
Adopt/*				
<u>License Fees</u>	21	NCAC	50	.1102
Amend/*				

LICENSED PROFESSIONAL COUNSELORS, BOARD OF

The rules in Chapter 53 are from the Board of Licensed Professional Counselors and include general information (.0100); definitions and clarification of terms (.0200); how to obtain licensure (.0300); disciplinary procedures (.0400); fees (.0500); renewal of license (.0600); rules specific to licensed professional counselor associates (.0700); licensed professional counselor supervisors (.0800); and registration for a professional entity (.0900).

<u>Professional Ethics</u>	21	NCAC	53	.0102
Amend/*				
<u>Professional Disclosure Statement Requirements for LPCA a...</u>	21	NCAC	53	.0204
Amend/*				
<u>Counseling Experience</u>	21	NCAC	53	.0205
Amend/*				
<u>Graduate Counseling Experience</u>	21	NCAC	53	.0206
Amend/*				
<u>Supervised Professional Practice</u>	21	NCAC	53	.0208
Amend/*				
<u>Qualified Clinical Supervisor</u>	21	NCAC	53	.0209
Amend/*				
<u>Individual Clinical Supervision</u>	21	NCAC	53	.0210
Amend/*				
<u>Group Clinical Supervision</u>	21	NCAC	53	.0211
Amend/*				
<u>Face to Face Supervision Defined</u>	21	NCAC	53	.0212
Amend/*				
<u>Applications</u>	21	NCAC	53	.0301
Amend/*				
<u>Transcripts</u>	21	NCAC	53	.0302
Amend/*				
<u>Applications Licensed in Other States, Military Personnel...</u>	21	NCAC	53	.0304
Amend/*				
<u>Examination</u>	21	NCAC	53	.0305
Amend/*				
<u>Retaking of Examination</u>	21	NCAC	53	.0307
Amend/*				
<u>Receipt of Application</u>	21	NCAC	53	.0308

Amend/*				
<u>Foreign Degree Applicants</u>	21	NCAC	53	.0310
Adopt/*				
<u>Requirements for Candidate for Licensure Pending Status</u>	21	NCAC	53	.0311
Adopt/*				
<u>Alleged Violations</u>	21	NCAC	53	.0403
Amend/*				
<u>Application Fee</u>	21	NCAC	53	.0501
Amend/*				
<u>Renewal and Other Fees</u>	21	NCAC	53	.0503
Amend/*				
<u>Renewal Period</u>	21	NCAC	53	.0601
Amend/*				
<u>Renewal for Licensure Form; Address Change; Name Change</u>	21	NCAC	53	.0602
Amend/*				
<u>Continuing Education</u>	21	NCAC	53	.0603
Amend/*				
<u>Failure to Secure Sufficient Continuing Education/Renewal...</u>	21	NCAC	53	.0604
Amend/*				
<u>Licensed Professional Counselor Associate</u>	21	NCAC	53	.0701
Amend/*				
<u>Supervised Practice for Licensed Professional Counselor A...</u>	21	NCAC	53	.0702
Amend/*				
<u>Licensed Professional Counselor Supervisor</u>	21	NCAC	53	.0801
Amend/*				
<u>Certificate of Registration for Professional Entity</u>	21	NCAC	53	.0901
Adopt/*				
<u>Renewal of Certificate of Registration for a Professional...</u>	21	NCAC	53	.0902
Adopt/*				

BUILDING CODE COUNCIL

<u>2012 NC Fire Code/Flammable and Combustible Liquids</u>	105.7.7
Amend/*	
<u>2012 NC Fire Code/Group R Automatic Sprinkler System</u>	903.2.8
Amend/*	
<u>2012 NC Plumbing Code/Prefabricated Showers and Shower Co...</u>	417.1
Amend/*	
<u>2012 NC Residential Code/Eave Projections, Soffit Protect...</u>	R302.1, 302.1.1, 302.1.2, 302.2.6
Amend/	
<u>2015 NC Existing Building Code/New Code Adoption</u>	
Adopt/*	

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
Craig Croom

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>DATE</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<u>ALCOHOLIC BEVERAGE CONTROL COMMISSION</u>			
James Ivery Smith, Ivy Lee Armstrong v. ABC Commission	11 ABC 08266	04/12/12	
Trawick Enterprises LLC v. ABC Commission	11 ABC 08901	05/11/12	27:01 NCR 39
Dawson Street Mini Mart Lovell Glover v. ABC Commission	11 ABC 12597	05/23/12	
ABC Commission v. Christian Broome Hunt T/A Ricky's Sports Bar and Grill	11 ABC 13161	05/03/12	
Alabarati Brothers, LLC T/A Day N Nite Food Mart, v. ABC Commission	11 ABC 13545	05/01/12	
Playground LLC, T/A Playground v. ABC Commission	11 ABC 14031	05/16/12	27:01 NCR 64
ABC Commission v. Quick Quality, Inc., T/A Rock Star Grill and Bar	11 ABC 14036	07/05/12	
ABC Commission v. D's Drive Thru Inc. T/A D's Drive Thru	12 ABC 00060	05/29/12	
ABC Commission v. Choudhary, LLC T/A Speedway	12 ABC 00721	05/01/12	
ABC Commission v. Dos Perros Restaurant LLC T/A Dos Perros Restaurant	12 ABC 05312	09/25/12	
ABC Commission v. Bobby Warren Joyner T/A Hillsdale Club	12 ABC 06153	11/06/12	
ABC Commission v. Quick Quality, Inc., T/A Rock Star Grill and Bar	12 ABC 07260	12/11/12	
ABC Commission v. Fat Cats Grill and Oyster Bar Inc, T/A Fat Cats Grill and Oyster Bar	12 ABC 08988	12/19/12	
ABC Commission v. Wachdi Khamis Awad T/A Brothers in the Hood	12 ABC 09188	03/06/13	
ABC Commission v. Double Zero, LLC, T/A Bad Dog	12 ABC 11398	04/08/13	
ABC Commission v. Soledad Lopez de Avilez T/A Tienda Avilez	13 ABC 00002	06/06/13	
ABC Commission v. Two Brothers Food Market, Inc., T/A Circle Mart	13 ABC 10356	07/11/13	
Rio Sports Restaurant and Lounge Inc. v. ABC Commission	13 ABC 11233	08/02/13	28:13 NCR 1573
ABC Commission v. Grandmas Pizza LLC T/A Grandmas Pizza	13 ABC 11401	08/13/13	
Hector Diaz v. ABC Commission	13 ABC 13071	11/08/13	
ABC Commission v. Ola Celestine Morris T/A Nitty Gritty Soul Cafe	13 ABC 14197	10/09/13	
ABC Commission v. Alvin Boyd Turner T/A Community Store	13 ABC 15827	11/20/13	
Two Brothers Food Market Inc., Circle Mart, Kenneth Kirkman v. ABC Commission	13 ABC 16233	09/30/13	
ABC Commission v. Art in a Pickle, LLC T/A Neal's Deli	13 ABC 17128	12/03/13	
<u>DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY</u>			
Maggie Yvonne Graham v. Victims Compensation Commission	09 CPS 05287	04/09/13	
Vivian Davis Armstrong v. The NC Crime Victims Compensation Commission	11 CPS 10539	12/06/13	
Brian J. Johnson v. Department of Public Safety Victim Services	12 CPS 01664	12/21/12	
George H. Jagers, III v. Crime Victims Compensation Commission	12 CPS 01693	11/01/12	
Teresa Herbin v. Department of Public Safety Victim Services	12 CPS 03680	08/10/12	

CONTESTED CASE DECISIONS

Jacqueline M Davis victim-Antonio T Davis v. Dept. of Public Safety	12 CPS 05919	11/06/12	
Demario J. Livingston v. Dept. of Public Safety Victim Services	12 CPS 06245	10/19/12	
Shirley Ann Robinson v. NC Crime Victims Compensation Commission	12 CPS 07601	12/07/12	
Harold Eugene Merritt v. State Highway Patrol	12 CPS 07852	05/24/13	
Vanda Lawanda Johnson v. Office of Victim Compensation	12 CPS 09709	04/25/13	
Latoya Nicole Ritter v. Crime Victim Compensation Commission, Janice Carmichael	12 CPS 10572	04/25/13	
Ruffin J. Hyman v. Department of Public Safety, Division of Victim Compensation Services	13 CPS 01570	11/19/13	
Teresa f. Williams v. Crime Victims Compensation Commission	13 CPS 09790	07/11/13	
Angela Clendenin King v. Office of Administrative Hearings NC Crime Victims Comp Commission	13 CPS 11239	08/02/13	
Matthew B. McGee v. NC Victims Compensation Commission	13 CPS 12133	08/26/13	
DEPARTMENT OF HEALTH AND HUMAN SERVICES			
Stonestrow Group Home Medicaid Provider #6603018 Owned by Alberta Professional Services Inc v. DHHS, Division of Mental Health/Development Disabilities/ Substance Abuse, and DMA	09 DHR 05790	01/11/13	
Bright Haven Residential and Community Care d/b/a New Directions Group Home v. Division of Medical Assistance, DHHS	10 DHR 00232	04/27/12	
Warren W Gold, Gold Care Inc. d/b/a Hill Forest Rest Home, v. DHHS/Division of Health Service Regulation, Adult Care Licensure Section	10 DHR 01666	05/18/12	
Warren W Gold, Gold Care Inc. d/b/a Hill Forest Rest Home v. DHHS, Division of Health Service Regulation, Adult Care Licensure and Certification Section	10 DHR 05801	05/18/12	
Gold Care Inc. Licensee Hill Forest Rest Home Warren W. Gold v. DHHS, Adult Care Licensure Section	10 DHR 05861	05/18/12	
Robert T. Wilson v. DHHS, DHSR	10 DHR 07700	01/29/13	
Daniel J. Harrison v. DHHS Division of Health Service Regulation	10 DHR 07883	04/12/13	28:02 NCR 73
Mary Ann Barnes v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	11 DHR 6488	07/16/12	
Comprehensive PT Center v. DHHS, Division of Medical Assistance	11 DHR 9197	08/14/12	27:12 NCR 1204
Cherry's Group Home, Alphonso Cherry v. DHSR Michelle Elliot	11 DHR 09590	07/12/12	
Leslie Taylor v. DHHS, Division of Health Regulation	11 DHR 10404	10/19/12	
Powell's Medical Facility and Eddie N. Powell, M.D., v. DHHS, Division of Medical Assistance	11 DHR 01451	03/05/12	27:01 NCR 75
Julie Sadowski v. DHHS, Division of Health Service Regulation	11 DHR 01955	04/03/12	
Carlos Kendrick Hamilton v. DHHS, Division of Social Services	11 DHR 11161	10/16/12	27:16 NCR 1679
Teresa Diane Marsh v. DHHS, Division of Health Service Regulation	11 DHR 11456	04/27/12	
Betty Parks v. Division of Child Development, DHHS	11 DHR 11738	06/20/12	
Lorrie Ann Varner v. DHHS, Regulation Health Care Personnel Registry Section	11 DHR 11867	08/02/12	
Brenda Brewer v. DHHS, Division of Child Development	11 DHR 12064	08/03/12	27:12 NCR 1210
Timothy John Murray v. DHHS, Division of Health Service Regulation	11 DHR 12594	06/15/12	
Holly Springs Hospital II, LLC v. DHHS, Division of Health Service Regulation, CON Section and Rex Hospital, Inc., Harnett Health System, Inc. and WakeMed	11 DHR 12727	04/12/12	27:04 NCR 486
Rex Hospital, Inc., v. DHHS, Division of Health Service Regulation, CON Section and WakeMed, Holly Springs Hospital II, LLC, and Harnett Health System, Inc.	11 DHR 12794	04/12/12	27:04 NCR 486
Harnett Health System, Inc., v. DHHS, Division of Health Service Regulation, CON Section and Rex Hospital, Inc., Holly Springs Hospital II, LLC, and WakeMed	11 DHR 12795	04/12/12	27:04 NCR 486
WakeMed v. DHHS, Division of Health Service Regulation, CON Section and Holly Springs Hospital II, LLC, Rex Hospital, Inc., and Harnett Health System, Inc	11 DHR 12796	04/12/12	27:04 NCR 486
Sandra Ellis v. DHHS	11 DHR 12959	07/11/12	
Shirley Dowdy v. DHHS	11 DHR 13267	03/25/13	
Vendell Haughton v. DHHS, Division of Medical Assistance	11 DHR 13616	07/05/12	
Tarsand Denise Morrison v. DHHS, Division of Health Service Regulation	11 DHR 13906	07/11/12	
Care Well of Charlotte Inc, Joy Steele v. DHHS	11 DHR 13909	08/02/12	
Carrie's Loving Hands Inc. #MHL #040-047 Felicia McGee v. DHHS, DHSR, Mental Health Licensure and Certification	11 DHR 14172	01/22/13	
Carrie's Loving Hands Inc. #MHL #010-047 Felicia McGee v. DHHS, DHSR, Mental Health Licensure and Certification	11 DHR 14173	01/22/03	
Michael Timothy Smith, Jr. v. DHHS, Division of Health Service Regulation	11 DHR 14184	08/01/12	
John S. Won v. DHHS	11 DHR 14232	09/05/12	27:15 NCR 1547
Cynthia Tuck Champion v. DHHS, Division of Health Service Regulation	11 DHR 14283	06/15/12	
Leslie Taylor, and Octavia Carlton v. Mecklenburg County Department of Social Services Youth and Family Services Division	11 DHR 14335	10/12/12	

CONTESTED CASE DECISIONS

Lauren Stewart v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	11 DHR 14570	06/08/12	
Alice M. Oakley v. Division of Child Development, DHHS	11 DHR 14571	05/15/12	27:04 NCR 508
Andrea D. Pritchett v. DHHS Healthcare Personnel Registry Section	11 DHR 14885	01/04/13	28:02 NCR 91
McWilliams Center for Counseling Inc., v. DHHS, Division of Mental Health, Developmental Disabilities, Substance Abuse Services, and agency of the State of NC	11 DHR 15098	11/13/12	
Althea L. Flythe v. Durham County Health Department	12 DHR 00242	05/17/12	
Jerri Long v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	12 DHR 00361	07/06/12	
Renal Advantage, Inc., v. DHHS, Division of Health Service Regulation, CON Section and DVA Healthcare Renal Care, Inc	12 DHR 00518	08/28/12	27:15 NCR 1553
Angela Moye v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	12 DHR 00642	08/23/12	27:12 NCR 1218
Jessica Lynn Ward v. DHHS	12 DHR 00643	05/17/12	
Howard Gene Whitaker v. DHHS, Office of Emergency Medical Services	12 DHR 00888	09/05/13	28:13 NCR 1534
Trinity Child Care II & I v. DHHS, Division of Public Health, Child and Adult Care Food Program	12 DHR 00861	04/20/12	27:04 NCR 518
Dr. Karen J. Williams, LPC v. DHHS, Division of Medical Assistance	12 DHR 00926	09/18/12	
Faith Home Care of NC, Bonita Wright v. DHHS, DMA	12 DHR 00928	07/25/12	
Olar Underwood v. Division of Child Development and Early Education	12 DHR 00990	10/22/12	
Angela C Jackson v. DHHS	12 DHR 01097	06/19/12	
Paula N Umstead v. DHHS	12 DHR 01098	05/11/12	
Daniel W. Harris, Jr., v. DHHS, Division of Health Service Regulation	12 DHR 01138	10/19/12	
ACI Support Specialists Inc. Case #2009-4249 v. DHHS	12 DHR 01141	06/06/12	
AriLand Healthcare Service, LLC, NCMHL #018-092, Shawn Kuhl Director of Operations v. DHHS, Emery E. Milliken, General Counsel	12 DHR 01165	05/25/12	
Kenneth Holman v. DHHS	12 DHR 01244	06/05/12	
Hillcrest Resthome Inc. (\$2000 penalty) v. DHHS	12 DHR 01289	05/30/12	
Hillcrest Resthome Inc. (\$4000 penalty) v. DHHS	12 DHR 01290	05/30/12	
Vivian Barrear v. DHHS, Division of Medical Assistance DHHS	12 DHR 01296	06/06/12	
Patricia Satterwhite v. DHHS	12 DHR 01338	07/23/12	
Anthony Moore d/b/a Hearts of Gold II v. DHHS, Division of Health Service Regulation, Adult Care Licensure Section	12 DHR 01346	04/12/13	28:03 NCR 256
Timothy L Durham v. DHHS, Division of Health Services Regulation	12 DHR 01396	09/04/12	
Clydette Dickens v. Nash Co DSS	12 DHR 01625	05/15/12	
Nicole Lynn Hudson v. DHHS, Division of Health Service Regulation	12 DHR 01732	03/11/13	28:09 NCR 921
American Mobility LLC, Norman Mazer v. DHHS	12 DHR 01733	11/20/12	27:21 NCR 1980
American Mobility LLC, Norman Mazer v. DHHS	12 DHR 01733	03/6/13	28:03 NCR 266
Robert Lee Raines v. DHHS	12 DHR 01736	05/30/12	
Ms. Antoinette L. Williams v. DHHS	12 DHR 01739	06/15/12	
Felicia McGee Owner of Carrie's Loving Hand Inc. and Caring Arms Inc v. DHHS, DHSR Mental Health Licensure Certification	12 DHR 01796	01/22/13	
Tricia Watkins v. DHHS, Division of Medical Assistance, Office of Medicaid TLW-Auditing Office	12 DHR 01807	06/01/12	
First Path Home Care Services Gregory Locklear v. DHHS	12 DHR 01878	06/22/12	
Rochelle A. Gaddy v. DHHS, Division of Health Service Regulation	12 DHR 01998	06/04/13	28:11 NCR 1253
Patriotic Health Care Systems, LLC v. DHHS	12 DHR 02105	09/19/12	
John and Christina Shipman v. DHHS	12 DHR 02107	07/24/12	
Team Daniel, LLC v. DHHS, DMA	12 DHR 02162	09/11/13	27:16 NCR 1696
Leslie Taylor, Octavia Carlton, Paula Carlton	12 DHR 02217	08/31/12	
Madeline Brown v. DHHS, Division of Health Service Regulation	12 DHR 02257	06/01/12	
Evelyn Evans v. DHHS, Division of Health Service Regulation	12 DHR 02258	07/02/12	
Shannon Santimore v. DHHS, Division of Public Health, Epidemiology Section	12 DHR 02348	12/20/12	
Precious Haven Inc. Melissa McAllister v. DHHS, Program Integrity	12 DHR 02430	05/18/12	
Michael and Jamie Hart v. Davidson County, Department of Social Services	12 DHR 02542	07/03/12	
Annamae R. Smith v. DHHS, Division of Medical Assistance	12 DHR 02657	11/05/12	
Our Daily Living, Christopher OnWuka, Director v. DHHS	12 DHR 02777	10/17/12	
Right Trax Inc., Maria Lewis v. DHHS, Division of Health Service Regulation, Mental Health Licensure & Certification	12 DHR 02779	05/06/13	
Jessica L Thomas v. Randolph County DSS	12 DHR 02955	07/24/12	
Moses E Shoffner v. DHHS, Division of Child Development	12 DHR 03459	08/15/12	
Marco Evans v. DHHS, Division of Health Service Regulation	12 DHR 04110	07/30/12	
James C. Bartley v. DHHS, DMA	12 DHR 04116	07/25/12	
Estate of Mary P Lipe Medicaid ID #901463645S Alvena C Heggins v. DHHS, DMS	12 DHR 04260	01/16/13	

(DHHS Medicaid)			
Emelda Bih Che v. Health Care Personnel Registry	12 DHR 04834	01/24/13	
Daycare for all the Nations, Abura B. Jackson v. DHHS, Division of Child Development	12 DHR 04944	01/03/13	28:03 NCR 275
LaBrenda Jane Elliot v. DHHS, Division of Medical Assistance	12 DHR 04993	09/24/12	
Esther H Beal v. Office of Chief Medical Examiner	12 DHR 05094	11/14/12	27:21 NCR 1987
James Johnson v. DHHS, Division of Health Service Regulation	12 DHR 05148	09/11/12	
Youth Opportunities v. DHHS, Division of Medical Assistance	12 DHR 05227	07/11/13	
Tammy Isley v. Division of Child Development and Early Education	12 DHR 05405	05/15/13	
Cathy Crosland v. DHHS, Division of Health Service Regulation	12 DHR 05610	08/06/12	
Dwight William Osborne v. Glana M Surles, DHHS (Medicaid)	12 DHR 05693	09/14/12	
Brenda Triplett Andrews v. DHHS, Division of Health Service Regulation	12 DHR 05745	12/10/12	
Southern Living Home Care Agency Inc., v. DHHS	12 DHR 05864	11/06/12	
Symakla Home Healthcare v. DHHS-Hearing Office	12 DHR 05918	08/02/13	
Beverly Coleman v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry Section	12 DHR 05961	09/05/12	
Esther McMillian v. DHHS	12 DHR 06061	11/26/13	
Gregory Howard v. Health Care Personnel Registry	12 DHR 06157	09/07/12	
Joshua Goss v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	12 DHR 06158	03/04/13	
Harrison E Shell Jr v. Wake County Human Services	12 DHR 06203	08/28/12	
A Unique Solution Bertha M. Darden v. Division of Child Development & Early Education	12 DHR 06314	05/20/13	
Valtina Bronson v. DHHS, Division of Health Service Regulation	12 DHR 06365	08/29/12	
Danny Skipper AKA Danny Skipper v. DHHS, Division of Health Services Regulation	12 DHR 06403	10/22/12	
Stalin Bailon v. Department of Social Services	12 DHR 06528	10/17/12	
Tonya Diane Warfield v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry Section	12 DHR 06682	01/07/13	
Our Daily Living, Christopher OnWuka, Director v. DHHS	12 DHR 06683	10/17/12	
Latricia N. Yelton, OT v. DHHS, Division of Medical Assistance	12 DHR 06686	04/10/13	28:03 NCR 282
Brittney Nicole Brabham v. DHHS, Division Health Service Regulation, Healthcare Personnel Registry	12 DHR 06786	03/27/13	
Darina Renee Ford v. DHHS	12 DHR 07166	11/19/12	
Marquis Gerade Harrell v. DHHS, Health Care Personnel Registry, Leslie Chabet	12 DHR 07170	10/23/12	
Future Innovations, LLC and David F. Curtis v. DHHS, Division of Health Service Regulation, Mental Health Licensure Section	12 DHR 07215	04/16/13	28:05 NCR 443
Future Innovations, LLC and David F. Curtis v. DHHS, Division of Health Service Regulation, Mental Health Licensure Section	12 DHR 07216	04/16/13	28:05 NCR 443
Future Innovations, LLC and David F. Curtis v. DHHS, Division of Health Service Regulation, Mental Health Licensure Section	12 DHR 07217	04/16/13	28:05 NCR 443
KMG Holdings Inc. – The Lighthouse II of Clayton MHL #051-138 v. DHHS, Division of Health Licensure and Certification	12 DHR 07292	11/08/12	
Curtain Climbers, Rhonda Corn v. Division of Child Development, DHHS	12 DHR 07295	01/16/13	
Speakeasy Therapy, LLC v. DHHS, Division of Medical Assistance	12 DHR 07296	04/25/13	28:05 NCR 462
Faline Dial v. DHHS, Division of Medical Assistance	12 DHR 07440	02/07/13	28:05 NCR 488
PRN Medical Resources, PLLC v. DHHS, Division of Medical Assistance	12 DHR 07441	03/19/13	28:05 NCR 500
Denise Marie Shear v. DHHS, Division of Health Service Regulation	12 DHR 07547	11/07/12	
Irene Renee McGhee v. DHHS	12 DHR 07589	08/29/13	
Terique Epps, Family Legacy Mental Health Services DBA Task Inc v. DHHS and PBH	12 DHR 07616	11/09/12	
Angela Mackey v. DHHS, Division of Health Service Regulation	12 DHR 07619	10/05/12	
Eloise Dowtin v. The Emmanuel Home IV v. Division of Health Service Regulation	12 DHR 07620	11/06/12	
Orlando Stephen Murphy v. DHHS, DHSR, Health Care Personnel	12 DHR 07640	02/05/13	
Irene Wortham Center, Inc., v. DHHS, DMA	12 DHR 07699	04/12/13	
Yolanda McKinnon v. DHHS	12 DHR 07711	01/11/13	
Koffi Paul Aboagye v. DHHS, Division of Health Service Regulation	12 DHR 07731	11/20/12	
Mark Thomas v. DHHS, Division of Health Service Regulation	12 DHR 07853	01/04/13	
Annie Garner Ham v. DHHS, Division Health Service Regulation	12 DHR 08103	03/04/13	
Darrion Smith v. Murdock Developmental Center and the NC DHHS; Ricky Bass v. NC DHHS; Darrion Smith v. NC DHHS	12 DHR 08134	07/24/13	28:12 NCR 1472
Darrion Smith v. Murdock Developmental Center and the NC DHHS; Ricky Bass v. NC DHHS; Darrion Smith v. NC DHHS	12 DHR 08136	07/24/13	28:12 NCR 1472
Daniel Saft, A+ Residential Care (MHL #092-811) v. DHHS, DHSR, Mental Health Licensure and Certification Section	12 DHR 08197	01/16/13	
Jannett E. Myers v. DHHS, Division of Health Service Regulation	12 DHR 08257	08/07/13	
Gloria Mitchell v. DHHS, Division of Medical Assistance	12 DHR 08258	02/14/13	28:05 NCR 511
Katherine Free v. DHHS, Division of Medical Assistance	12 DHR 08395	04/12/13	
Ronald Dixon v. Division of Child Development, DHHS	12 DHR 08446	11/14/12	

CONTESTED CASE DECISIONS

Hillcrest Convalescent Center, Inc. v. DHHS, Division of Health Service Regulation, Certificate of Need Section, and E.N.W., LLC and Bellarose Nursing and Rehab Center, Inc.; Liberty Healthcare Properties of West Wake County, LLC, Liberty Commons Nursing and Rehabilitation Center of West Wake County, LLC, Liberty Healthcare Properties of Wake County LLC, and Liberty Commons Nursing and Rehabilitation Center of Wake County, LLC; Britthaven, Inc. and Spruce LTC Group, LLC; and AH North Carolina Owner LLC d/b/a The Heritage of Raleigh	12 DHR 08666	06/20/13	28:09 NCR 928
Liberty Healthcare Properties of West Wake County, LLC, Liberty Commons Nursing and Rehabilitation Center of West Wake County, LLC, Liberty Healthcare Properties of Wake County LLC, and Liberty Commons Nursing and Rehabilitation Center of Wake County, LLC v. DHHS, Division of Health Service Regulation, Certificate of Need Section, and Hillcrest Convalescent Center, Inc.; E.N.W., LLC and Bellarose Nursing and Rehab Center, Inc.; Britthaven, Inc. and Spruce LTC Group, LLC; and AH North Carolina Owner LLC d/b/a The Heritage of Raleigh	12 DHR 08669	06/20/13	28:09 NCR 928
Jah Mary Weese v. DHHS, Division of Health Service Regulation	12 DHR 08672	01/09/13	
AH North Carolina Owner LLC d/b/a The Heritage of Raleigh v. DHHS, Division of Health Service Regulation, Certificate of Need Section, and Hillcrest Convalescent Center, Inc.; E.N.W., LLC and Bellarose Nursing and Rehab Center, Inc.; Liberty Healthcare Properties of West Wake County, LLC, Liberty Commons Nursing and Rehabilitation Center of West Wake County, LLC, Liberty Healthcare Properties of Wake County LLC, and Liberty Commons Nursing and Rehabilitation Center of Wake County, LLC; and Britthaven, Inc. and Spruce LTC Group, LLC	12 DHR 08691	06/20/13	28:09 NCR 928
Mission Hospital, Inc. v. DHHS Division of Health Service Regulation Certificate of Need Section, and Fletcher Hospital, Inc. d/b/a Park Ridge Health and Carolina Gastroenterology Endoscopy Center, LLC	12 DHR 08733	06/18/13	28:10 NCR 1095
Clifford Lee Druml v. DHHS, Division of Medical Assistance	12 DHR 08776	04/25/13	
Natasha Dionne Howell v. DHHS, Division of Health Service Regulation	12 DHR 08814	03/07/13	
White Oak Homes II Inc., Lisa Atkinson v. DHHS, Mental Health Licensure and Certification Section, Division of Health Service	12 DHR 08994	02/08/13	
Erica Eileen Thomas v. DHHS, Division of Health Service Regulation	12 DHR 09139	04/17/13	
Tammy Isley v. Division of Child Development and Early Education	12 DHR 09350	05/15/13	
Eddie Cannon v. DHHS, Division of Health Service Regulation, Personnel Registry	12 DHR 09352	05/21/13	
Carolyn Ragin v. DHHS, Division of Health Services Regulation	12 DHR 09373	12/18/12	
Omar Vickers v. Office of Administrative Hearings	12 DHR 09475	04/16/13	
April Hood-Baker v. DHHS, DMA Glana M Surles	12 DHR 09489	01/15/13	
Heritage Home Care Agency Inc., Rico Akvia Wagner v. Department of Human Services Hearing Office	12 DHR 09511	07/05/13	
Surgical Care Affiliates, LLC and Blue Ridge Day Surgery Center, L.P. v. DHHS, Division of Health Service Regulation, Certificate of Need Section, and WakeMed	12 DHR 09678	07/23/13	
Tyshon & Shannetta Barfield v. DHHS	12 DHR 09692	02/08/13	
Vicki Lucas-Crowder v. Division of Medical Assistance	12 DHR 09832	04/26/13	
Cynthia M Rose v. Division of Child Development, DHHS	12 DHR 09846	01/23/13	
Gina Lynne Gilmore Lipscomb v. Health Care Personnel Registry	12 DHR 09953	09/17/13	
Asheville Speech Associates v. DHHS, Division of Medical Assistance	12 DHR 10367	06/21/13	
Our Daily Living MHL 032-481 Christopher Onwuka v. DHHS, DHSR, Mental Health Licensure and Certification	12 DHR 10402	05/06/13	
Glenda Lee Hansley v. DHHS	12 DHR 10430	08/01/13	
Therapeutic Life Center, Inc. v. DHHS, Division of Medical Assistance	12 DHR 10447	07/08/13	28:12 NCR 1450
Sonia Coles Bowers v. DHHS, Division of Social Services	12 DHR 10511	08/26/13	
A Great Choice for Home Care, Inc. v. DHHS	12 DHR 10569	08/09/13	28:12 NCR 1461
Carolina Solution, Inc v DHHS	12 DHR 10668	02/08/13	
A Unique Solution Bertha M. Darden v. Division of Child Development & Early Education	12 DHR 10926	05/20/13	
Angels Home Health, Charlotte Robinson, and LaShonda Wofford v. DHHS	12 DHR 11035	04/22/13	
David Keith Trayford v. Division of Medical Assistance via Administrative Hearing Office	12 DHR 11180	07/01/13	
Favour McKinnon v. DHHS, Division of Health Service Regulation	12 DHR 11319	11/15/13	
Cumberland County Hospital System, Inc. d/b/a Cape Fear Valley Health System v. DHHS, Division of Health Service Regulation Certificate of Need Section and FirstHealth of the Carolinas, Inc. d/b/a FirstHealth Moore Regional Hospital	12 DHR 12088	05/23/13	28:11 NCR 1262
Speech and Therapy Solutions v. DHHS	12 DHR 12402	03/27/13	
Agape Services, Inc. v. Program Integrity Section of DMA	12 DHR 12405	05/23/13	28:11 NCR 1269
Treasure Dominique Corry v. State of NC Nurse Aide Registry	12 DHR 12408	03/15/13	
Cumberland County Hospital System, Inc. d/b/a Cape Fear Valley Health System v. DHHS, Division of Health Service Regulation Certificate of Need Section and FirstHealth of the Carolinas, Inc. d/b/a FirstHealth Moore Regional Hospital	12 DHR 12088		
Bio-Medical Applications of North Carolina, Inc., D/B/A FMC Anderson Creek	12 DHR 19650	12/17/12	27:22 NCR 2101

CONTESTED CASE DECISIONS

Linda Johnson v. Caswell Center	13 DHR 01926	03/06/13	
Carolina Family Alliance, c/o Sabrian Mack Exec Director v. DHHS	13 DHR 02679	03/28/13	
National Deaf Academy Judy Caldwell, RN v. Office of Administrative Hearings, Value Options North Carolina	13 DHR 02701	11/15/13	
Inder P Singh v. DHHS, WIC	13 DHR 05263	03/27/13	
Natasha Howell v. DHHS, Division of Health Service Regulation	13 DHR 07602	08/02/13	
Restoration Home Care Services, Inc., Diane Sherrill, Owner/President v. PCG Consulting Group Consulting Group, DHHS	13 DHR 08373	12/13/13	
Loretta Tinnin v. Division of Medical Assistance	13 DHR 08954	10/03/13	
Family Choice Home Care v. DHHS	13 DHR 08987	08/14/13	
Leenorta Cooper v. DHHS, Division of Health Service Regulation	13 DHR 09097	10/03/13	
Larry Ratliff, Jr., Alena Ratliff, Larry Ratliff, Sr. v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	13 DHR 09144	07/15/13	
Larry Ratliff, Jr., Alena Ratliff, Larry Ratliff, Sr. v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	13 DHR 09145	07/15/13	
Larry Ratliff, Jr., Alena Ratliff, Larry Ratliff, Sr. v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	13 DHR 09146	07/15/13	
Nikko & Shannon Scott v. DHHS	13 DHR 09422	06/26/13	
Brittany Hinson v. DHHS	13 DHR 09511	11/19/13	
Myra Evans v. Moore County Department of Social Services	13 DHR 09729	10/24/13	28:15 NCR 1818
Clarice Johnson v. DHHS, Division of Health Service Regulation	13 DHR 09736	10/28/13	
Doris Wilson v. DHHS, Division of Health Service Regulation	13 DHR 09742	07/15/13	
Kesha Johnson v. DHHS, Division of Health Service Regulation	13 DHR 09799	09/03/13	28:15 NCR 1825
Elton Bishop v. Food Stamps	13 DHR 09976	12/05/13	
Teresa Anne Davis v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	13 DHR 10037	09/20/13	
Marcella Marsh v. Forsyth County Department of Social Services	13 DHR 10124	06/21/13	
Wanda Jones v. DHHS	13 DHR 10289	08/15/13	
Berta M. Spencer v. DHHS, Office of the Controller	13 DHR 10335	07/05/13	
Benjamin Headen and Pamela Headen v. DHHS	13 DHR 10488	08/02/13	
Lelia Knox v. DHHS, Division of Child Development	13 DHR 10556	08/28/13	
Lashondrea Nixon v. DHHS, Division of Health Service Regulation	13 DHR 10594	08/30/13	
Edward E. Speaks, Jr. v. Central Regional Hospital	13 DHR 10749	09/10/13	
Scott Hollifield v. McDowell County DSS	13 DHR 10793	07/25/13	
Tammi D. Nichols v. DHHS, Division of Health Service Regulation	13 DHR 10795	10/25/13	
Holly L. Crowell v. DHHS, Division of Health Service Regulation	13 DHR 11091	07/05/13	
Christopher H. Brown DDS PA v. Department of Medical Assistance	13 DHR 11610	07/01/13	
Lawson Support Services LLC v. DHHS, Division of Medical Assistance	13 DHR 11836	10/04/13	
Juan M. Noble v. DHHS, Division of Health Service Regulation	13 DHR 11965	07/12/13	
Veronica Janae McLemore v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	13 DHR 12033	12/02/13	
Supermexicana Los Reyes Elena D. Flores Garcia Owner v. Nutrition Services Branch, DHHS, Division of Public Health	13 DHR 12129	08/01/13	28:14 NCR 1677
Monalisa Victoria Freeman v. DHHS, Division of Health Service Regulation	13 DHR 12328	07/31/13	
Johnathan Bradley v. DHHS, Division of Health Service Regulation	13 DHR 12685	08/02/13	
Melissa Stephen Ingle v. DHHS, Division of Child Development	13 DHR 12700	08/30/13	
E. W. Stone Adult Care Center, Evelyn W. Stone v. DHHS	13 DHR 12814	07/29/13	
Martha Watson v. DHHS, Division of Social Services	13 DHR 13302	11/12/13	
Lawson Support Services LLC v. DHHS, Division of Medical Assistance	13 DHR 13349	11/13/13	
Matthew Bradshaw v. DHHS, Division of Health Service Regulation	13 DHR 13381	09/03/13	
Countryside Villa Hal 026-046 John A. Weeks v. DHHS, Division of Health Service Regulation	13 DHR 13545	09/19/13	
Betty S. Mintz v. DHHS, Division of Health Service Regulation	13 DHR 13547	09/10/13	
Lashawn R. Holland v. DHHS, Division of Health Service Regulation	13 DHR 13858	09/03/13	
Thomas and Elberta Hudson v. DHHS, Division of Social Services	13 DHR 13957	08/02/13	
Victoria S. Hargrave v. DHHS, Division of Health Service Regulation	13 DHR 15147	08/07/13	
Paul A. Fredette v. DHHS, Division of Health Service Regulation	13 DHR 14025	09/30/13	
A Angel's Touch In Home Care v. DHHS	13 DHR 14303	09/24/13	
Tabitha Mason v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	13 DHR 14452	12/06/13	
Candace Richardson v. Health Care Personnel Registry	13 DHR 15028	09/30/13	
Americare "Hardin House", Perry Tanis Watkins v. DHHS	13 DHR 16307	11/19/13	
Kenneth W. Haney v. DHHS, Medical Assistance, Third Party Recovery Section	13 DHR 16563	11/20/13	
Estate of Ross Lewis; Ronald B. Lewis v. Office of Administrative Hearings	13 DHR 16694	10/23/13	

CONTESTED CASE DECISIONS

Prosperous Home Care Services LLC, Lennis Brown v. DHHS DHR, Acute and Home Care Licensure and Certification Section	13 DHR 16962	11/26/13
Dennishia Marsalia DuBose v. Sol Weiner RN HCPR Investigator	13 DHR 17085	11/06/13
Precyous Cheniae Johnson v. DHHS, Division of Health Service Regulation	13 DHR 17316	11/05/13
A Angel's Touch In Home Care v. DHHS	13 DHR 17446	10/31/13
Elizabeth Shea Bonner v. DHHS	13 DHR 17448	11/15/13
Shonda Richardson v. DHHS, Liberty Commons Nursing & Rehab	13 DHR 17910	11/15/13
Latesha Monique Morse v. Nash County Department of Social Services, Food & Nutrition Unit	13 DHR 18224	01/02/14

DEPARTMENT OF ADMINISTRATION

Meherrin Indian Tribe v. Commission of Indian Affairs	12 DOA 00986	01/18/13	
Medical Review of North Carolina, Inc. d/b/a The Carolinas Center for Medical Excellence v. NC Department of Administration and NC DHHS and Liberty Healthcare Corporation	13 DOA 12702	08/30/13	28:13 NCR 1585

DEPARTMENT OF CORRECTIONS

Myron Roderick Nunn v. Jennifer O'Neal, Accountant DOC	12 DOC 01022	07/12/12
Moses Leon Faison v. Department of Correction	13 DOC 10227	04/08/13
Clarence E. Williams, Jr. v. State of NC, D.H.O. Austin	13 DOC 12137	09/30/13
Clarence E. Williams, Jr. v. State of NC, D.H.O. Linwood M. Best	13 DOC 14201	09/30/13

DEPARTMENT OF JUSTICE

Tommy Keith Lymon v. Criminal Justice Education and Training Standards Commission	09 DOJ 03751	07/30/12	27:06 NCR 649
Greary Michael Chlebus v. Criminal Justice Education and Training Standards Commission	11 DOJ 4829	04/27/12	
Steven Davis Boone v. Sheriffs' Education and Training Standards Commission	11 DOJ 06781	06/18/13	28:10 NCR 1062
Dillan Nathaniel Hymes v. Criminal Justice Education and Training Standards Commission	11 DOJ 10315	07/23/12	27:06 NCR 661
Barbara Renay Whaley v. Criminal Justice Education and Training Standards Commission	11 DOJ 10316	04/25/12	
Robert Kendrick Mewborn v. Criminal Justice Education and Training Standards Commission	11 DOJ 10318	04/23/12	
Athena Lynn Prevatte v. Sheriffs' Education and Training Standards Commission	11 DOJ 13148	05/25/12	27:04 NCR 529
Shatel Nate Coates v. Sheriffs' Education and Training Standards	11 DOJ 13151	07/05/12	
James Lee Ray v. Sheriffs' Education Training Standards	11 DOJ 13152	08/27/12	
Ko Yang v. Sheriff's Education and Training Standards Commission	11 DOJ 13153	06/14/12	
Dustin Edward Wright v. Sheriffs' Education and Training Standards Commission	11 DOJ 13154	08/08/12	
Walter Scott Thomas v. Sheriff's Education and Training Standards Commission	11 DOJ 13155	05/10/12	
Darryl Howard v. Criminal Justice Education and Training Standards Commission	11 DOJ 13157	04/12/12	
John Jay O'Neal v. Criminal Justice Education and Training Standards Commission	11 DOJ 13158	07/06/12	27:07 NCR 749
Charlesene Cotton v. Criminal Justice Education and Training Standards Commission	11 DOJ 13159	06/05/12	27:04 NCR 538
William James Becker v. Criminal Justice Education and Training Standards Commission	11 DOJ 13160	08/16/12	
Steve Michael Galloway, Jr, Private Protective Services Board	11 DOJ 14434	04/23/12	
Justin Thomas Medlin v. Alarm Systems Licensing Board	11 DOJ 14493	04/23/12	
Argentina Rojas v. Department of Justice, Campus Police Officer Commission	12 DOJ 00394	11/02/12	
Bruce Clyde Shoe v. Private Protective Services Board	12 DOJ 00556	09/26/12	
Angela Louise Giles v. Private Protective Services Board	12 DOJ 00557	04/18/12	
Marshall Todd Martin v. Sheriffs' Education	12 DOJ 00650	07/13/12	
Frances Gentry Denton v. Sheriffs' Education and Training Standards Commission	12 DOJ 00651	08/30/12	
James Philip Davenport v. Criminal Justice Education and Training Standards Commission	12 DOJ 00653	11/21/12	
Alvin Louis Daniels v. Criminal Justice Education and Training Standards Commission	12 DOJ 00654	08/17/12	
Michael Wayne McFalling v. Private Protective Services Board	12 DOJ 00814	05/21/12	
Robert John Farmer v. Alarm Systems Licensing Board	12 DOJ 00887	05/04/12	
Ricky Lee Ruhlman v. Private Protective Services Board	12 DOJ 01211	04/18/12	
Leroy Wilson Jr., Private Protective Services Board	12 DOJ 01293	04/18/12	
Clyde Eric Lovette v. Alarm Systems Licensing Board	12 DOJ 01498	05/02/12	
Vincent Tyron Griffin v. Alarm Systems Licensing Board	12 DOJ 01663	09/27/12	
Andre Carl Banks Jr., v. Alarm Systems Licensing Board	12 DOJ 01695	06/22/12	
Ryan Patrick Brooks v. Private Protective Services Board	12 DOJ 01696	06/05/12	
Dustin Lee Chavis v. Private Protective Services Board	12 DOJ 01697	06/01/12	
Jeffrey Adam Hopson v. Sheriffs' Education and Training Standards Commission	12 DOJ 01761	06/07/12	
John Henry Ceaser v. Sheriffs' Education and Training Standards Commission	12 DOJ 01762	06/18/12	
Jerome Douglas Mayfield v. Private Protective Services Board	12 DOJ 02381	06/15/12	

CONTESTED CASE DECISIONS

Elijah K. Vogel v. Private Protective Services Board	12 DOJ 02619	06/05/12	
Timmy Dean Adams v. Department of Justice, Company Police Program	12 DOJ 02778	12/21/12	
Carlito Soler v. Alarm Systems Licensing Board	12 DOJ 03457	09/26/12	
Danielle Marie Taylor v. Criminal Justice Education and Training Standards Commission	12 DOJ 03838	01/24/13	28:06 NCR 554
Rodney Lyndolph Bland v. Criminal Justice Education and Training Standards Commission	12 DOJ 03839	01/11/13	
Sherman Montrell Devon McQueen v. Criminal Justice Education and Training and Standards Commission	12 DOJ 03842	12/21/12	
Matthew Brian Hayes v. Criminal Justice Education and Training Standards Commission	12 DOJ 03843	11/27/12	27:22 NCR 2139
Antonio Cornelius Hardy v. Criminal Justice Education and Training Standards Commission	12 DOJ 03844	11/19/12	27:21 NCR 1994
Jonathan Dryden Dunn v. Sheriffs' Education and Training Standards	12 DOJ 03845	03/28/13	
Barry Louis Christopher, Jr v. Private Protective Services Board	12 DOJ 05041	08/27/12	27:15 NCR 1570
Bettina Hedwig Vredenburg v. Sheriffs' Education and Training Standards Commission	12 DOJ 05140	11/09/12	27:21 NCR 2002
Wallace Connell Ranson v. Sheriffs' Education and Training Standards Commission	12 DOJ 05141	05/07/13	28:07 NCR 676
Raymond Louis Soulet v. Sheriffs' Education and Training Standards Commission	12 DOJ 05142	08/27/12	
Graham Avon Hager v. Sheriffs' Education and Training Standards Commission	12 DOJ 05143	12/19/12	28:07 NCR 686
Dustin Wilson Grant v. Sheriffs' Education and Training Standards Commission	12 DOJ 05145	10/25/12	
Glenn Alvin Brand v. Sheriffs' Education and Training Standards Commission	12 DOJ 05146	10/08/12	
Shannon Wallace v. DHHS	12 DOJ 05355	02/26/13	
Lawrence W. Sitgraves v. Private Protective Services	12 DOJ 06059	09/13/12	
Collin Michael Berry v. Private Protective Services Board	12 DOJ 06590	10/22/12	
Tiffany Ann Misel v. Private Protective Services Board	12 DOJ 06817	10/17/12	
John Machouis v. Alarm Systems Licensing Board	12 DOJ 07161	12/19/12	
Christopher A. Field v. Private Protective Services Board	12 DOJ 07548	12/19/12	
Porschea Renee Williams v. Private Protective Services Board	12 DOJ 07549	01/09/13	
Ralph R. Hines v. Criminal Justice Education and Training Standards	12 DOJ 07812	11/07/12	
Shannon Pendergrass v. Criminal Justice Education and Training Standards Commission	12 DOJ 08008	12/05/13	
William Franklin Dietz v. Criminal Justice Education and Training Standards	12 DOJ 08010	02/19/13	
Elizabeth Crooks Goode v. Criminal Justice Education and Training Standards Commission	12 DOJ 08014	12/14/12	
Kareen Jesaad Taylor v. Sheriffs' Education and Training Standards Commission	12 DOJ 08018	04/02/13	28:08 NCR 751
Brian Thomas Jones v. Sheriffs' Education and Training Standards Commission	12 DOJ 08023	11/26/13	
Sheronica Hall Smith v. Sheriffs' Education and Training Standards Commission	12 DOJ 08026	09/11/13	28:15 NCR 1831
Sabrina Richelle Wright v. Sheriffs' Education and Training Standards Commission	12 DOJ 08048	01/16/13	
Phillip Eugene Dendy v. Sheriffs' Education and Training Standards Commission	12 DOJ 08049	01/18/13	
Reginald E. James v. Private Protective Services Board	12 DOJ 08195	12/20/12	
Omega Young v. Private Protective Services Board	12 DOJ 08261	12/17/12	
Joseph T. Ferrara v. Private Protective Services Board	12 DOJ 08309	01/11/13	
Jovan Lamont Sears v. Private Protective Services Board	12 DOJ 08447	12/20/12	
Christopher Robell Hunter v. Sheriffs' Education and Training Standards Commission	12 DOJ 10182	05/07/13	28:08 NCR 758
Joseph Ryan Fowler v. Sheriffs' Education and Training Standards Commission	12 DOJ 10184	11/26/13	
Marilyn Cash Smalls v. Sheriffs' Education and Training Standards Commission	12 DOJ 10188	04/29/13	
Timothy Allen Bruton v. Criminal Justice Education and Training Standards Commission	12 DOJ 10199	05/29/13	
Bilal Abdus-Salaam v. Criminal Justice Education and Training Standards Commission	12 DOJ 10200	08/16/13	
Lee Daniel Wilkerson v. Criminal Justice Education and Training Standards Commission	12 DOJ 10201	10/10/13	
Brad Tisdale v. Criminal Justice Education Training Standards Commission	12 DOJ 10203	05/06/13	
Ron Allen Hedrington v. Criminal Justice Education and Training Standards Commission	12 DOJ 10204	08/23/13	28:13 NCR 1544
Clinton Weatherbee Jr v. Criminal Justice Education and Training Standards Commission	12 DOJ 10206	03/25/13	
JonPaul D. Wallace v. Private Protective Services Board	13 DOJ 02422	04/26/13	
Andrew George Anderson v. Sheriffs' Education and Training Standards Commission	13 DOJ 03417	08/29/13	
Frank John Fontana, Jr. v. NC Alarm Systems Licensing Board	13 DOJ 03740	09/12/13	
Jerome Douglas Mayfield v. Private Protective Services Board	13 DOJ 04393	04/26/13	
Cameron Imhotep Clinkscale v. Private Protective Services Board	13 DOJ 05095	04/26/13	
Ashely B. Sellers v. NC Alarm Systems Licensing Board	13 DOJ 08759	10/30/13	
Eddie Hugh Hardison v. Private Protective Services Board	13 DOJ 08765	04/02/13	
Tony Lynn Cannon v. Sheriffs' Education and Training Standards Commission	13 DOJ 09567	10/22/13	
Antonio R. Dickens v. Private Protective Services Board	13 DOJ 08953	08/09/13	28:14 NCR 1684
Danielle J. Rankin v. Private Protective Services Board	13 DOJ 09038	08/09/13	28:14 NCR 1689
Thomas Lee Phillips, Jr. v. Sheriffs' Education and Training Standards Commission	13 DOJ 09571	11/19/13	
Jesse Alan Tyner v. NC Alarm Systems Licensing Board	13 DOJ 09863	08/09/13	28:15 NCR 1837
Marcus Teer Benson v. Private Protective Services Board	13 DOJ 09974	05/15/13	28:10 NCR 1155
Steven Wesley Jones v. Sheriffs' Education and Training Standards Commission	13 DOJ 11188	10/22/13	
Logan Roy Clonts v. Sheriffs' Education and Training Standards Commission	13 DOJ 11694	10/17/13	
LaMarcus Jarrel Outing v. Criminal Justice Education and Training Standards Commission	13 DOJ 11932	08/07/13	
Jeffrey D. Angell v. NC Alarm Systems Licensing Board	13 DOJ 12333	10/09/13	
Patricia Mary Cotto v. Criminal Justice Education and Training Standards Commission	13 DOJ 12452	12/10/13	

CONTESTED CASE DECISIONS

Myron Troy Davidson v. Private Protective Services Board	13 DOJ 13379	09/13/13	
Rhonda N. Thorpe v. NC Alarm Systems Licensing Board	13 DOJ 13600	12/11/13	
Marcus L. Fuller v. Private Protective Services Board	13 DOJ 13653	09/03/13	
Christopher T. Place v. NC Alarm Systems Licensing Board	13 DOJ 13859	08/02/13	28:14 NCR 1695
Martise Lamar Jones v. NC Alarm Systems Licensing Board	13 DOJ 14844	10/30/13	
Charles Robert Austin, Jr. v. NC Alarm Systems Licensing Board	13 DOJ 15507	10/30/13	
Deane Eugene Barnette v. Sheriffs' Education and Training Standards Commission	13 DOJ 16248	12/03/13	
Reza M. Salami v. NC Department of Justice and Attorney General Roy Cooper	13 DOJ 17903	11/12/13	

DEPARTMENT OF LABOR

United Quest Care Services v. Department of Labor	13 DOL 12224	09/17/13	
Absolute Contracting Service Inc., Felicia Myers v. NCDOL, Adriana King	13 DOL 16701	10/30/13	

DEPARTMENT OF TRANSPORTATION

Lorie Cramer v. NC Quick Pass Customer Service Center and DOT	13 DOT 08753	07/19/13	28:06 NCR 589
---	--------------	----------	---------------

DEPARTMENT OF STATE TREASURER

Dwaine C. Coley v. Department of State Treasurer	10 DST 00233	04/05/13	28:02 NCR 81
Ella Joyner v. Department of State Treasurer Retirement System Division	11 DST 02437	07/12/12	27:07 NCR 758
William R. Tate v. Department of Treasurer, Retirement System Division	11 DST 04675	09/07/12	27:15 NCR 1574
Brenda C. Hemphill v. Department of Treasurer, Retirement System Division	11 DST 10252	09/26/12	
Russell E. Greene v. Department of State Treasurer Retirement Systems Division	11 DST 10875	06/14/12	27:04 NCR 543
James A Layton v. Department of State Treasurer	11 DST 12958	11/30/12	
Marsha W Lilly, Robert L Hinton v. Retirement System	12 DST 01108	05/22/12	

STATE ETHICS COMMISSION

Reza M. Salami v. North Carolina A & T State University, Chancellor Harold Martin, General Counsel Charles Waldrup, Vice Chancellor Linda McAbee, Interim Provost Winsor Alexander, and Chairman Willie Deese	13 EBD 13916	11/20/13	
---	--------------	----------	--

STATE BOARD OF EDUCATION

Louis A. Hrebar v. State Board of Education	11 EDC 01445	07/27/12	
Delene Huggins v. Department of Public Instruction	11 EDC 08899	06/28/12	
Myra F. Moore v. NC Board of Education	11 EDC 11927	05/01/12	
Dwayne White v. Department of Public Instruction, NC State Board of Education	11 EDC 11864	07/18/12	27:07 NCR 769
Jeffery Sloan v. NCDPI	11 EDC 14077	11/09/12	27:21 NCR 1974
Lia C Long v. DPI	12 EDC 00805	10/18/13	27:16 NCR 1716
North Carolina Learns Inc. d/b/a North Carolina Virtual Academy	12 EDC 01801	05/18/12	
Katherine Kwesell Harris v. Public Schools, Board of Education	12 EDC 06520	09/05/12	
Bonnie Aleman v. State Board of Education, Department of Public Instruction	12 EDC 07293	06/14/13	
Emma Seward v. Department of Public Instruction	12 EDC 07438	07/17/13	
Jodi Esper v. Department of Public Instruction	12 EDC 10259	06/04/13	
Glennette McRae v. NC State Board of Education	12 EDC 10448	11/15/13	
Matthew Schneider v. Department of Public Instruction	12 EDC 12183	07/17/13	28:12 NCR 1467
Wanda McLaughlin v. State Board of Education	12 EDC 12410	03/27/13	

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Pamlico-Tar River Foundation, NC Coastal Federation, Environmental Defense Fund, and Sierra Club v. DENR, Division of Water Quality and PCS Phosphate Company, Inc	09 EHR 1839	04/26/12	27:01 NCR 87
ALCHEM Inc., v. NCDENR	10 EHR 00296	02/05/13	
Don Hillebrand v. County of Watauga County Health Dept	10 EHR 00933	05/10/12	
ALCHEM Inc., v. NCDENR	10 EHR 05463	02/05/13	
House of Raeford Farms, Inc., v. DENR	10 EHR 05508	05/31/12	27:01 NCR 99
Lacy H Caple DDS v. Division of Radiation Protection Bennifer Pate	11 EHR 11454	05/09/12	
Friends of the Green Swamp and Blue Ridge Environmental Defense League, Inc v. DENR Division of Waste Management and Waste Management of the Carolinas, Inc., d/b/a Waste Management of Wilmington	11 EHR 12185	08/08/12	27:12 NCR 1224
Holmes Development & Realty, LLC, and H.L. Homes v. DENR – Land Quality Section (Re: LQS 11-018)	11 EHR 13208	06/29/12	27:07 NCR 774
Ik Kim IT and K Enterprise v. DENR	11 EHR 13910	11/06/12	

CONTESTED CASE DECISIONS

Edward Dale Parker v. DENR	11 EHR 14390	02/22/13	
Janezic Building Group LLC v. Orange County	12 EHR 01104	12/03/12	27:21 NCR 2008
Save Mart of Duplin LLC v. DENR	12 EHR 02328	07/25/12	
NC Coastal Federation, Cape Fear River Watch, PenderWatch, and Conservancy Sierra Club v. DENR, Division of Air Quality and Carolina Cement Company, LLC	12 EHR 02850	09/23/13	
James D. Halsey v. DENR, Division of Environmental Health	13 EHR 10216	06/05/13	
Joe Waldroop v. NC DENR	13 EHR 12077	11/20/13	
NC Coastal Federation, Cape Fear River Watch, PenderWatch, and Conservancy Sierra Club v. DENR, Division of Air Quality	13 EHR 16148	11/04/13	

DIVISION OF EMPLOYMENT SECURITY

Dwight Marvin Wright v. Department of Commerce, Division of Employment Security	12 ESC 05042	07/27/12	
---	--------------	----------	--

DEPARTMENT OF INSURANCE

Megan L. Hartzog v. NC State Health Plan	12 INS 00364	05/06/13	28:07 NCR 691
Jan Fjelsted v. NC State Health Plan	12 INS 04763	01/16/13	28:07 NCR 706
Susan E. Montgomery Lee v. State Health Plan; Blue Cross Blue Shield	12 INS 10145	03/25/13	
Lori Matney v. Blue Cross Blue Shield of NC, State Health Plan	12 INS 10790	08/20/13	
Jean Kirkland and John Ritchie v. State Health Plan	12 INS 11957	04/11/13	

MISCELLANEOUS

Richard Lee Taylor v. City of Charlotte	11 MIS 14140	05/15/12	
Lloyd M Anthony v. New Hanover County Sheriff Office	12 MIS 01803	06/07/12	
Jackie Poole, Jamyan Brooks v. Orange County	12 MIS 02379	11/09/12	27:21 NCR 2016
David L. Smith v. NC Innocence Inquiry Commission	13 MIS 12404	06/19/13	28:10 NCR 1160
Thomas Franklin Cross, Jr. v. NC Innocence Inquiry Commission	13 MIS 12642	06/19/13	28:10 NCR 1160
Moses Leon Faison v. NC Parole Commission, Paul G. Butler, Jr.	13 MIS 13004	09/05/13	
Jabar Ballard v. NC Innocence Inquiry Commission	13 MIS 13005	06/19/13	28:10 NCR 1160
Paul Michael Simmons v. Luis Hernandez, Forest City Police Department	13 MIS 14274	11/13/13	

OFFICE OF STATE PERSONNEL

Amanda Thaxton v. State Ethics Commission	09 OSP 03754	09/20/12	
Jacob W. Scott v. Department of Crime Control and Public Safety Alcohol Law Enforcement	10 OSP 04582	07/19/13	28:12 NCR 1419
Dorothy H. Williams v. DHHS, Central Regional Hospital	10 OSP 05424	03/28/12	27:01 NCR 119
Stephen R. West v. The University of North Carolina at Chapel Hill	10 OSP 01567	11/26/12	27:21 NCR 1959
Larry F. Murphy v. Employment Security Commission of North Carolina	10 OSP 03213	06/04/12	
Walter Bruce Williams v. Dept. of Crime Control and Public Safety Butner Public Safety Division	10 OSP 03551	04/23/12	27:01 NCR 148
Teresa J. Barrett v. DENR	10 OSP 04754	10/22/12	27:16 NCR 1726
Daniel Chase Parrott v. Crime Control and Public Safety, Butner Public Safety Division	10 OSP 04792	05/30/12	
Steven M Mukumgu v. DAG	10 OSP 05199	08/07/12	
Valerie Small v. NC Agricultural and Technical State University	11 OSP 03245	05/24/13	28:11 NCR 1231
Beatrice T. Jackson v. Durham County Health Department	11 OSP 3835	06/08/12	
Brenda D. Triplett v. DOC	11 OSP 4605	03/20/12	27:06 NCR 669
Barry G. Eriksen v. NC State University	11 OSP 4968	12/16/13	
Tommie J. Porter v. DOC	11 OSP 5352	06/05/12	27:06 NCR 678
Fortae McWilliams v. DOC	11 OSP 06236	05/30/12	27:06 NCR 684
Katheryn Renee Johnson v. NC Department of Correction	11 OSP 06493	12/16/13	
Kimberly F. Loflin v. DOT, DMV	11 OSP 06762	07/10/12	
John Hardin Swain v. DOC, Hyde Correctional Inst.	11 OSP 07956	04/23/12	27:06 NCR 693
John Fargher v. DOT	11 OSP 08111	04/18/12	
Maria Isabel Prudencio-Arias v. UNC at Chapel Hill	11 OSP 09374	03/28/13	28:02 NCR 99
Gerald Price v. Department of Agriculture & Consumer Services, Standards Division	11 OSP 09588	02/27/13	28:02 NCR 139
Tammy Cagle v. Swain County, Department of Social Services	11 OSP 10307	09/26/12	27:16 NCR 1747
Doris Wearing v. Polk Correctional Inst. Mr. Solomon Superintendent	11 OSP 11023	10/19/12	
Fredericka Florentina Demmings v. County of Durham	11 OSP 11498	06/12/12	
Derick A Proctor v. Crime Control and Public Safety, State Capital Police Division	11 OSP 11499	12/06/12	

CONTESTED CASE DECISIONS

David B. Stone v. Department of Cultural Resources	11 OSP 11926	08/10/12	27:12 NCR 1245
Pattie Hollingsworth v. Fayetteville State University	11 OSP 12152	02/27/13	
William C. Spender v. Dept. of Agriculture & Consumer Services, Veterinary Division	11 OSP 12479	04/27/12	
Terrence McDonald v. NCSU	11 OSP 12682	05/21/12	
Terrence McDonald v. DHHS, Emery Milliken	11 OSP 12683	05/18/12	
Phyllis Campbell v. DOC	11 OSP 13381	08/27/12	27:15 NCR 1579
Thomas W. Wheeler v. NC Department of Transportation	11 OSP 13440	12/03/13	
Raeford Quick v. DOC	11 OSP 14436	05/22/12	
Tawana McLaurin v. DOC	12 OSP 00116	08/21/12	
Vera Ricks v. NC Department of Public Safety	12 OSP 00246	03/28/13	28:07 NCR 714
Marva G. Scott v. Edgecombe County Social Services Board (Larry Woodley, Fate Taylor, Ernest Taylor, Viola Harris and Evelyn Johnson), Edgecombe County Commissioners and Edgecombe county manager, Lorenzo Carmon	12 OSP 00430	12/20/12	27:22 NCR 2152
Ladeana Z. Farmer v. Department of Public Safety	12 OSP 00460	04/10/13	28:06 NCR 564
Rhonda Whitaker v. DHHS	12 OSP 00519	05/17/13	28:08 NCR 766
Thomas B. Warren v. DAG, Forest Services Division	12 OSP 00615	11/27/12	
Bon-Jerald Jacobs v. Pitt County Department of Social Services	12 OSP 00634	06/12/12	
Sherry Baker v. Department of Public Safety	12 OSP 00841	10/09/12	
Diane Farrington v. Chapel Hill-Carrboro City Schools	12 OSP 01300	07/12/12	
Cynthia Moats v. Harnett County Health Dept	12 OSP 01536	08/10/12	
Natalie Wallace-Gomes v. Winston-Salem State University	12 OSP 01627	05/15/12	
Clark D. Whitlow v. UNC-Chapel Hill	12 OSP 01740	06/12/12	
John Medina v. Department of Public Safety	12 OSP 01940	01/30/13	28:08 NCR 783
Jeffrey L Wardick, v. Employment Securities Commission of NC	12 OSP 02027	07/17/12	
Ricco Donnell Boyd v. NC A&T University	12 OSP 02219	01/31/13	
Larry C. Goldston v. UNC-Chapel Hill	12 OSP 02222	09/26/12	27:16 NCR 1754
Larry Batton v. Dept of Public Safety	12 OSP 02320	02/18/13	
Sandra Kay Tillman v. County of Moore Department of Social Services, John L. Benton, Director	12 OSP 02433	07/29/13	
Sheila Bradley v. Community College System Sandhills Community College	12 OSP 02473	06/06/12	
Brenda S. Sessoms v. Department of Public Safety	12 OSP 02507	07/25/12	
Donnette J Amaro v. Onslow County Department of Social Services	12 OSP 02578	11/21/12	
Ronald Gilliard v. N.C. Alcoholic Law Enforcement	12 OSP 02618	09/26/12	
Kimberly Hinton v. DOT	12 OSP 02848	10/05/12	
James B. Bushardt III v. DENR, Division of Water Quality	12 OSP 02872	02/19/13	
Natalie Wallace-Gomes v. Winston Salem State University	12 OSP 02950	08/01/12	
Katie F. Walker v. Rutherford County/Department of Social Services	12 OSP 03041	03/15/13	28:08 NCR 791
Norlishia Y. Pridgeon v. Department of Public Safety, Division of Adult Correction and Department of Corrections	12 OSP 03150	08/02/13	
Jaymar v. Department of Corrections, Central Prison	12 OSP 03381	07/20/12	
Ronald Wayne Crabtree Jr., v. Butner Public Safety	12 OSP 03846	10/09/12	
Natalie Wallace-Gomes v. Winston Salem State University	12 OSP 03910	10/22/12	
Natalie Wallace-Gomes v. Winston Salem State University	12 OSP 04107	10/22/12	
Michelle Houser v. Department of Public Safety, Division of Prisons	12 OSP 04826	09/26/12	
Audrey Melissa Tate v. Department of Public Safety, Division of Juvenile Justice	12 OSP 05182	08/03/12	
Jonathan Ashley Stephenson v. UNC-Chapel Hill	12 OSP 05223	01/15/13	
Charles E. Rouse v. DMV, Dist Sup Stacey Wooten	12 OSP 05315	09/05/12	
Edwards Robert Esslinger v. DPI	12 OSP 05459	09/12/12	
Barry L. Pruett v. DMV, Driver and Vehicle Services	12 OSP 05785	09/11/12	
Joseph Sandy v. UNC Chapel Hill	12 OSP 06152	09/05/12	
Natalie Wallace-Gomes v. Winston Salem State University	12 OSP 06309	10/22/12	
Paul Jeffrey Treadway v. Department of Public Safety, Division of Adult Supervision	12 OSP 06634	12/18/12	
Darrion Smith v. Murdock Developmental Center and the NC DHHS; Ricky Bass v. NC DHHS; Darrion Smith v. NC DHHS	12 OSP 06780	07/24/13	28:12 NCR 1472
Phillip W Smith v. Department of Commerce, Division of Employment Security	12 OSP 06821	09/20/12	
Asia T. Bush v. DOT	12 OSP 06980	04/23/13	28:03 NCR 293
Bonnie S. Rardin v. Craven Correctional Institution, Department of Public Safety	12 OSP 07443	04/19/13	
Shirley M. Parker v. Department of Public Safety Caledonia Correctional Institution	12 OSP 07617	04/04/13	
Christopher Rashad Pippins v. PCS BOE PCS Facility Services	12 OSP 07744	10/18/12	
Wanda Edwards v. UNC School of Dentistry	12 OSP 07851	01/09/13	
Gary C. Clement v. DHHS	12 OSP 08105	11/14/12	
Oswald Woode v. DHHS, Central Regional Hospital	12 OSP 08664	01/09/13	
Gwendolyn Claire Montgomery v. NC DPS/DOCC/Lori Dunn	12 OSP 09069	08/05/13	28:13 NCR 1562
Gary C. Clement v. DHHS	12 OSP 09581	01/04/13	

CONTESTED CASE DECISIONS

Roseth Kyremartin v. DHHS	12 OSP 10209	06/21/13	28:11 NCR 1278
Patricia Burgess v. NC Community College System	12 OSP 10339	08/09/13	28:14 NCR 1669
Daniel J. Dugan, Jr. v. UNCW	12 OSP 10620	10/15/13	
Judy Knox v. UNC at Charlotte	12 OSP 10856	07/11/13	
Sherry Young v. DHHS, Division of Child Development and Early Education	12 OSP 11078	10/07/13	
Anesa Trevon Lucas v. NC Division of Child Development and Early Education	12 OSP 12082	11/04/13	
David Ryan Brown v. Department of Public Safety, Division of Community Corrections	12 OSP 12179	10/08/13	

David A. Tuno v. Lincoln Correctional Center	13 OSP 00031	09/10/13	
Jeffrey Wayne Ellis v. North Carolina A & T University	13 OSP 09564	08/08/13	
Kimberly D. Hinton v. Department of Transportation	13 OSP 09565	09/06/13	
Wiley Daniel Thomas v. Department of Transportation, Division of Motor Vehicles	13 OSP 10577	10/07/13	
Helen Karen Radford v. Buncombe County Department of Health	13 OSP 10629	09/27/13	
Alphonsus U. Nwadike v. DHHS, Central Regional Hospital (Butner)	13 OSP 10977	07/15/13	
Kevin D. Terry v. State of NC Office of State Controller	13 OSP 11088	07/15/13	
Lionel James Randolph v. NC Office of State Personnel	13 OSP 11170	07/15/13	
Cynthia C. Goodwin v. Department of Revenue	13 OSP 11232	08/02/13	
Robert E. Hines v. Department of Transportation	12 OSP 11278	09/13/13	
Natalie Wallace-Gomes v. Winston-Salem State University	13 OSP 11293	08/13/13	
Joann C. Pearson v. UNC-Charlotte	13 OSP 11562	09/17/13	
Amy J. Rains v. Department of Public Safety	13 OSP 11930	12/11/13	
Rotisha Hawthorne v. Department of Safety (Polk)	13 OSP 12639	09/05/13	
Stephanie K. Willis v. Montgomery County Board of Education	13 OSP 13012	08/07/13	
Dianne E. Pankey v. Department of Social Services Michael Becketts	13 OSP 13544	12/11/13	
Leora Robin Johnson v. Broughton Hospital, Alicia Nexeon HR, Rebecca Powell, RN NSA, Denise Lunsford	13 OSP 14357	09/12/13	28:15 NCR 1843
David M. Andrews v. Department of Transportation, Technical Services-Client Support	13 OSP 15144	10/03/13	
Sharon Riddick v. Department of Public Safety, Adult Correction, Andrew Riddick v. Department of Public Safety, Adult Correction	13 OSP 15445	12/16/13	
Sharon Riddick v. Department of Public Safety, Adult Correction, Andrew Riddick v. Department of Public Safety, Adult Correction	13 OSP 15446	12/16/13	
Luchana A. Woodland v. Fayetteville State University	13 OSP 15499	09/11/13	
Mary E. Wilson v. Mecklenburg County, NC	13 OSP 15512	10/03/13	
Joy Diane Felton v. J. Iverson Riddle Developmental Center and DHHS	13 OSP 17603	11/13/13	
Armin Robinson v. North Carolina Central Prison	13 OSP 18463	12/31/13	
Dominic Corwin v. Equal Opportunity/ADA Office-University of North Carolina	13 OSP 18836	01/03/14	
Maxine Evans-Armwood v. Department of Public Safety	13 OSP 19059	01/03/14	

DEPARTMENT OF REVENUE

Jerry Lamont Lindsey v. Department of Revenue	11 REV 1914	07/25/12	
Thomas E Gust v. Department of Revenue	11 REV 13557	08/15/12	
James Cooper III Sui Juris v. Department of Revenue	11 REV 13792	11/14/12	
Brian Daniel Reeves v. Department of Revenue	12 REV 01539	06/04/12	
David Roser v. Department of Revenue	12 REV 01694	09/10/12	
Ronnie Lee Nixon v. Department of Revenue	12 REV 01881	10/03/12	
James M. Slowin, REFS LLC v. Department of Revenue	12 REV 02218	02/11/13	28:06 NCR 583
William S. Hall v. Department of Revenue	12 REV 04115	08/27/12	
Noah D. Sheffield v. Department of Revenue	12 REV 07074	11/14/12	
Jenny M. Sheffield v. Department of Revenue	12 REV 07075	11/14/12	
Jesus A. Cabrera v. Department of Revenue	12 REV 08968	01/03/13	
Sybil Hyman Bunn v. Department of Revenue	12 REV 08973	05/06/13	
William Scott v. Department of Revenue	13 REV 06646	04/29/13	28:06 NCR 593
Chase Auto Finance Corporation v. Department of Revenue	13 REV 10115	06/19/13	28:10 NCR 1164
Karim B. Mawji/Mama Brava's v. Department of Revenue	13 REV 13648	12/18/13	
Olivier N. Sayah v. Department of Revenue	13 REV 13956	11/19/13	
Joseph Lewis Moore v. Department of Revenue	13 REV 17720	11/13/13	
Tavious Montrell Hinson v. Department of Revenue	13 REV 17727	11/26/13	
Mark A. Lovely v. Department of Revenue	13 REV 18226	12/23/13	

OFFICE OF SECRETARY OF STATE

Michael Anthony Farrow-Bey v. Department of Secretary of State	12 SOS 07865	12/14/12
Jennifer Lynn Pierce-Founder Share Our Shoes v. Secretary of State's Office	12 SOS 01653	07/11/12
Bethany Thompson v. Department of the Secretary of State	12 SOS 11648	05/02/13

CONTESTED CASE DECISIONS

Holley Shumate Knapp v. Ann Wall, General Counsel Department of the Secretary	13 SOS 09039	05/23/13
Trvuun B. Alston v. Department of the Secretary of State	13 SOS 10113	07/08/13
John Claude Barden v. Department of the Secretary of State	13 SOS 12528	10/03/13
Connie Huntsman v. Department of the Secretary of State	13 SOS 16505	12/13/13
Dianne Michele Carter v. Department of the Secretary of State, Ozie Stalworth, and John Lynch	13 SOS 18498	12/18/13

UNC HOSPITALS

Onyedika C Nwaebube v. UNC Hospitals	12 UNC 01110	06/25/12
Nephatiya Wade v. UNC Hospitals Chapel Hill NC	12 UNC 01209	07/17/12
Fredia R Wall v. UNC Physicians & Associates	12 UNC 02256	10/04/12
Carolyn A. Green v. UNC Hospitals	12 UNC 02259	09/19/12
Annie E. Jarrett v. UNC Hospitals	12 UNC 03716	10/09/12
Vikki J Goings v. UNC Hospital	12 UNC 04109	09/18/12
Elonnie Alston v. UNC Hospitals	12 UNC 04551	09/11/12
Diara Z Andrews v. UNC Hospitals	12 UNC 04827	08/15/12
David Ryan Pierce v. UNC Hospitals, Patient Account Services, SODCA	12 UNC 05306	03/20/13
Shonte Hayes v. UNC P&A	12 UNC 05746	09/10/12
Tracy A. Spaine (Currier) v. UNC Hospitals	12 UNC 06822	11/06/12
Candis Miller v. UNC Hospitals	13 UNC 10374	08/19/13
Deborah Wright v. UNC Hospitals	13 UNC 10574	11/15/13
Chiduzie Oriaku v. UNC Hospitals	13 UNC 11434	10/07/13
Julie C. Rose v. UNC Hospitals	13 UNC 12019	11/05/13
Jason Paylor v. UNC Hospitals Patient Accounts	13 UNC 12636	07/26/13
Robbyn L. Labelle v. UNC Hospitals	13 UNC 13685	11/18/13
Pamela Klute v. UNC Hospitals	13 UNC 15828	11/25/13

WILDLIFE RESOURCES COMMISSION

People for the Ethical Treatment of Animals, Inc., v. NC Wildlife Resources Commission	12 WRC 07077	11/13/12	27:22 NCR 2165
--	--------------	----------	----------------

STATE OF NORTH CAROLINA
COUNTY OF MOORE

Filed

2013 OCT 24 PM 1:40

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
13DHR09729

<p>MYRA EVANS, Petitioner,</p> <p>v.</p> <p>MOORE COUNTY DEPARTMENT OF SOCIAL SERVICES, Respondent.</p>	<p>FINAL DECISION</p>
---	------------------------------

THIS MATTER came before Beecher R. Gray, Administrative Law Judge, presiding, on September 24, 2013, in High Point, North Carolina.

APPEARANCES

For Petitioner: Myra Evans, Appearing Pro Se
 835 West Wisconsin Ave.
 Southern Pines, NC 28387

For Respondent: R. Ward Medlin
 Associate County Attorney
 County of Moore
 P.O. Box 905
 Carthage, NC 28327

WITNESSES

The following witnesses appeared and testified on behalf of Petitioner:

1. Paul Evans

The following witnesses appeared and testified on behalf of Respondent:

1. Regina Alsobrook, Income Maintenance Worker, Moore County DSS
2. Lisa Smith, Income Maintenance Worker, Moore County DSS
3. Rodneyann Wittmer, Program Integrity Investigator, Moore County DSS

EXHIBITS:

The following exhibits were admitted into evidence on behalf of Respondent:

1. June 26, 2006 Medical Assistance Application as completed by Regina Alsobrook, IMW, MCDSS, and signed by Myra Evans, Petitioner
2. October 11, 2006 Recertification Application for Medical Assistance as completed by Lisa Smith, IMW, MCDSS, and signed by Myra Evans, Petitioner
3. Verification/Eligibility Determination for Medical Assistance Applications Adult Categories, as completed by Regina Alsobrook, IMW, MCDSS, and signed by Myra Evans, Petitioner
4. Medicaid Recipient Profile as prepared by the Division of Medical Assistance as to the Petitioner Myra Evans, dated November 9, 2006
5. Notice of Overpayment for Medical Assistance prepared by the NC Department of Health and Human Services Division of Medical Assistance dated 12/20/2006
6. Notification of North Carolina Income Tax Refund Intercept dated 2/20/2013
8. Lisa Smith letter dated 10/12/2006 verifying unearned income
9. Lisa Smith Fraud referral letter dated 10/16/2006

ISSUE

The issue in this case is whether Petitioner's North Carolina Income Tax Refund lawfully was intercepted to reimburse the State of North Carolina for Medicaid payments made by Respondent for the benefit of Petitioner.

The following Findings of Fact are made after careful consideration of the sworn testimony, whether visual and/or audio, of the witnesses presented at the hearing, and the entire record in this proceeding. In making the Findings of Fact, the Undersigned has weighed all the evidence, or the lack thereof, and has assessed the credibility of the witnesses by taking into account the appropriate factors for judging credibility, including, but not limited to, the demeanor of the witness; any interests, bias, or prejudice the witness may have; the opportunity of the witness to see, hear, know, or remember the facts or occurrences about which the witness testified; whether the testimony of the witness is reasonable; and whether the testimony is consistent with all other believable evidence in the case. From the sworn testimony and the admitted evidence, or the lack thereof, the Undersigned makes the following:

FINDINGS OF FACT

1. The parties acknowledged proper notice of the date, time, and place of the hearing and so stipulated on the record.
2. Petitioner filed a Petition in the Office of Administrative Hearings on March 18, 2013, contesting the intercept of her State tax refund for the repayment of an Overpayment For Medical Assistance debt.
3. Petitioner made application for Medical Assistance through the Moore County Department of Social Services and completed her original application with Income Maintenance Worker (IMW) Regina Alsobrook on June 26, 2006.
4. During the original application process, Petitioner represented that the only household income was that of her husband Paul Evans.
5. Based upon the original application submitted, Petitioner was determined eligible for Medicaid Assistance and was certified for a time period of six (6) months.
6. Petitioner completed the recertification application for Medical Assistance through the Moore County Department of Social Services and completed her recertification application with IMW Lisa Smith on October 11, 2006.
7. During the recertification application process, Petitioner disclosed the receipt of unearned income from a private disability insurance payment which she failed to disclose during the initial application process.
8. Petitioner was receiving the private disability insurance payment at the time she originally made application for the Medicaid Assistance in June 26, 2006, and received the benefit from May 30, 2006 through September 25, 2006.
9. The private disability insurance payment added \$986.59 per month to the household income, and resulted in Petitioner being ineligible for Medicaid Assistance, as originally determined, and subject to a deductible of \$9,634.32.
10. The debt for Overpayment For Medical Assistance in the amount of \$3,010.28 was established by the Moore County Department of Social for unreported or inaccurately reported income information. That debt was owed for benefits received from June 1, 2006 through October 31, 2006, and during a time in which Petitioner was not eligible for assistance.
11. Respondent Moore County Department of Social Services made multiple attempts to establish a repayment plan with Petitioner to recover the benefits advanced, for which Petitioner was ineligible, without success.

12. The efforts by Respondent Moore County Department of Social Services included personal home visits to discuss the overpayment and multiple attempts to establish a repayment plan.
13. Respondent Moore County Department of Social Services presented to Petitioner a proposed repayment plan requesting that Petitioner repay the overpayment at the rate of \$25.00 monthly, and thereafter presented monthly statements requesting payment by Petitioner, commencing December 2006 and continuing to the present.
14. Petitioner has failed to make a single payment toward repayment of the Medicaid Medical Assistance Payments for which she was not eligible.
15. On December 20, 2006, the North Carolina Department of Health and Human Services, Division of Medical Assistance, forwarded to Petitioner a Notice of Overpayment For Medical Assistance, informing her that she owed the sum of \$3,010.28.
16. The December 20, 2006 Notice informed Petitioner of her Hearing Rights, and specifically advised that she must request a hearing, if at all, on or before February 18, 2007.
17. Petitioner never appealed the Notice of Overpayment For Medical Assistance and the time for appeal has expired.
18. On February 20, 2013, the State of North Carolina Department of Health and Human Services notified Petitioner that her North Carolina Income Tax Refund had been intercepted to reimburse the State of North Carolina for Medical Assistance Payments paid on behalf of Petitioner, for which she was ineligible.
19. The tax intercept was in the amount of \$1,135.00 and less than the \$3,010.28 in benefits paid on behalf of Petitioner.
20. Petitioner self-reported the unearned income during the recertification application process.
21. Petitioner did not fraudulently secure the Medical Assistance Payments, but secured the payments through failure to accurately disclose all household income. Upon inquiry following disclosure by Petitioner as to the private disability insurance payment, Petitioner informed the Moore County Department of Social Services that she had not considered the private disability insurance payments as income.
22. After applying the tax intercept in the amount of \$1,135.00, there remains unpaid the sum of \$1875.28 for Medical Benefits paid on behalf of Petitioner, and for which Petitioner was not eligible.
23. Petitioner was given the opportunity to contest the determination of ineligibility by notice provided to Petitioner on December 20, 2006 but did not appeal or request a hearing.

CONCLUSIONS OF LAW

1. The parties properly are before the Office of Administrative Hearings.
2. The time to appeal establishment of the debt and submission to an impartial officer of the Moore County Department of Social Services, and if dissatisfied with that decision, appeal for subsequent contested case hearing, has passed.
3. After providing Petitioner ample opportunity to be heard on the underlying issues of the establishment of the debt and how it was to be collected, the Department of Health and Human Services correctly followed the procedures outlined by N.C. Gen. Stat. 105A *et seq.*
4. In this case, a preponderance of the evidence showed that Respondent complied with the procedural requirements related to assessing and determining the eligibility for Medicaid Medical Assistance, including the recertification process.
5. In this case, a preponderance of the evidence showed that Respondent complied with the procedural requirements related to Notification as to establishment of debt.
6. The intercept of Petitioner's North Carolina Income Tax Refund, in the amount of \$1,135.00, was proper and lawful.

FINAL DECISION


Based on the foregoing Findings of Fact and Conclusions of Law, the undersigned finds that Respondent's Intercept of Petitioner's North Carolina Income Tax Refund for reimbursement of Medical Assistance Benefits paid on behalf of Petitioner, for which Petitioner was not eligible, was lawful and proper under N.C.G.S. § 105A *et. Seq.* Respondent's decision to intercept Petitioner's North Carolina Income Tax Refund is supported by the evidence and is AFFIRMED.

NOTICE

Under the provisions of North Carolina General Statute 150B-45, any party wishing to appeal the final decision of the Administrative Law Judge must file a Petition for Judicial Review in the Superior Court of Wake County or in the Superior Court of the county in which the party resides. **The appealing party must file the petition within 30 days after being served with a written copy of the Administrative Law Judge's Final Decision.** In conformity with the Office of Administrative Hearings' rule, 26 N.C. Admin. Code 03.0102, and the Rules of Civil Procedure, N.C. General Statute 1A-1, Article 2, **this Final Decision was served on the parties the date it was placed in the mail as indicated by the date on the Certificate of Service attached to this Final Decision.** N.C. Gen. Stat. §150B-46 describes the contents of the Petition and requires service of the Petition on all parties. Under N.C. Gen. Stat. §150B-47, the Office of Administrative Hearings is required to file the official record in the contested case with the Clerk of Superior Court within 30 days of receipt of the Petition for Judicial Review. Consequently, a copy of the Petition for Judicial Review must be sent to the Office of

Administrative Hearings at the time the appeal is initiated in order to ensure the timely filing of the record.

This the 24 day of October, 2013.


Beecher R. Gray
Administrative Law Judge

On this date mailed to:

MYRA EVANS
835 WEST WISCONSIN AVENUE
SOUTHERN PINES, NC 28387
Petitioner

R Ward Medlin
Attorney At Law
PO Box 905
Carthage, NC 28327-
Attorney For Respondent

This the 25th day of October, 2013.



Office of Administrative Hearings
6714 Mail Service Center
Raleigh NC 27699-6714
Telephone: 919/431-3000
Fax: 919/431-3100

FILED

STATE OF NORTH CAROLINA

COUNTY OF WAKE

SEP -3 PM 1:13

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS

13DHR09799

OFFICE OF
ADMINISTRATIVE HEARINGS

KESHA JOHNSON,
Petitioner,

v.

NORTH CAROLINA DEPARTMENT OF
HEALTH AND HUMAN SERVICES,
DIVISION OF HEALTH SERVICE
REGULATION,
Respondent.

FINAL DECISION

THIS MATTER came on for hearing before Beecher R. Gray, Administrative Law Judge, on July 24, 2013, at the Office of Administrative Hearings in Raleigh, North Carolina.

APPEARANCES

For Petitioner:

Michael C. Byrne
Law Offices of Michael C. Byrne
Wells Fargo Capitol Center
150 Fayetteville Street, Suite 1130
Raleigh, NC 27601

For Respondent:

Josephine N. Tetteh
Assistant Attorney General
North Carolina Department of Justice
9001 Mail Service Center
Raleigh, NC 27699-9001

ISSUE

Whether Respondent otherwise substantially prejudiced Petitioner's rights, acted erroneously, or failed to act as required by law or rule when Respondent substantiated the allegations that Petitioner abused a resident of Cherry Hospital in Goldsboro, North Carolina and entered a finding of abuse by Petitioner's name in the Health Care Personnel Registry when it listed an allegation that "on or about 6/24/2012, Kesha Johnson, a Health Care Personnel, abused a resident, (JD) by willfully grabbing and pushing the resident against a locker, resulting in pain and mental anguish."

APPLICABLE STATUTES AND RULES

N.C. Gen. Stat. § 131E-255
N.C. Gen. Stat. § 131E-256
N.C. Gen. Stat. §150B-23
42 CFR § 488.301
10A N.C.A.C. 130.0101

EXHIBITS

Respondent's exhibits ("R. Exs.") 1, 3-7, 9, 11-19, and 23-26 were admitted into the record. Respondent's exhibits 27-28 were accepted as offers of proof. No exhibits were offered for Petitioner.

WITNESSES

Petitioner Kesha Johnson
Lori Henderson
Rachel Linquanti
Dawn Ratliff
Rae Ann Davis
Miranda Bennett
Nancy Gregory

BASED UPON careful consideration of the sworn testimony of the witnesses presented at the hearing and the entire record in this proceeding, the Undersigned makes the following findings of fact. In making the findings of fact, the Undersigned has weighed all the evidence and has assessed the credibility of the witnesses by taking into account the appropriate factors for judging credibility, including but not limited to the demeanor of the witness; any interests, bias, or prejudice the witness may have; the opportunity of the witness to see, hear, know or remember the facts or occurrences about which the witness testified; whether the testimony of the witness is reasonable; and whether the testimony is consistent with all other believable evidence in the case. From the sworn testimony of witnesses, the Undersigned makes the following:

FINDINGS OF FACT

1. The parties received notice of hearing by certified mail more than 15 days prior to the hearing, and each stipulated on the record that notice was proper. At all times relevant to this matter, Petitioner Kesha Johnson was a Health Care Technician I at Cherry Hospital, a facility of the North Carolina Department of Health and Human Services located in Goldsboro, North Carolina. Cherry Hospital is a residential care facility and therefore subject to N.C. Gen. Stats. §131E-255 and §131E-256.

2. Petitioner was trained in residents' rights, abuse, and abuse procedures at Cherry Hospital. (R. Ex. 3)
3. As of June 2012, Petitioner had worked in the health care industry for 18 years. She had worked at Cherry Hospital for 14 years and, prior to that, worked at O'Berry Center, another DHHS facility. Petitioner has no prior disciplinary action on her record for patient abuse.
4. On June 24, 2012, Petitioner was working at Cherry Hospital. She was assigned to work as a "one on one" with Resident JD. In a "one on one" assignment, the staff member is assigned to work closely with one patient only during his or her shift. Patients are placed in one on one situations because it has been determined that they could, among other reasons, pose a danger to other patients, staff members, or themselves.
5. Petitioner had worked with JD numerous times in the past, including one on ones. JD previously had assaulted Petitioner on one occasion, requiring Petitioner to visit employee health. JD also had assaulted other staff members and residents. Petitioner thought that she generally worked well with JD and had asked to be assigned to him in the past.
6. JD was known to "pick up" or take things that did not belong to him. However, Petitioner had never experienced JD attempting to take anything of hers.
7. On June 24, 2012, Petitioner had taken JD to "Central Section," a section of the ward between the two wings, and was setting up a movie for him to watch. While doing so, Petitioner removed a ring that she was wearing for the purposes of putting on hand sanitizer.
8. When Petitioner did this, JD took Petitioner's ring and refused to return it. Petitioner attempted multiple times verbally to "re-direct" JD without using physical intervention. Petitioner then called for help from other staff.
9. Petitioner took JD by his collar and--depending on the testimony of the witness concerned-- placed (Petitioner), pushed (Dawn Ratliff), or slammed (Rachel Liguanti) JD against a row of lockers, at which time Nurse Rachel Liguanti was able to remove the ring from JD's finger. Petitioner's hold on JD was an "unsanctioned hold" under non-emergent circumstances.
10. Registered Nurse Ratliff examined JD immediately after the incident and noted no physical pain or injuries to JD. There was no evidence of any intent on Petitioner's part to hurt or harm JD in the incident. No witness to the incident testified as to any mental anguish on the part of JD as a result of Petitioner's actions.
11. In interviews with the HCPR investigator, witnesses and interviewees unanimously agreed that JD displayed no physical pain or injury as a result of Petitioner's actions, and

no witness or interviewee affirmatively stated in interviews that Petitioner's actions caused "mental anguish" to JD.

12. Following an investigation by HCPR Investigator Nancy Gregory ("Investigator Gregory"), Respondent substantiated a finding that "on or about 6/24/12, Kesha Johnson, a Health Care Personnel, abused a resident, (JD) by willfully grabbing and pushing the resident against a locker, resulting in mental anguish and pain."
13. Respondent duly notified Petitioner of that finding in the manner required by law, and Petitioner timely appealed that finding.
14. Abuse is defined as the "willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish." Investigator Gregory determined that Petitioner willfully abused resident JD, causing pain and mental anguish.
15. Petitioner consistently denied any intent to cause pain or mental anguish to JD.

Based upon the foregoing Findings of Fact, the undersigned Administrative Law Judge makes the following:

CONCLUSIONS OF LAW

1. The parties properly are before the Office of Administrative Hearings.
2. Respondent conducted a reasonable and appropriate investigation into the allegation of abuse and did not act in an arbitrary or capricious manner.
3. As a health care technician working in an adult care facility, Petitioner is a "health care personnel" and subject to the provisions of N.C. Gen. Stat. § 131E-255 and § 131E-256.
4. Petitioner was a credible witness. A staff member who witnessed the incident, Dawn Ratliff, R.N., was a credible witness. The other staff member who witnessed the incident, Rachel Liguanti, R.N., was a significantly less credible witness. Rachel Liguanti made claims regarding Petitioner's actions in the incident that were not substantiated by Nurse Ratliff or by other witnesses, and which in some cases were not substantiated by Nurse Liguanti's own interview statements at the time of the incident. Further, while claiming at hearing not to have any personal problems with Petitioner, Nurse Liguanti made various very negative statements regarding Petitioner's job performance to Investigator Gregory, those statements not being substantiated by--and, in some cases, contradicted by--the other Cherry Hospital witnesses involved.
5. The greater weight of the evidence does not support the allegation of abuse which stated that, "on or about 6/24/12, Kesha Johnson, a Health Care Personnel, abused a resident, (JD) by willfully grabbing and pushing the resident against a locker, resulting in mental

anguish and pain." Based on the evidence and governing law, it is found that there is no evidence of pain or mental anguish to JD resulting from Petitioner's actions.

6. Respondent acted erroneously because there is insufficient evidence to support Respondent's conclusion that Petitioner abused JD. I find that Respondent's actions were not arbitrary and capricious and that Respondent acted in good faith in conducting its investigation.

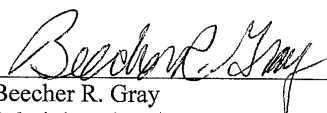
FINAL DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, the undersigned hereby determines that Respondent's decision to place a finding of abuse at Petitioner's name on the Health Care Personnel Registry is not supported by the evidence and is REVERSED.

NOTICE

Under the provisions of North Carolina General Statute 150B-45, any party wishing to appeal the final decision of the Administrative Law Judge must file a Petition for Judicial Review in the Superior Court of Wake County or in the Superior Court of the county in which the party resides. **The appealing party must file the petition within 30 days after being served with a written copy of the Administrative Law Judge's Final Decision.** In conformity with the Office of Administrative Hearings' rule, 26 N.C. Admin. Code 03.0102, and the Rules of Civil Procedure, N.C. General Statute 1A-1, Article 2, **this Final Decision was served on the parties the date it was placed in the mail as indicated by the date on the Certificate of Service attached to this Final Decision.** N.C. Gen. Stat. §150B-46 describes the contents of the Petition and requires service of the Petition on all parties. Under N.C. Gen. Stat. §150B-47, the Office of Administrative Hearings is required to file the official record in the contested case with the Clerk of Superior Court within 30 days of receipt of the Petition for Judicial Review. Consequently, a copy of the Petition for Judicial Review must be sent to the Office of Administrative Hearings at the time the appeal is initiated in order to ensure the timely filing of the record.

This the 03 day of September, 2013.

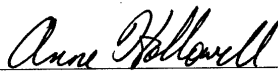

Beecher R. Gray
Administrative Law Judge

On this date mailed to:

MICHAEL C BYRNE
Law Offices of Michael C Byrne PC
150 FAYETTEVILLE STREET, SUITE 1130
RALEIGH, NC 27601
Attorney For Petitioner

JOSEPHINE N TETTEH
Assistant Attorney General,
NC Department of Justice
9001 Mail Service Center
RALEIGH, NC 27699
Attorney For Respondent

This the 3rd day of September, 2013.



Office of Administrative Hearings
6714 Mail Service Center
Raleigh NC 27699-6714
Telephone: 919/431-3000
Fax: 919/431-3100

STATE OF NORTH CAROLINA
COUNTY OF SCOTLAND

Filed
2013 SEP 11 AM 9:02
IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
12DOJ08026

SHERONICA HALL SMITH,
Petitioner,

v.

NORTH CAROLINA SHERIFFS'
EDUCATION AND TRAINING
STANDARDS COMMISSION,
Respondent.

PROPOSAL FOR DECISION

On April 29, 2013, Administrative Law Judge Beecher R. Gray heard this case in Fayetteville, North Carolina. This case was heard after Respondent requested the designation of an Administrative Law Judge to preside at the hearing of a contested case under Article 3A, Chapter 150B of the North Carolina General Statutes. After serving a copy of its draft proposal for decision upon Counsel for Petitioner in May 2013, Respondent filed that Draft Proposal for Decision in the Office of Administrative Hearings on August 19, 2013. Petitioner did not file any documents or argument in response to Respondent's Draft Proposal for Decision.

APPEARANCES

Petitioner: Timothy R. Snead, Esq.
Respondent: Matthew L. Boyatt, Assistant Attorney General

ISSUES

1. Whether Petitioner knowingly made a material misrepresentation to the North Carolina Sheriffs' Education and Training Standards Commission of any information required for certification as a justice officer.
2. Whether Petitioner committed the felony offense of Influencing a Witness in Dooly County, Georgia on or about July 18, 1994.

FINDINGS OF FACT

1. The parties received notice of hearing by certified mail more than 15 days prior to the hearing, and each stipulated on the record that notice was proper. Petitioner received by

certified mail the proposed Denial of Justice Officer's Certification letter, mailed by Respondent Sheriffs' Commission on June 12, 2012.

2. The North Carolina Sheriffs' Education and Training Standards Commission (hereinafter referred to as the "Sheriffs' Commission") has the authority granted under Chapter 17E of the North Carolina General Statutes and Title 12 of the North Carolina Administrative Code, Chapter 10B, to certify justice officers and to deny, revoke, or suspend such certification.
3. 12 NCAC 10B.0204(c)(1) and (2) states that the Sheriffs' Commission may deny the certification of a justice officer when the Commission finds that the applicant for certification has:
 - (1) knowingly made a material misrepresentation of any information required for certification or accreditation from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission; or has
 - (2) knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation, or cheating whatsoever, obtained or attempted to obtain credit, training or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission.
4. Further, 12 NCAC 10B.0204(a)(1) states that the Sheriffs' Commission shall deny the certification of a justice officer when the Commission finds that the applicant for certification has committed or been convicted of a felony.
5. Petitioner is an applicant for deputy certification through the Scotland County Sheriff's Office. Petitioner previously has not held certification through the Sheriffs' Commission and previously has not held certification through the North Carolina Criminal Justice Education and Training Standards Commission.
6. On September 22, 1994, Petitioner was arrested in Dooly County, Georgia and was charged with two (2) separate felony offenses of Influencing a Witness. (R. Ex. 4) Petitioner was handcuffed during her arrest and was fingerprinted and photographed as part of the criminal processing.
7. On January 30, 1995, Petitioner appeared in court in Dooly County, Georgia and formally waived counsel and entered a plea of not guilty to the felony offenses of Influencing a Witness.
8. On May 1, 1995, the Dooly County District Attorney filed a Motion to *Nolle Prosequi* the above-referenced felony offenses, which Motion was granted by the presiding superior court judge.

9. Petitioner completed a Personal History Statement (Form F-3), on or about February 18, 2011, as part of her employment application with the Scotland County Sheriff's Office and in order to obtain certification as a justice officer from the Sheriffs' Commission. Petitioner testified that she was provided ample time to complete and review the F-3 Personal History Statement prior to submitting the same. Further, Petitioner signed the completed Personal History Statement before a Notary Public and certified that each statement on the form was "true and complete." (R. Ex. 9)
10. Question No. 42 of the Sheriffs' Commission Form F-3 asked the applicant to disclose the following:

"Have you ever been arrested by a law enforcement officer or otherwise charged with a criminal offense?"
11. The instructions for Question No. 42 advised Petitioner of the following:

"If any doubt exists in your mind as to whether or not you were arrested or charged with a criminal offense at some point in your life . . . you should answer yes."
12. When Petitioner completed Question No. 42, she answered "No," indicating that she had never been arrested by a law enforcement officer or otherwise charged with a criminal offense.
13. At the time Petitioner completed the F-3 form in furtherance of her Scotland County Sheriff's Office application, Petitioner had earned a high school diploma from Dooly County High School and also had attended classes at Richmond Community College and Robeson Community College in furtherance of obtaining an advanced degree in Criminal Justice.
14. Petitioner maintains that she did not intentionally omit information on her February 18, 2011, Personal History Statement (Form F-3). Rather, Petitioner maintains that at the time she completed the F-3 Form, she had forgotten about being charged with two (2) separate felony offenses in Dooly County, Georgia.
15. Based on the evidence presented at the administrative hearing, the Undersigned finds that Petitioner did make a material misrepresentation of information required by the Sheriffs' Commission on the February 18, 2011, F-3 Form Petitioner completed in furtherance of her application for certification through the Scotland County Sheriff's Office. As such, Petitioner's application for certification through the Commission is subject to denial.
16. Although Petitioner may have been confused about what type of criminal charges she received in 1994, Petitioner was aware at the time she completed the 2011 F-3 Form that she had been arrested, handcuffed, and fingerprinted.
17. The Undersigned finds that the language in Question No. 42 was not confusing to Petitioner. This question states:

“Have you ever been arrested by a law enforcement officer or otherwise charged with a criminal offense?”

The instructions for this question further provide:

“If any doubt exists in your mind as to whether or not you were arrested or charged with a criminal offense at some point in your life . . . you should answer yes.”

18. By omitting Petitioner’s felony arrest for Influencing a Witness, Petitioner did make a material misrepresentation of information required by the Sheriffs’ Commission.
19. Respondent did not offer evidence regarding the commission of the two (2) felony offenses of Influencing a Witness in Dooly County, Georgia on or about July 18, 1994, other than to introduce court documents and the police arrest records regarding the same. Petitioner denies that she committed these felony offenses. Respondent has failed to prove by a preponderance of the evidence that Petitioner committed the above-referenced felony offenses.
20. Despite Petitioner’s grave error in judgment when completing the February 2011 Personal History Statement, there was substantial mitigating evidence and extenuating circumstances presented at the administrative hearing which warrants a lesser sanction than the denial of Petitioner’s certification.

CONCLUSIONS OF LAW

1. The parties properly are before the undersigned Administrative Law Judge and jurisdiction and venue are proper.
2. The Undersigned finds, based upon the evidence presented, that Petitioner did not commit two (2) separate felony offenses of Influencing a Witness in Dooly County, Georgia on or about July 18, 1994.
3. The Undersigned further finds that Petitioner did not knowingly and designedly by any means of false pretense, deception, fraud, misrepresentation, or cheating, obtain or attempt to obtain certification through the North Carolina Sheriffs’ Education and Training Standards Commission.
4. With respect to Petitioner’s submission of the February 18, 2011, F-3 Form, however, the Undersigned finds that Petitioner did in fact knowingly make a material misrepresentation of information required for certification by failing to disclose on her F-3 Personal History Statement that Petitioner had been arrested and charged with two (2) separate felony offenses in Dooly County, Georgia on or about September 22, 1994.

5. Petitioner's knowing material misrepresentation of information required for certification through the Sheriffs' Commission constitutes a violation of 12 NCAC 10B .0204(c)(1). Respondent's proposed denial of Petitioner's certification is therefore supported by substantial evidence. Under 12 NCAC 10B .0205 (2), however, the Commission may either reduce or suspend the periods of sanction or substitute a period of probation in lieu of revocation, suspension, or denial when extenuating circumstances brought out at the administrative hearing warrant such a reduction.

PROPOSAL FOR DECISION

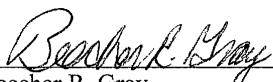
Based upon the foregoing FINDINGS OF FACT and CONCLUSIONS OF LAW, the Undersigned recommends that Petitioner's certification be denied for a period of 12 months and that this denial be stayed and Petitioner be issued certification and placed on an active period of probation for 24 months, during which time Petitioner shall not violate any rules or regulations of the Sheriffs' Commission.

NOTICE AND ORDER

The North Carolina Sheriffs' Education and Training Standards Commission is the agency that will make the Final Decision in this contested case. As the final decision-maker, that agency is required to give each party an opportunity to file exceptions to this proposal for decision, to submit proposed findings of fact, and to present oral and written arguments to the agency pursuant to N.C. Gen. Stat. § 150B-40(e).

It hereby is ordered that the agency serve a copy of the final decision on the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, N.C. 27699-6714.

This the 11 day of September, 2013.



Beecher R. Gray
Administrative Law Judge

On this date mailed to:

TIMOTHY R SNEAD
600 E SOUTH MAIN STREET
LAURINBURG, NC 28353
Attorney For Petitioner

Matthew L Boyatt
Assistant Attorney General,
NC Department of Justice
9001 MAIL SERVICE CENTER
RALEIGH, NC 27699
Attorney For Respondent

This the 11th day of September, 2013.



Office of Administrative Hearings
6714 Mail Service Center
Raleigh NC 27699-6714
Telephone: 919/431-3000
Fax: 919/431-3100

2003 AUG -2 PM 5: 04

Office of
Administrative Hearings

ADMINISTRATIVE HEARINGS

13 DOJ 09863

)

)

)

)

)

)

)

Petitioner, *pro se*.

Respondent was represented by Jeffrey D. McKinney.

For Respondent – Anthony Bonapart, Deputy Director, testified for Respondent Board.

For Petitioner – Petitioner testified on his own behalf.

ISSUE

Whether grounds exist for Respondent to deny Petitioner's application for an alarm systems registration permit pursuant to N.C. Gen. Stat. § 74D-1 *et seq.* based on Petitioner's lack of good moral character and temperate habits as evidenced by Petitioner's criminal record.

STATUTES AND RULES APPLICABLE TO THE CONTESTED CASE

Official notice is taken of the following statutes and rules applicable to this case:

N.C. Gen. Stat. §§ 74D-2; 74D-6; 74D-8;
12 NCAC 07 SubChapter D

EXHIBITS

Petitioner's three letters from various sources

Respondent's Exhibits 1-3 were introduced and admitted.

BASED UPON careful consideration of the sworn testimony of the witnesses presented at the hearing, the documents, and exhibits received and admitted into evidence, and the entire record in this proceeding, the undersigned Administrative Law Judge makes the following Findings of Fact by a preponderance of the evidence. In making these Findings of Fact, the Undersigned has weighed all the evidence and has assessed the credibility of the witnesses by taking into account the appropriate factors for judging credibility, including, but not limited to the demeanor of the witnesses, any interests, bias, or prejudice the witness may have, the opportunity of the witness to see, hear, know or remember the facts or occurrences about which the witness testified, whether the testimony of the witness is reasonable and whether the testimony is consistent with all other believable evidence in this case.

FINDINGS OF FACT

1. Respondent Board is established pursuant to N.C. Gen. Stat. § 74D-1, *et seq.*, and is charged with the duty of licensing and registering individuals engaged in the alarm systems business. The Notice of Hearing sent out by the Board incorrectly labeled the Respondent as the NC Private Protective Services Board. The Parties agreed that the North Carolina Alarm Systems Licensing Board was the correct Respondent as evidence in Respondent Exhibit 3.
2. On December 10, 2013, Petitioner applied to Respondent Board for a new alarm systems registration. Petitioner's application was introduced and admitted as Respondent's Exhibit 1. Attached to Petitioner's application was Petitioner's criminal record.

3. Respondent Board also introduced Petitioner's "Offender Information" from the North Carolina Sex Offender Registry as Respondent's Exhibit 2. Exhibit 2 was admitted as part of the record.

4. Petitioner's criminal record showed the following:

(1) Moore County	8/28/00	(F)	Indecent Liberties with Child	Guilty
(2) Moore County	8/28/00	(F)	Indecent Liberties with Child	Guilty

5. Mr. Bonapart testified that pursuant to Petitioner's criminal conviction, Petitioner's application for registration was denied. Respondent Board introduced as Exhibit 3, a "For Cause" denial letter dated January 16, 2013. Exhibit 3 was admitted as part of the record.

6. Petitioner testified on his own behalf. Petitioner admitted to the criminal convictions on his record. Petitioner explained that in 1997 while visiting a friend of his father's, he fondled the friend's six (6) year old daughter. The daughter later told her parents about the incident. During a subsequent investigation by the police, Petitioner confessed to the crime. Petitioner was approximately 18 years old at the time of the offense. Some thirteen years have passed since his conviction.

7. Petitioner explained that he was placed on the North Carolina Sex Offender Registry. He explained that he has complied with every requirement. Petitioner also explained that he received his electrical license with certain stipulations as a result of his criminal record.

8. Petitioner submitted an "Amendment to Hire" from his employer providing that Petitioner would not work on any premise for any customer without the presence of another person with him at all times.

9. Carol Damone submitted a letter on behalf of Petitioner stating that Petitioner had the qualities one wished to see in an employee including "courtesy, respect for himself and others, and a sense of responsibility." Ms. Damone has known the Petitioner for more than 12 years and they have worked together on "a number of community activities." In a second character letter dated May 1, 2013, Kristin M. Hazelton, has known Petitioner since 2006 and finds him to be "intelligent, capable, dedicated, and a personable young man." A third letter, dated May 3, 2013, is from Uwe Hagedorn, Director of Customer Care & Installation for Trident Marketing. He states the Petitioner "has been a member of his staff for almost a year and has proven himself to be a valuable asset to the business." Mr. Hagedorn describes Petitioner as professional, patient, "unfailingly courteous," and one who "has demonstrated the highest level of both compassion and professionalism during his employment." Of note is that all three letters sent by the individuals were signed in front of a Notary Public.

BASED UPON the foregoing Findings of Fact and upon the preponderance or greater weight of the evidence in the whole record, the Undersigned makes the following:

CONCLUSIONS OF LAW

1. The parties are properly before the Office of Administrative Hearings. Respondent is an "occupational licensing agency" pursuant to N.C. Gen. Stat. § 150B-2(4b).
2. Under G.S. § 74D-2(d)(2) and G.S. § 74D-6(3), Respondent Board may refuse to grant a registration if it is determined that the applicant lacks good moral character or has demonstrated intemperate habits. Acts that are prima facie evidence of intemperate habits or lack of good moral character are found under both statutes. They include conviction of any crime involving the illegal use, carrying, etc. of a firearm; illegal use, sale, etc. of a controlled substance; conviction of a crime involving felonious assault or other act of violence; conviction of burglary, larceny, etc.; or any offense involving moral turpitude; or a history of addiction.
3. Under G.S. § 74D-6(3), conviction of any crime involving moral turpitude is *prima facie* evidence that the applicant does not have good moral character or temperate habits.
4. Good moral character has been defined as "honesty, fairness, and respect for the rights of others and for the laws of state and nation." See *Daniel Brannon Gray v. N.C. Sheriffs Education and Training Standards Commission*, 09 DOJ 4364 (March 15, 2010 citing *In Re Willis*, 299 N.C. 1, 10 (1975).
5. Respondent Board presented evidence that Petitioner had demonstrated intemperate habits and lacked good moral character through his criminal record.

BASED ON the foregoing Findings of Fact and Conclusions of Law, the Undersigned makes the following:

PROPOSAL FOR DECISION

The Undersigned finds and holds that there is sufficient evidence in the record to properly and lawfully support the Conclusions of Law cited above. The weight of the evidence in this case sustains the holding of the Respondent to deny Petitioner's application for an alarm systems registration permit. As Petitioner's character letters were submitted after the hearing with no chance for Respondent to see their contents, the Board should review and explore their contents with Petitioner and Respondent before issuing a final decision.

NOTICE

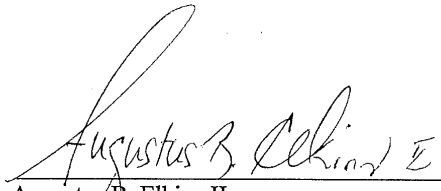
The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions to this Proposal for Decision, to submit proposed findings of

fact, and to present oral and written arguments to the agency. N.C.G.S. § 150B-40(e). The agency that will make the final decision in this contested case is the North Carolina Alarm Systems Licensing Board.

A copy of the final agency decision or order shall be served upon each party personally or by certified mail addresses to the party at the latest address given by the party to the agency and a copy shall be furnished to his attorney of record. N.C.G.S. § 150B-42(a). It is requested that the agency furnish a copy to the Office of Administrative Hearings.

IT IS SO ORDERED.

This is the 8th day of August, 2013.


Augustus B. Elkins II
Administrative Law Judge

A copy of the foregoing was mailed to:

JESSE ALAN TYNER
PO BOX 52
HOFFMAN, NC 28347
Petitioner

JEFFREY D. MCKINNEY
BAILEY & DIXON, LLP
PO BOX 1351
RALEIGH, NC 27602
Attorney For Respondent

This the 9th day of August, 2013.



Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714
(919) 431 3000
Fax: (919) 431-3100

Filed

STATE OF NORTH CAROLINA

SEP 12 PM 4:13

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS

COUNTY OF BURKE

13OSP14357

Office of
Administrative Hearings

<p>LEORA ROBIN JOHNSON, Petitioner,</p> <p>v.</p> <p>BROUGHTON HOSPITAL, ALICIA NEXEON HR, REBECCA POWELL, RN NSA, DENISE LUNSFORD, Respondent.</p>	<p align="center">FINAL DECISION DISMISSING CONTESTED CASE PETITION</p>
---	--

Petitioner filed a petition in the Office of Administrative Hearings on June 24, 2013. On August 12, 2013, Respondent filed a Motion to Dismiss under G.S. 1A-1, Rules 12(b)(1) and 12(b)(6) for lack of jurisdiction and failure to state a claim. Respondent joined the Motion to Dismiss with a Motion to Stay proceedings pending a determination of the Motion to Dismiss. Petitioner filed a Response to the Motion to Dismiss, a Motion to Amend Petition, and Amended Petition on September 3, 2013. Petitioner's Motion to Amend Petition is DENIED.

PROCEDURAL STATUS; FINDINGS OF FACT

1. Petitioner filed a contested case petition on June 24, 2013 contending that she had been dismissed without just cause. She also stated in the petition that she had resigned because of the stress and emotional problems that occurred.

Item (5) on the petition form requires Petitioner to "briefly state facts showing how [Petitioner] believe[s] [Petitioner] have been harmed by the State/Local agency or Board." Petitioner gave the following statement as to how she had been harmed by agency action:

On or about mid February 2013, Ms. Rebecca Powell brought me in the office in front of other RN's and told me my pants were too tight. She then stated that I did not need to wear my pants so tight. She also called me in the office in front of other staff and questioned me if my hair was in place and would it not fall out. In another incident she pointed her finger at me as to reprimand me. Ms. Powell continuously harassed me about my schedule. Registered Nurse Denise Seng stated that for whatever reason Ms. Powell had it out for me. Ms. Seng also stated I needed to stay away from a male employee because that could have something to do with how Ms. Powell treated me also. Another incident she belittled me in front of

patients as I was instructing patients to quiet down. She stated, "you need to calm down."
[sic to all]

2. On May 15, 2013, Petitioner, a Registered Nurse ("RN") was interviewed about an incident concerning abuse or neglect of a patient, alleged to have occurred that morning. Petitioner denied any knowledge of abuse or neglect of a patient by herself or anyone under her supervision.
3. On May 16, 2013, Broughton Hospital management personnel reviewed the May 15, 2013, digital video footage of the hallway in front of the complaining patient's room where they observed a Certified Nurse Aide ("CAN") pull the supine patient out of the room by one arm.
4. Petitioner was interviewed again on May 17, 2013, by management personnel. During this interview, Petitioner admitted that she had seen the CNA pull the patient out of the room by one arm. Petitioner did not report this incident that she witnessed to anyone.
5. On May 23, 2013, Petitioner personally was served with a Notice of Pre-Disciplinary Conference scheduled to occur on May 28, 2013.
6. At some point prior to the Pre-Disciplinary Conference scheduled for May 28, 2013, Petitioner served Respondent with the following resignation:

As a result of the emotional duress these allegations have caused me, I Leora R. Johnson am giving my notice of resignation effective 5/30/13. I do not feel this situation was or could be handled objectively, but was influenced by emotions or personal prejudices towards me by my NSA Rebecca Powell.

FINAL DECISION

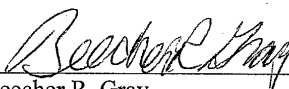
Based upon the posture of this contested case petition, considering the documents of record, the applicable statutes, and Respondent's Motion to Dismiss, I find that Respondent's Motion to Dismiss for lack of subject matter jurisdiction and for failure to state a claim should be, and the same hereby are, ALLOWED. This contested case petition is DISMISSED with prejudice.

NOTICE

Under the provisions of North Carolina General Statute 150B-45, any party wishing to appeal the final decision of the Administrative Law Judge must file a Petition for Judicial Review in the Superior Court of Wake County or in the Superior Court of the county in which the party resides. **The appealing party must file the petition within 30 days after being served with a written copy of the Administrative Law Judge's Final Decision.** In conformity with the Office of Administrative Hearings' rule, 26 N.C. Admin. Code 03.0102, and the Rules

of Civil Procedure, N.C. General Statute 1A-1, Article 2, **this Final Decision was served on the parties the date it was placed in the mail as indicated by the date on the Certificate of Service attached to this Final Decision.** N.C. Gen. Stat. §150B-46 describes the contents of the Petition and requires service of the Petition on all parties. Under N.C. Gen. Stat. §150B-47, the Office of Administrative Hearings is required to file the official record in the contested case with the Clerk of Superior Court within 30 days of receipt of the Petition for Judicial Review. Consequently, a copy of the Petition for Judicial Review must be sent to the Office of Administrative Hearings at the time the appeal is initiated in order to ensure the timely filing of the record.

This the 12 day of September, 2013.



Beecher R. Gray
Administrative Law Judge

On this date mailed to:

Michael Harman
The Angel Law Firm, PLLC
P.O. Box 1296
Concord, NC 28026
Attorney For Petitioner

M Elizabeth Guzman
Assistant Attorney General,
NC Department of Justice
1000 S. Sterling St.
Morganton, NC 28655-
Attorney For Respondent

This the 13th day of September, 2013.



Office of Administrative Hearings
6714 Mail Service Center
Raleigh NC 27699-6714
Telephone: 919/431-3000
Fax: 919/431-3100