

# ***NORTH CAROLINA REGISTER***

**VOLUME 29 • ISSUE 14 • Pages 1686 - 1738**

**January 15, 2015**

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## Contact List for Rulemaking Questions or Concerns

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

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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: Sarah Collins

scollins@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

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**NORTH CAROLINA REGISTER**  
 Publication Schedule for January 2015 – December 2015

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

## 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) text of proposed rules;
- (3) text of permanent rules approved by the Rules Review Commission;
- (4) emergency rules
- (5) Executive Orders of the Governor;
- (6) 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; and
- (7) 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.

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

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

Application by: Dave Lentz  
Infiltrator Systems Inc.  
PO Box 768  
Old Saybrook, CT 06475

For: Modification of Innovative Approvals for EZflow and Flowtech gravelless subsurface wastewater systems

DHHS Contact: Nancy Deal  
1-919-707-5875  
Fax: 919-845-3973  
Nancy.Deal@dhhs.nc.gov

These applications may be reviewed by contacting the applicant or Nancy Deal, Branch Head, at 5605 Six Forks Rd., Raleigh, NC, On-Site Water Protection Branch, Environmental Health Section, Division of Public Health. Draft proposed innovative approvals and proposed final action on the application by DHHS can be viewed on the On-Site Water Protection Branch web site: <http://ehs.ncpublichealth.com/oswp/>.

Written public comments may be submitted to DHHS within 30 days of the date of the Notice publication in the North Carolina Register. All written comments should be submitted to Ms. Nancy Deal, Branch Head, On-site Water Protection Branch, 1642 Mail Service Center, Raleigh, NC 27699-1642, or Nancy.Deal@dhhs.nc.gov, or fax 919-845-3973. Written comments received by DHHS in accordance with this Notice will be taken into consideration before a final agency decision is made on the innovative subsurface wastewater system application.

**WILDLIFE RESOURCES COMMISSION  
NOTICE**

Pursuant to public feedback and comments expressing safety concerns, the North Carolina Wildlife Resources Commission finds it necessary to change the proposed effective date of 15A NCAC 10D .0102 (General Regulations Regarding Use) and 15A NCAC 10D .0103 (Hunting on Game lands) from August 1, 2015 to May 1, 2015. The original proposed effective date was published on page 1307 in the December 1, 2014, North Carolina Register (Volume 29, Issue 11). The proposed rules can be found on pages 1342 through 1358 in Volume 29, Issue 11 of the North Carolina Register.

**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 12 – DEPARTMENT OF JUSTICE**

**Notice** is hereby given in accordance with G.S. 150B-21.2 that the Criminal Justice Education and Training Standards Commission intends to adopt the rules cited as 12 NCAC 09B .0701 and amend the rules cited as 12 NCAC 09B .0227, .0235, .0236, and .0305.

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<http://www.ncdoj.gov/About-DOJ/Law-Enforcement-Training-and-Standards/Criminal-Justice-Education-and-Training-Standards/Forms-and-Publications.aspx>

**Proposed Effective Date:** July 1, 2015

**Public Hearing:**

**Date:** May 20, 2015

**Time:** 10:30 a.m.

**Location:** Wake Technical Community College, 321 Chapanoke Road, Raleigh, NC 27610

**Reason for Proposed Action:**

**12 NCAC 09B .0227** – The NC Justice Academy has proposed changes to the training topics and associated hours for the Specialized Driver Instructor Training course. The proposed revisions to this rule reflect these changes.

**12 NCAC 09B .0235 and .0236** – The Office of Staff Development and Training (Dept. of Public Safety) has proposed changes to the topics and hours for the Basic training courses for Juvenile Court Counselors and Chief Court Counselors (.0235); and for Juvenile Justice Officers (.0236). The proposed revisions to these rules reflect these changes, as well as accurately reflecting the agency name as Division of Adult Correction.

**12 NCAC 09B .0305** – The Commission voted in November 2014 to change the recertification requirements for Specialized Firearms and Specialized Physical Fitness Instructors to provide documentation of a proficiency within their specialty during the certification period; also proposed to amend the 60-day application period starting point.

**12 NCAC 09B .0701** – The agency proposes the adoption of this rule to comply with and implement NCGS 93B-15.1.

**Comments may be submitted to:** Trevor Allen, P.O. Drawer 149, Raleigh, NC 27602, phone (919) 779-8205, fax (919) 779-8210, email tjallen@ncdoj.gov.

**Comment period ends:** May 20, 2015

**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** 12 NCAC 09B .0227, .0305, .0701
- Environmental permitting of DOT affected**
- Analysis submitted to Board of Transportation**
- Local funds affected**
- Substantial economic impact (≥\$1,000,000)**
- Approved by OSBM**
- No fiscal note required by G.S. 150B-21.4** 12 NCAC 09B .0235, .0236

**CHAPTER 09 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS**

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

**SECTION .0200 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE SCHOOLS AND CRIMINAL JUSTICE TRAINING PROGRAMS OR COURSES OF INSTRUCTION**

**12 NCAC 09B .0227 SPECIALIZED DRIVER INSTRUCTOR TRAINING**

(a) The instructor training course required for specialized driver instructor certification shall consist of a minimum of ~~33~~ 48 hours of ~~instruction presented during a continuous period of not more than one week~~ instruction.

(b) Each specialized driver instructor training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice driver instructor in a Basic Law Enforcement Training Course or a "Law Enforcement Officers' Annual In-Service Training Program."

(c) Each applicant for specialized driver instructor training shall:

- (1) have completed the criminal justice general instructor training course;
- (2) present a written endorsement by either
  - (A) a certified school director indicating the student may be utilized to instruct driving in Basic Law Enforcement Training Courses; or
  - (B) a department head, certified school director, or in-service training coordinator, indicating the student may be utilized to instruct driver training in the "Law Enforcement Officer's Annual In-Service Training Program";
- (3) possess a valid operator driver's license; and
- (4) maintain a safe driving record where no more than four points have been assigned against the driving record within the past three years.

(d) Each specialized driver instructor training course shall include the following identified topic areas and instructional hours for each area:

- (1) Orientation 1 Hour-Hour
- (2) Lesson Plan Review (BLET) 4 Hours
- (3) General Mechanical Knowledge ~~1 Hour~~ 2 Hours
- (4) Before - Operation Inspection ~~1 Hour~~ Hour
- (5) Laws of Natural Force & Operating Characteristics 2 Hours
- (6) Driver ~~Practicum/Pre-Test~~ Practicum/Pre-Qualification ~~49-32~~ Hours
- (7) ~~Fundamentals of Professional Liability for Trainers~~ Legal and Operational Considerations for the Driver Instructor 4 Hours
- (8) ~~Course Review-Description Packet and Administrative Code Review~~ ~~1 Hour~~
- (9) Course Review 1 Hour

(e) The "Specialized Driver Instructor Training Manual" as published by the North Carolina Justice Academy shall be the curriculum for specialized driver instructor training courses. Copies of this publication may be inspected at the:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1700 Tryon Park Drive  
Post Office Drawer 149  
Raleigh, North Carolina 27610

and may be obtained at the cost of printing and postage from the Academy at the following address:

North Carolina Justice Academy  
Post Office Box 99  
Salemberg, North Carolina 28385

(f) Commission-certified schools that are certified to offer the "Specialized Driver Instructor Training" course are The North Carolina Justice Academy and The North Carolina State Highway Patrol Training Center.

Authority G.S. 17C-6.

**12 NCAC 09B .0235 BASIC TRAINING – JUVENILE COURT COUNSELORS AND CHIEF COURT COUNSELORS**

(a) The basic training course for Juvenile Court Counselors and Chief Court Counselors shall consist of a minimum of ~~160~~ 154 hours of instruction designed to provide the trainee with the skills and knowledge to perform those tasks essential to function as a Juvenile Court Counselor and a Chief Court Counselor.

(b) Each basic training course for Juvenile Court Counselors shall include training in the following topical areas:

- (1) Juvenile Justice Common Core:
  - (A) Juvenile Justice ~~Overview;~~ Overview 2 hours
  - (B) ~~Counseling and Communication Skills;~~ Basic Individual Counseling Skills 16 hours
  - (C) ~~Characteristics of Delinquents;~~ Interpersonal Communication Skills 8 hours
  - (D) ~~Unlawful Workplace Harassment;~~ Working with Families 3 hours
  - (E) ~~Professional Ethics;~~ Characteristics of Delinquents 3 hours
  - (F) ~~Staff and Juvenile Relationships;~~ Unlawful Workplace Harassment 2 hours
  - (G) ~~Gang Awareness;~~ Career Survival: Integrity and Ethics in the North Carolina Department of Public Safety Workplace 2 hours
  - (H) ~~Situational Awareness and Risk Assessment;~~ Staff and Juvenile Relationships 4 hours
  - (I) ~~Restraints, Controls and Defensive Techniques;~~ Gang Awareness 4 hours
  - (J) ~~Secure Transportation;~~ Situational Awareness and Risk Assessment 4 hours
  - (K) ~~Mental Health; and Restraints, Controls and Defensive Techniques~~ 28 hours
  - (L) ~~Basic Life Support: CPR and First Aid; and Mechanical Restraints~~ 4 hours
  - (M) Secure Transportation 4 hours
  - (N) Mental Health 8 hours
  - (O) CPR 4 hours
  - (P) First Aid 4 hours
  - (Q) Employee Fitness and Wellness 4 hours
- Total Hours 104 hours
- (2) Juvenile Court Counselor Specific:
  - (A) Roles and ~~Responsibilities;~~ Responsibilities 8 hours
  - (B) Juvenile ~~Law;~~ Law 8 hours
  - (C) ~~Intake;~~ Intake 8 hours
  - (D) Risk and Needs ~~Assessment;~~ Assessment 4 hours



**PROPOSED RULES**

- (E) Report Writing and ~~Documentation;~~  
Documentation 12 hours
- (F) ~~Interviewing; and Interviewing~~  
6 hours
- (G) ~~Driver Safety; Safety~~ 4 hours
- Total Hours 50 hours
- Total Course Hours 154 hours

(c) The "Juvenile Court Counselor Basic Training Manual" as published by the North Carolina Department of Public Safety shall be applied as the ~~basic~~ curriculum for delivery of Juvenile Court Counselor basic training courses. Copies of this publication may be inspected at or purchased at the cost of printing and postage from the office of the agency:

The Office of Staff Development and Training  
North Carolina Department of Public Safety  
2211 Schieffelin Road  
Apex, North Carolina 27502

(d) Upon ~~successful~~ completion of a Commission-certified training course for Juvenile Court Counselors and Chief Court Counselors, the Director of the school conducting such course shall notify the Commission of the satisfactory achievement of trainees by submitting a Report of Training Course Completion for each successful trainee.

(e) Employees of the Division of Adult Correction and Juvenile Justice who have ~~successfully~~ completed the minimum ~~460~~ 152 hour training program accredited by the Commission pursuant to Rule .0236 of this Section after January 1, 2013 who transfer from a Juvenile Justice Officer position to a Juvenile Court Counselor position shall be required to ~~successfully~~ complete only the portions of the course identified as specific to the duties and responsibilities of a Juvenile Court Counselor under Subparagraph (b)(2) of this Rule.

Authority G.S. 17C-2; 17C-6; 17C-10.

**12 NCAC 09B .0236 BASIC TRAINING - JUVENILE JUSTICE OFFICERS**

(a) The basic training course for Juvenile Justice Officers shall consist of a minimum of ~~460~~ 152 hours of instruction designed to provide the trainee with the skills and knowledge to perform those tasks essential to function as a juvenile justice officer.

(b) Each basic training course for Juvenile Justice Officers shall include training in the following identified topical areas:

- (1) Juvenile Justice Common Core:
  - (A) ~~Juvenile Justice Overview; Overview~~  
2 hours
  - (B) ~~Counseling and Communication Skills; Basic Individual Counseling Skills~~ 16 hours
  - (C) ~~Characteristics of Delinquents; Interpersonal Communication Skills~~ 8 hours
  - (D) ~~Unlawful Workplace Harassment; Working with Families~~ 3 hours
  - (E) ~~Professional Ethics; Characteristics of Delinquents~~ 3 hours
  - (F) ~~Staff and Juvenile Relationships; Unlawful Workplace Harassment~~ 2 hours

- (G) ~~Gang Awareness; Career Survival; Integrity and Ethics in the North Carolina Department of Public Safety Workplace~~ 2 hours
- (H) ~~Situational Awareness and Risk Assessment; Staff and Juvenile Relationships~~ 4 hours
- (I) ~~Restraints, Controls and Defensive Techniques; Gang Awareness~~ 4 hours
- (J) ~~Secure Transportation; Situational Awareness and Risk Assessment~~ 4 hours
- (K) ~~Mental Health; and Restraints, Controls and Defensive Techniques~~ 28 hours
- (L) ~~Basic Life Support: CPR and First Aid; and Mechanical Restraints~~ 4 hours
- (M) Secure Transportation 4 hours
- (N) Mental Health 8 hours
- (O) CPR 4 hours
- (P) First Aid 4 hours
- (Q) Employee Fitness and Wellness 4 hours
- Total Hours 104 hours

(2) Juvenile Justice Officer Specific:

- (A) ~~Treatment Program Operation; Operations~~ 4 hours
- (B) ~~Maintaining Documentation of Activities and Behaviors; Behaviors~~ 6 hours
- (C) ~~Basic Group Leadership Skills; Skills~~ 8 hours
- (D) ~~Crisis Intervention Techniques; Techniques~~ 8 hours
- (E) ~~Effective Behavior Management; Management~~ 12 hours
- (F) ~~Health Services Overview; and Overview~~ 2 hours
- (G) ~~Trauma and Delinquents; Delinquents~~ 6 hours
- (H) Contraband and Search Techniques 2 hours
- Total Hours 48 hours
- Total Course Hours 152 hours

(c) The "Juvenile Justice Officer Basic Training Manual" as published by the North Carolina Department of Public Safety shall be applied as the ~~basic~~ curriculum for delivery of Juvenile Justice Officer basic training courses. Copies of this publication may be inspected at or purchased at the cost of printing and postage from the office of the agency:

The Office of Staff Development and Training  
North Carolina Department of Public Safety  
2211 Schieffelin Road  
Apex, North Carolina 27502

(d) Upon ~~successful~~ completion of a Commission-certified training course for Juvenile Justice Officers the Director of the school conducting such course shall notify the Commission of

the satisfactory achievement of trainees by submitting a Report of Training Course Completion for each successful trainee.

(e) Employees of the Division of Adult Correction and Juvenile Justice who have ~~successfully~~ completed the minimum ~~460~~ 154 hour training program accredited by the Commission under Rule .0235 of this Section after January 1, 2013 who transfer from a Juvenile Court Counselor position to a Juvenile Justice Officer position shall be required to ~~successfully~~ complete only the portions of the course identified as specific to the duties and responsibilities of a Juvenile Justice Officer pursuant to Subparagraph (b)(2) of this Rule.

Authority G.S. 17C-2; 17C-6; 17C-10.

**SECTION .0300 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE INSTRUCTORS**

**12 NCAC 09B .0305 TERMS AND CONDITIONS OF SPECIALIZED INSTRUCTOR CERTIFICATION**

(a) An applicant meeting the requirements for Specialized Instructor Certification shall be issued a certification to run concurrently with the existing General Instructor Certification, except as set out in Paragraph (d) of this Rule. The applicant must apply for certification as a Specialized Instructor within 60 days from the date ~~of completion of a specialized instructor course~~ the applicant achieved a passing score on the state comprehensive exam for the respective Specialized Instructor training course.

(b) The requirements for certification as a specialized instructor are determined by the expiration date of the existing General Instructor Certification. The following requirements apply during the initial period of certification:

- (1) where certification for both General Probationary Instructor and Specialized Instructor Certification are issued on the same date, the instructor is required to satisfy the teaching requirement for only the general probationary instructor certification. The instructor may satisfy the teaching requirement for the General Probationary Instructor certification by teaching any specialized topic for which certification has been issued;
- (2) when Specialized Instructor Certification is issued during an existing period of General Instructor Certification, either probationary status or ~~full~~-general status, the specialized instructor may satisfy the teaching requirement for the General Certification by teaching the specialized subject for which certification has been issued;
- (3) where Specialized Instructor Certification becomes concurrent with an existing active period of General Instructor Certification, and there are 12 months or more until the certifications' expiration date, the instructor must teach 12 hours for each specialized topic for which certification has been issued; and
- (4) where Specialized Instructor Certification becomes concurrent with an existing active

period of General Instructor Certification, and there are fewer than 12 months until the certification expiration date, the instructor is not required to teach any hours for the specialized subject.

(c) The term of certification as a specialized instructor shall not exceed the 36 month period of ~~full~~-General Instructor Certification. The application for renewal shall contain, in addition to the requirements listed in Rule .0304 of this Section, documentary evidence that the applicant has remained active in the instructional process during the previous three-year period. Such documentary evidence shall include the following:

- (1) proof that the applicant has, within the three-year period preceding application for renewal, instructed at least 12 hours in each of the topics for which Specialized Instructor Certification was granted and that instruction was provided in a Commission-accredited training course or a Commission-recognized in-service training course. Acceptable documentary evidence shall include official Commission records submitted by School Directors or In-Service Training Coordinators and written certification from a School Director or In-Service Training Coordinator;
- (2) proof that the applicant has, within the three-year period preceding application for renewal, attended and ~~successfully~~ completed any instructor updates that have been issued by the Commission. Acceptable documentary evidence shall include official Commission records submitted by School Directors or In-Service Training Coordinators, or copies of certificates of completion issued by the institution which provided the instructor updates; and
  - (A) a favorable written recommendation from a School Director or In-Service Training Coordinator completed on a Commission Renewal of Instructor and Professional Lecturer Certification Form that the instructor ~~successfully~~ taught at least 12 hours in each of the topics for which Specialized Instructor Certification was granted. Such teaching must have occurred in a Commission-certified training course or a Commission-recognized in-service training course during the three-year period of Specialized Instructor Certification; or
  - (B) a favorable evaluation by a Commission or staff member, based on an on-site classroom evaluation of a presentation by the instructor in a Commission-certified training course or a Commission-recognized in-service training course, during the

three-year period of Specialized Instructor Certification. Such evaluation shall be certified on a Commission Instructor Evaluation Form.

- (3) proof that the individual applying for renewal as a Specialized Firearms Instructor has achieved a minimum score of 92 on the day and night Basic Law Enforcement Training firearms qualification courses, administered by a certified Specialized Firearms Instructor, within the three-year period preceding the application for renewal.
- (4) proof that the individual applying for renewal as a Specialized Physical Fitness Instructor has passed the Basic Law Enforcement Training Police Officer Physical Abilities Test, administered by a certified Specialized Physical Fitness Instructor, within the three-year period preceding the application for renewal.

Upon the applicant's submission of the required documentation for renewal, the Commission staff shall renew the certification as a Specialized Instructor. Such renewal shall occur at the time of renewal of the General Instructor certification.

(d) Certification as a Specialized Instructor in the First Responder, Physical Fitness, Explosive and Hazardous Materials, and Juvenile Justice Medical Emergencies topical areas as outlined in Rule .0304(d)(1), (g)(2), (i)(1), and (j)(1) of this Section, specifically those certifications not based upon General Instructor Certification, shall remain in effect for 36 months from the date of issuance. During the 36 month term all non-Commission certificates required in Rule .0304(d)(1), (g)(2), (i)(1), and (j)(1) for Specialized Instructor certification in the First Responder, Physical Fitness, Explosive and Hazardous Materials, and Juvenile Justice Medical Emergencies topical areas must be maintained.

(e) All instructors shall remain active during their period of certification. Any Specialized Instructor training courses previously accepted by the Commission for purposes of certification shall no longer be recognized if the instructor does not teach at least 12 hours in each of the specialized topics during the three-year period for which certification was granted. Upon application for re-certification, such applicants shall meet the requirements of Rule .0304 of this Section.

(f) The use of guest participants in a delivery of the "Basic Law Enforcement Training Course" is permissible. However, such guest participants are subject to the direct on-site supervision of a Commission-certified instructor and must be authorized by the School Director. A guest participant shall be used only to complement the primary certified instructor of the block of instruction and shall in no way replace the primary instructor.

*Authority G.S. 17C-6.*

**SECTION .0700 – MILITARY TRAINED APPLICANT  
AND MILITARY SPOUSE APPLICANT**

**12 NCAC 09B .0701 MILITARY AND MILITARY SPOUSE TRANSFEREES**

(a) A military trained individual seeking certification pursuant to G.S. 93B-15.1 who applies to the Criminal Justice Standards Division (Division) for a certification issued by the Criminal Justice Education and Training Standards Commission (Commission) shall meet, and submit documentation to the Division verifying his or her compliance with the following requirements:

- (1) Been awarded a military occupational specialty that is substantially equivalent to or exceeds the training requirements required for certification and performed in the occupational specialty;
- (2) Completed a military law enforcement training program;
- (3) Engaged in the active practice of that occupation for at least two of the five years prior to the date of application; and
- (4) Not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension or revocation of a license to practice that occupation in this State at the time the act was committed.

(b) The Division shall review documents received to verify that the military trained individual has met the criteria specified in Paragraph (a) of this Rule. Upon confirmation that the military trained individual has met this criteria, the Division shall authorize the limited enrollment for the military trained individual to complete the BLET training topics specified in Paragraph (c) of this Rule.

(c) The military trained individual authorized for limited enrollment in BLET shall enroll in BLET within 12 months of the enrollment authorization, and shall complete all topics specified in Rule .0205 of this Subchapter, with the exception of:

- (1) In-Custody Transportation 8 Hours
- (2) Crowd Management 12 Hours
- (3) Law Enforcement Communication and Information Systems 8 Hours
- (4) Anti-Terrorism 4 Hours
- (5) Crime Prevention Techniques 6 Hours
- (6) First Responder 32 Hours
- (7) Physical Fitness (classroom instruction) 8 Hours
- (8) Fitness Assessment and Testing 12 Hours
- (9) Physical Exercise 1 hour daily; 3 days a week 34 Hours

(d) During the delivery of, or within 60 days of completing, the BLET topics specified in Paragraph (c) of this Rule the military trained individual shall be required to complete the following with passing scores:

- (1) The Police Officer Physical Abilities Test; and
- (2) The BLET comprehensive written examination.

(e) When completing the required training topics specified in Paragraph (c) of this Rule, a military trained individual shall meet all requirements specified in Rule .0203 and Rule .0405 of this Subchapter.

(f) Upon completion of the requirements specified in Paragraph (c) and (d) of this Rule, the military trained individual shall, within 12 months, make application to the Division, for probationary certification as specified in 12 NCAC 09C .0303.

(g) Military spouses who, pursuant to G.S. 93B-15.1, apply to the Division for a certification issued by the Commission must meet, and shall submit documentation to the Standards Division verifying his or her compliance with, the following requirements:

- (1) Hold a current license, certification, or registration from another jurisdiction which is substantially equivalent to or exceeds the requirements required for certification;
(2) Be in good standing with the issuing agency and not been disciplined by the agency that has the jurisdiction to issue the license, certification or permit; and
(3) Demonstrate competency in the occupation by:
(A) Having completed continuing education comparable to the education and training required for the type of certification for which the application is being made, as determined by Paragraph (b) of this Rule; or
(B) Having engaged in the active practice of that occupational specialty for at least two of the five years prior to the date of application.
(4) Not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension or revocation of a license to practice that occupation in this State at the time the act was committed.

Authority G.S. 17C-2; 17C-6; 17C-10; 93B-15.1.

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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 09E .0105.

Link to agency website pursuant to G.S. 150B-19.1(c): http://www.ncdoj.gov/About-DOJ/Law-Enforcement-Training-and-Standards/Criminal-Justice-Education-and-Training-Standards/Forms-and-Publications.aspx

Proposed Effective Date: January 1, 2016

Public Hearing:

Date: May 20, 2015

Time: 10:30 a.m.

Location: Wake Technical Community College, 321 Chapanoke Road, Raleigh, NC 27610

Reason for Proposed Action: This rule is revised annually in order to specify the mandatory in-service training topics for law enforcement officers.

Comments may be submitted to: Trevor Allen, P.O. Drawer 149, Raleigh, NC 27602, phone (919) 779-8205, fax (919) 779-8210, email tjallen@ncdoj.gov.

Comment period ends: May 20, 2015

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)
Approved by OSBM
No fiscal note required by G.S. 150B-21.4

CHAPTER 09 – CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SUBCHAPTER 09E – IN SERVICE TRAINING PROGRAMS

SECTION .0100 - LAW ENFORCEMENT OFFICER'S IN-SERVICE TRAINING PROGRAM

12 NCAC 09E .0105 MINIMUM TRAINING SPECIFICATIONS: ANNUAL IN-SERVICE TRAINING

(a) The following topical areas and specifications are established as topics, specifications, and hours to be included in each law enforcement officer's annual in-service training courses. For the purposes of this Subchapter, a credit shall be equal to one hour of traditional classroom instruction. These specifications shall be incorporated in each law enforcement agency's annual in-service training courses:

- (1) 2015 2016 Firearms Training and Qualification (6 credits);
(2) 2015 2016 Legal Update (4 credits);

- (3) ~~2015~~ 2016 Juvenile Minority Sensitivity Training: ~~What does it have to do with me?~~ The Color of Justice (2 credits);
- (4) ~~2015 Domestic Violence: Teen Dating Violence~~ Human Trafficking Awareness (~~2 credits~~); and (2 credits);
- (5) North Carolina Firearms Laws: Citizens and Guns (minimum of 2 credits); and
- (~~5~~)(6) ~~2015~~ 2016 Department Topics of Choice (10 credits). The Department Head may choose any topic, provided the lesson plan is written in Instructional Systems Design format and is taught by an instructor who is certified by the Commission.

(b) The "Specialized Firearms Instructor Training Manual" published by the North Carolina Justice Academy shall be applied as a guide for conducting the annual in-service firearms training program. Copies of this publication may be inspected at the office of the:

Criminal Justice Standards Division  
 North Carolina Department of Justice  
 1700 Tryon Park Drive  
 Raleigh, North Carolina 27610

and may be obtained at the cost of printing and postage from the Academy at the following address:

North Carolina Justice Academy  
 Post Office Drawer 99  
 Salemburg, North Carolina 28385

(c) The "In-Service Lesson Plans" published by the North Carolina Justice Academy shall be applied as a minimum curriculum for conducting the annual in-service training program. Copies of this publication may be inspected at the office of the:

Criminal Justice Standards Division  
 North Carolina Department of Justice  
 1700 Tryon Park Drive  
 Raleigh, North Carolina 27610

and may be obtained at the cost of printing and postage from the Academy at the following address:

North Carolina Justice Academy  
 Post Office Drawer 99  
 Salemburg, North Carolina 28385

(d) Lesson plans are designed to be delivered in hourly increments. A student who completes an online in-service training topic shall receive the number of credits that correspond to the number of hours of traditional classroom training, regardless of the amount of time the student spends completing the course.

(e) Completion of training shall be demonstrated by passing a written test for each in-service training topic, as follows:

- (1) A written test comprised of at least five questions per credit shall be developed by the agency or the North Carolina Justice Academy for each in-service training topic requiring testing. Written courses that are more than four credits in length are required to have a written test comprising of a minimum of 20 questions. The Firearms Training and

- Qualifications in-service course is exempt from this written test requirement;
- (2) A student shall pass each test by achieving 70 percent correct answers; and
- (3) A student who completes a topic of in-service training in a traditional classroom setting or online and fails the end of topic exam shall be given one attempt to re-test. If the student fails the exam a second time, the student shall complete the in-service training topic in a traditional classroom setting before taking the exam a third time.

Authority G.S. 17C-6; 17C-10.

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

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Wildlife Resources Commission intends to amend the rules cited as 15A NCAC 10B .0106, .0219; 10I .0102, and .0104.*

**Link to agency website pursuant to G.S. 150B-19.1(c):** <http://www.ncwildlife.org/ProposedRegulations.aspx>

**Proposed Effective Date:** May 1, 2015

**Public Hearing:**

**Date:** February 3, 2015

**Time:** 7:00 p.m.

**Location:** Columbia Middle/High School, 902 East Main Street, Columbia, NC 27925

**Date:** February 17, 2015

**Time:** 7:00 p.m.

**Location:** WRC Headquarters, 1751 Varsity Dr., Raleigh, NC 27606

**Reason for Proposed Action:** *As amended, the rule regulating coyote hunting, 15A NCAC 10B .0219, would prohibit all nighttime hunting coyotes in the counties of Dare, Tyrrell, Hyde, Beaufort and Washington counties, Daytime hunting would be allowed on private property with a coyote hunting permit. Daytime hunting would be allowed on State-owned game lands with a special hunt permit. Hunters would have to report all harvests. As amended, the rule regulating taking depredated wildlife, 15A NCAC 10B .0106, would restrict issuance of depredated permits to Commission employees only.*

*As amended, 15A NCAC 10I .0104, would designate the red wolf (Canis rufus) as state-listed threatened. As amended, 15A NCAC 10I .0102 would allow red wolves to be taken or harassed pursuant to the conditions provided in 50 C.F.R. 17.84(c). These permanent rules will fulfill the requirements of a court order, 2:13-cv-00060-BO.*

**Comments may be submitted to:** Kate Pipkin, 1701 Mail Service Center, Raleigh, NC 27699-1701

Comment period ends: March 16, 2015

**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)
- Approved by OSBM
- No fiscal note required by G.S. 150B-21.4

**CHAPTER 10 – WILDLIFE RESOURCES AND WATER SAFETY**

**SUBCHAPTER 10B – HUNTING AND TRAPPING**

**SECTION .0100 – GENERAL REGULATIONS**

**15A NCAC 10B .0106 WILDLIFE TAKEN FOR DEPREDACTIONS**

(a) Depredation permits allow the take of undesirable or excess wildlife resources as described in Subparagraphs (1) and (2) of this Paragraph. Only employees of the Wildlife Resources Commission and Wildlife Damage Control Agents may issue depredation permits. Each permit must be written on a form supplied by the Commission. No permit is needed for the owner or lessee of a property to take wildlife while committing depredations on the property, however the manner of taking, disposition of dead wildlife and reporting requirements as described in this Rule still apply

No permit shall be issued to take any endangered or threatened species of wildlife listed under 15A NCAC 10I, except alligators, by reason of depredations to property. Only the Executive Director may issue depredation permits for Special Concern species listed in 15A NCAC 10I .0103 and for alligators. An individual may take an endangered or threatened species in immediate defense of his own life or of the lives of others without a permit. Any endangered or threatened species that may constitute a demonstrable but non-immediate threat to human safety shall be reported to a federal or state wildlife enforcement officer, who, upon verification of the report, may take or remove the specimen as provided by 15A NCAC 10I

.0102. Depredation permits for other species shall be issued under the following conditions:

- (1) for taking wildlife that is or has been damaging or destroying property provided there is evidence of property damage. No permit may be issued for the taking of any migratory birds and other federally protected animals unless a corresponding valid U.S. Fish and Wildlife Service depredation permit, if required, has been issued. The permit shall name the species allowed to be taken and may contain limitations as to age, sex or any other condition within the species so named. The permit must be issued to a landholder or an authorized representative of a unit of local government for depredations on public property. The permit shall be used only by individuals named on the permit.
- (2) for taking of wildlife resources in circumstances of overabundance or when the wildlife resources present a danger to human safety. Cities as defined in G.S. 160A-1(2) seeking such a depredation permit must apply to the Executive Director using a form supplied by the Commission requesting the following information:
  - (A) the name and location of the city;
  - (B) the acreage of the affected property;
  - (C) a map of the affected property;
  - (D) the signature of an authorized city representative;
  - (E) the nature of the overabundance or the threat to public safety; and
  - (F) a description of previous actions taken by the city to ameliorate the problem.

(b) Wildlife Damage Control Agents: Upon completion of a training course designed for the purpose of reviewing and updating information on wildlife laws and safe, humane wildlife handling techniques and demonstration of a knowledge of wildlife laws and safe, humane wildlife handling techniques, an individual with no record of wildlife law violations may apply to the Wildlife Resources Commission (Commission) to become a Wildlife Damage Control Agent (WDCA). Those persons who demonstrate knowledge of wildlife laws and safe, humane wildlife handling techniques by a passing score of at least 85 percent on a written examination provided by a representative of the Wildlife Resources Commission in cooperation with the training course provider shall be approved. Those persons failing to obtain a passing score shall be given one chance for re-testing without re-taking the course. Those persons approved as agents by the Commission may then issue depredation permits for depredation as defined in Subparagraph (a)(1) of this Rule to landholders and be listed as a second party to provide the control service. WDCAs may not issue depredation permits for coyotes in the counties of Dare, Washington, Beaufort, Tyrrell, and Hyde, big game animals, bats, or species listed as endangered, threatened or special concern under 15A NCAC 10I .0103, .0104 and .0105 of this Chapter. WDCAs must report to the Wildlife

Resources Commission the number and disposition of animals taken, by county, annually. Records must be available for inspection by a Wildlife Enforcement officer at any time during normal business hours. Wildlife Damage Control Agent status shall be revoked at any time by the Executive Director when there is evidence of violations of wildlife laws, failure to report, or inhumane treatment of animals by the WDCA. A WDCA may not charge for the permit, but may charge for his or her investigations and control services. In order to maintain a knowledge of current laws, rules, and techniques, each WDCA must renew his or her agent status every three years by showing proof of having attended at least one training course provided for the purpose of reviewing and updating information on wildlife laws and safe, humane wildlife handling techniques within the previous 12 months.

(c) Each depredation permit shall have an expiration date or time after which the depredation permit is no longer valid. The depredation permit authorizes possession of any wildlife resources taken under the permit and must be retained as long as the wildlife resource is in the permittee's possession. All individuals taking wildlife resources under the authority of a depredation permit are obligated to the conditions written on the permit and the requirements specified in this Rule.

(d) Manner of Taking:

- (1) Taking Without a Permit. Wildlife taken without a permit while committing depredations to property may, during the open season on the species, be taken by the landholder by any lawful method. During the closed season such depredating wildlife may be taken without a permit only by the use of firearms or archery equipment as defined in 15A NCAC 10B .0116.
- (2) Taking With a Permit. Wildlife taken under a depredation permit may be taken only by the method or methods authorized by the permit. When trapping is authorized, in order to limit the taking to the intended purpose, the permit may specify a reasonable distance from the property sought to be protected, according to the particular circumstances, within which the traps must be set. The Executive Director or agent may also state in a permit authorizing trapping whether or not bait may be used and the type of bait, if any, that is authorized. In addition to any trapping restrictions that may be contained in the permit the method of trapping must be in accordance with the requirements and restrictions imposed by G.S. 113-291.6 and other local laws passed by the General Assembly. No depredation permit shall authorize the use of poisons or pesticides in taking wildlife except in accordance with the provisions of the North Carolina Pesticide Law of 1971, the Structural Pest Control Act of 1955, and G.S. 113, Article 22A. No depredation permit shall authorize the taking of wildlife by any method by any landholder upon the lands of another except when the

individual is listed as a second party on a depredation permit.

- (3) Intentional Wounding. It is unlawful for any landholder, with or without a depredation permit, intentionally to wound a wild animal in a manner so as not to cause its immediate death as suddenly and humanely as the circumstances permit.

(e) Disposition of Wildlife Taken:

- (1) Generally. Except as provided by the succeeding Subparagraphs of this Paragraph, any wildlife killed without a permit while committing depredations shall be buried or otherwise disposed of in a safe and sanitary manner on the property. Wildlife killed under a depredation permit may be transported to an alternate disposal site if desired. Anyone in possession of carcasses of animals being transported under a depredation permit must have the depredation permit in his or her possession. Except as provided by the succeeding Subparagraphs of (d)(2) through (5) of this Rule, all wildlife killed under a depredation permit must be buried or otherwise disposed of as stated on the permit.
- (2) Deer and feral swine. The edible portions of feral swine and deer may be retained by the landholder for consumption but must not be transported from the property where the depredations took place without a valid depredation permit. The landholder may give a second party the edible portions of the feral swine and deer taken under the depredation permit. The receiver of the edible portions must hold a copy of the depredation permit. The nonedible portions of any deer carcass, including head, hide, feet, and antlers, shall be disposed of as specified in Subparagraph (1) of this Paragraph or turned over to a wildlife enforcement officer for disposition.
- (3) Fox. Any fox killed under a depredation permit may be disposed of as described in Subparagraph (1) of this Paragraph or, upon compliance with the fur tagging requirements of 15A NCAC 10B .0400, the carcass or pelt thereof may be sold to a licensed fur dealer.
- (4) Furbearing Animals. The carcass or pelt of any furbearing animal killed during the open season for taking such furbearing animal for control of depredations to property, whether with or without a permit, may be sold to a licensed fur dealer provided that the person offering such carcass or pelt for sale has a valid hunting or trapping license, provided further that, bobcats and otters may only be sold upon compliance with any required fur tagging requirement set forth in 15A NCAC 10B .0400.

- (5) Animals Taken Alive. Wild animals in the order Carnivora, armadillos, groundhogs, nutria, and beaver shall be humanely euthanized either at the site of capture or at a facility designed to humanely handle the euthanasia or released on the property where captured. Feral swine must be euthanized while still in the trap in accordance with G.S. 113-291.12. For all other animals taken alive, the animal must be euthanized or else released on property with permission of the landowner. When the relocation site is public property, written permission must be obtained from an appropriate local, state or federal official before any animal may be released. Animals transported or held for euthanasia must be euthanized within 12 hours of capture. Anyone in possession of live animals being transported for relocation or euthanasia under a depredation permit must have the depredation permit in his or her possession.

(f) Reporting Requirements. Any landholder who kills an alligator, deer, Canada goose, bear or wild turkey under a valid depredation permit shall report such kill on the form provided with the permit and mail the form upon the expiration date to the Wildlife Resources Commission. Any landowner who kills a coyote in the counties of Dare, Washington, Beaufort, Tyrrell, and Hyde shall report such kill as directed on the form provided. The killing and method of disposition of every ~~alligator~~ alligator, coyote in the counties of Dare, Washington, Beaufort, Tyrrell, and Hyde, and bear taken without a permit shall be reported to the Wildlife Resources Commission within 24 hours following the time of such killing.

Authority G.S. 113-134; 113-273; 113-274; 113-291.4; 113-291.6; 113-300.1; 113-300.2; 113-307; 113-331; 113-333; 113-334(a); 113-337.

**15A NCAC 10B .0219 COYOTE**

(a) This Rule applies to hunting coyotes. In all counties of the State, except those counties specified in Paragraph (b), the following apply:

- (1) There is no closed season for taking coyotes.
- (2) Coyotes may be taken on private lands anytime during the day or night.
- (3) Coyotes may be taken on public lands without a permit from the hours of one-half hour before sunrise until one-half hour after sunset, and from one-half hour after sunset to one-half hour before sunrise by permit only.

(b) In the counties of Dare, Hyde, Washington, Tyrrell and Beaufort, the following apply:

- (1) Coyote hunting on public lands is prohibited, except that coyotes may be taken on State-owned game lands by the holder of a permit for a specific special hunt opportunity for coyotes authorized by G.S. 113-264(d). Any special hunt for coyotes pursuant to G.S. 113-264(d) shall only allow hunting from the hours

of one-half hour before sunrise until one-half hour after sunset. Contests or competition coyote hunts on public lands are prohibited. If, within a calendar year, two or more red wolves are shot by one or more hunters with a valid special hunt permit for coyotes on State game lands within the five counties identified in this Paragraph, all special hunts for coyotes on State game lands within those five counties shall be suspended for one calendar year.

- (2) There is no closed season for taking coyotes on private lands. Coyotes may be taken on private lands from hours of one-half hour before sunrise until one-half hour after sunset only.
- (3) Coyotes may be taken on private lands by permit only, and any take shall be reported within 24 hours to the Commission.
- (4) Coyote hunting permits are in addition to hunting licenses. Individuals exempted from license requirements under the provisions specified in G.S. 113-276 must still acquire the coyote hunting permits to hunt coyotes in the counties specified in this Paragraph. Coyote hunting permits are valid for one calendar year and subject to annual renewal. These permits are non-transferable. Permit holders must submit their harvest reports in order to be eligible for permit renewal.

~~(b)~~(c) There are no bag limit restrictions on coyotes.

~~(e)~~(d) Manner of Take. Hunters may use electronic calls and artificial lights.

Authority G.S. 113-134; 113-264; 113-291.1; 113-291.2.

**SUBCHAPTER 10I – ENDANGERED AND THREATENED SPECIES**

**SECTION .0100 – ENDANGERED AND THREATENED SPECIES**

**15A NCAC 10I .0102 PROTECTION OF ENDANGERED/THREATENED/SPECIAL CONCERN**

(a) No Open Season. There is no open season for taking any of the species listed as endangered in Rule .0103, or threatened in Rule .0104 of this Section, except for the American alligator (*Alligator mississippiensis*) as set forth in the rules of this Chapter. Unless otherwise provided in North Carolina General Statutes or the rules of this Chapter, there is no open season for taking any of the species listed as special concern in Rule .0105 of this Section. Except as provided in Paragraphs (b), (c) and (e) of this Rule, it is unlawful to take or possess any of such species at any time.

(b) Permits. The executive director may issue permits to take or possess an endangered, threatened, or special concern species:

- (1) To an individual or institution with experience and training in handling, and caring for the wildlife and in conducting a scientific study, for the purpose of scientific investigation



relevant to perpetuation or restoration of said species or as a part of a scientifically valid study or restoration effort;

- (2) To a public or private educator or exhibitor who demonstrates that he or she has lawfully obtained the specimen or specimens in his or her possession, possesses the requisite equipment and expertise to care for such specimen or specimens and abides by the caging requirements for the species set forth in 15A NCAC 10H .0302;
- (3) To a person who lawfully possessed any such species for more than 90 days immediately prior to the date that such species was listed and who abides by the caging requirements for the species set forth in 15A NCAC 10H .0302, provided however, that no permit shall be issued more than ninety days after the effective date of the initial listing for that species; or
- (4) To a person with demonstrable depredation from a Special Concern Species, or the American alligator (*Alligator mississippiensis*).

(c) Taking Without a Permit:

- (1) An individual may take an endangered, threatened, or special concern species in defense of his own life or the lives of others.
- (2) A state or federal conservation officer or employee who is designated by his agency to do so may, when acting in the course of his official duties, take, possess, and transport endangered, threatened, or special concern species if the action is necessary to:
  - (A) aid a sick, injured, diseased or orphaned specimen;
  - (B) dispose of a dead specimen;
  - (C) salvage a dead specimen that may be useful for scientific study; or
  - (D) remove specimens that constitute a demonstrable but nonimmediate threat to human safety, provided the taking is done in a humane and noninjurious manner. The taking may involve injuring or killing endangered, threatened, or special concern species only if it is not reasonably possible to eliminate the threat by live-capturing and releasing the specimen unharmed, in a habitat that is suitable for the survival of that species.

(d) Reporting. Any taking or possession of an endangered, threatened, or special concern species under Paragraphs (b) and (c) of this Rule is subject to applicable reporting requirements of federal law and regulations and the reporting requirements of the permit issued by the Executive Director or of 15A NCAC 10B .0106(e).

(e) Exceptions.

(1) Notwithstanding any other provisions of this Rule, processed meat and other parts of American alligators, that have been lawfully taken in a state in which there is an open season for harvesting alligators, may be possessed, bought and sold when such products are marketed in packages or containers that are labeled to indicate the state in which they were taken and the identity, address, and lawful authority of the processor or distributor.

(2) Raptors listed as special concern species in Rule .0105 of this Section may be taken from the wild for falconry purposes and for falconry propagation, provided that a valid North Carolina endangered species permit has been obtained as required in Paragraph (b) of this Rule.

(3) Captive-bred raptors listed as special concern species may be bought, sold, bartered or traded as provided in 50 C.F.R. 21.30 when marked as required under those regulations.

(4) Red Wolves (*Canis rufus*) listed as threatened in Rule .0104 in this Section may be taken or harassed pursuant to the conditions provided in 50 C.F.R. 17.84(c).

~~(4)~~(5) Importation, possession, sales, transportation and exportation of species listed as special concern species in Rule .0105 of this Section is allowed under permit by retail and wholesale establishments whose primary function is providing scientific supplies for research provided that:

- (A) the specimens were lawfully obtained from captive or wild populations outside of North Carolina;
- (B) they are possessed in indoor facilities;
- (C) all transportation of specimens provides safeguards adequate to prevent accidental escape; and
- (D) importation, possession and sale or transfer is permitted only as listed in Parts (e)(4)(A) and (B) of this Rule.

(f) A written application to the Commission is required for a permit to authorize importation, and possession for the purpose of retail or wholesale sale. The application shall identify the source of the specimens, and provide documentation of lawful acquisition. Applications for permits shall include plans for holding, transportation, advertisement, and sale in such detail as to allow a determination of the safeguards provided against accidental escape and sales to unauthorized individuals.

(g) Purchase, importation, and possession of special concern species within North Carolina is allowed under permit to state and federal governmental agencies, corporate research entities, and research institutions provided that:

- (1) sales are permitted to out of state consumers;
- (2) the specimens will be possessed in indoor facilities and safeguards adequate to prevent

- accidental escape are provided during all transportation of the specimens;
- (3) the agency's or institution's Animal Use and Care Committee has approved the research protocol for this species; and
- (4) no specimens may be stocked or released in the public or private waters or lands of North Carolina and specimens may not be transferred to any private individual.

*Authority G.S. 113-291.2; 113-291.3; 113-292; 113-333; 113-134.*

**15A NCAC 10I .0104 THREATENED SPECIES LISTED**

(a) The following species of resident wildlife are designated as federally-listed threatened species:

- (1) Amphibians: None Listed At This Time.
- (2) Birds: Piping plover (*Charadrius melodus melodus*).
- (3) Crustacea: None Listed At This Time.
- (4) Fish:
  - (A) Spotfin chub (*Cyprinella monacha*);
  - (B) Waccamaw silverside (*Menidia extensa*).
- (5) Mammals: None Listed At This Time.
- (6) Mollusks: Noonday globe (*Patera clarki nantahala*).
- (7) Reptiles:
  - (A) Bog turtle (*Glyptemys muhlenbergii*);
  - (B) American alligator (*Alligator mississippiensis*);
  - (C) Green sea turtle (*Chelonia mydas*);
  - (D) Loggerhead sea turtle (*Caretta caretta*).

(b) The following species of resident wildlife are designated as state-listed threatened species:

- (1) Amphibians:
  - (A) Carolina gopher frog (*Rana capito capito*);
  - (B) Eastern tiger salamander (*Ambystoma tigrinum tigrinum*);
  - (C) Junaluska salamander (*Eurycea junaluska*);
  - (D) Wehrle's salamander (*Plethodon wehrlei*).
- (2) Birds:
  - (A) Bald eagle (*Haliaeetus leucocephalus*)
  - (B) Gull-billed tern (*Sterna nilotica aranea*);
  - (C) Northern saw-whet owl (*Aegolius acadicus*).
- (3) Crustacea: None Listed At This Time.
- (4) Fish:
  - (A) American brook lamprey (*Lampetra appendix*);
  - (B) Banded sculpin (*Cottus carolinae*);
  - (C) Bigeye jumprock (*Scartomyzon ariommus*);

- (D) Blackbanded darter (*Percina nigrofasciata*);
  - (E) Carolina madtom (*Noturus furiosus*);
  - (F) Carolina pygmy sunfish (*Elassoma boehlkei*);
  - (G) Carolina redbreast (*Moxostoma sp.*) (Pee Dee River and its tributaries and Cape Fear River and its tributaries);
  - (H) Least brook lamprey (*Lampetra aepyptera*);
  - (I) Logperch (*Percina caprodes*);
  - (J) Rosyface chub (*Hybopsis rubrifrons*);
  - (K) Sharphead darter (*Etheostoma acuticeps*);
  - (L) Sicklefin redbreast (*Moxostoma sp.*) (Hiwassee River and its tributaries and Little Tennessee River and its tributaries);
  - (M) Turquoise darter (*Etheostoma inscriptum*);
  - (N) Waccamaw darter (*Etheostoma perlongum*).
- (5) Mammals:
- (A) Eastern woodrat (*Neotoma floridana floridana*);
  - (B) Rafinesque's big-eared bat (*Corynorhinus rafinesquii rafinesquii*);
  - (C) Red wolf (*Canis rufus*).
- (6) Mollusks:
- (A) Alewife floater (*Anodonta implicata*);
  - (B) Big-tooth covert (*Fumonelix jonesiana*);
  - (C) Cape Fear threetooth (*Triodopsis soelneri*);
  - (D) Carolina fatmucket (*Lampsilis radiata conspicua*);
  - (E) Clingman covert (*Fumonelix wheatleyi clingmanicus*);
  - (F) Eastern lampmussel (*Lampsilis radiata radiata*);
  - (G) Eastern pondmussel (*Ligumia nasuta*);
  - (H) Engraved covert (*Fumonelix orestes*);
  - (I) Mountain creekshell (*Villosa vanuxemensis*);
  - (J) Roan supercoil (*Paravitrea varidens*);
  - (K) Roanoke slabshell (*Elliptio roanokensis*);
  - (L) Sculpted supercoil (*Paravitrea ternaria*);
  - (M) Seep mudalia (*Leptoxis dilatata*);
  - (N) Smoky Mountain covert (*Inflectarius ferrissi*);
  - (O) Squawfoot (*Strophitus undulatus*);
  - (P) Tidewater mucket (*Leptodea ochracea*);
  - (Q) Triangle floater (*Alasmidonta undulata*);

- (R) Waccamaw ambersnail (Catinella waccamawensis);
- (S) Waccamaw fatmucket (Lampsilis fullerkti);
- (T) Waccamaw spike (Elliptio waccamawensis).
- (7) Reptiles: None Listed At This Time.

Authority G.S. 113-291.2; 113-292; 113-333; 113-134.

**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)
- Approved by OSBM
- No fiscal note required by G.S. 150B-21.4

**SECTION .0200 – PRACTICE OF CHIROPRACTIC**

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

**CHAPTER 10 – BOARD OF CHIROPRACTIC EXAMINERS**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Chiropractic Examiners intends to amend the rules cited as 21 NCAC 10 .0205 and .0210.*

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

**Proposed Effective Date:** June 1, 2015

**Public Hearing:**

**Date:** February 12, 2015

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

**Location:** Office of the Board of Chiropractic Examiners, 174 Church Street, Concord, NC 28025

**Reason for Proposed Action:** *The purpose of amending both rules is to change the annual continuing education requirements for chiropractic physicians. The number of required hours is being reduced, and the educational options are being expanded.*

**Comments may be submitted to:** Carol Hall, Executive Secretary, P.O. Box 312, Concord, NC 28026

**Comment period ends:** March 20, 2015

**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.

**21 NCAC 10 .0205 RENEWAL OF LICENSE**

(a) General. The renewal, cancellation and restoration of a license are governed by G.S. 90-155.

(b) Renewal Application Form. Annual application for renewal of license shall be made on a form furnished by the Board. Any changes in a licentiate's name, address, professional specialty or employment, and history of criminal convictions shall be noted on the Renewal Application Form.

(c) Continuing Education. The licentiate shall state on the Renewal Application Form the name, date, sponsor and duration of all Board-approved educational sessions attended during the preceding year-year and any professional development continuing education for which the licentiate seeks credit pursuant to 21 NCAC 10 .0210(d). As used in G.S. 90-155, one "day" of continuing education shall be defined as ~~12~~ nine hours. Attendance at a Board-approved educational session shall be corroborated by written certification from the sponsoring body. Any licentiate seeking a hardship waiver of the continuing education requirement shall make application on a separate form provided by the secretary upon request.

(d) Renewal Fee. A renewal fee in the maximum amount allowed by statute shall be paid by each licentiate applying for renewal.

(e) Restoration of Cancelled License: Evidence of Proficiency. In order to provide evidence of proper proficiency, any former licentiate whose license has been cancelled due to non-compliance with G.S. 90-155 ~~must~~ shall be re-examined and ~~must~~ shall pay the application fee prescribed in 21 NCAC 10 .0202(d) to cover the cost of re-examination. Payment of the application fee ~~does~~ shall not constitute payment of the statutory reinstatement fee.

(f) Military ~~hardship~~ Hardship. A licentiate who is serving in the armed forces of the United States and to whom G.S. 93B-15(a) grants an extension of time to pay a renewal fee shall also be granted an identical extension of time to complete the continuing education required for license renewal.

Authority G.S. 90-142; 90-155; 93B-15.

**21 NCAC 10 .0210 INDIVIDUAL-STUDY CONTINUING EDUCATION**

(a) Hours permitted. A doctor of chiropractic may obtain as many as ~~12~~ eight credit hours of continuing education each year by successfully completing one or more individual-study courses approved by the Board.

(b) Course approval. The criteria for Board approval of any individual-study course ~~is~~ are as follows:

PROPOSED RULES

- (1) No practice-building or motivational courses shall be approved;
(2) No course shall be approved that requires participants, in order to utilize the information presented, to purchase equipment or clinical supplies available only through the course's instructors, sponsors or co-sponsors;
(3) Each subject taught shall fall within the extent and limitation of chiropractic licensure in this State;
(4) The subject matter shall be presented in a logical, scientific manner comparable to instruction at chiropractic colleges accredited by the Council on Chiropractic Education;
(5) The sponsor shall have a reliable method for recording and verifying a doctor's participation expressed in credit hours and fractions thereof, and the sponsor shall assume responsibility for submitting a certificate of participation to the Board within 60 days after a doctor completes the course;
(6) The course shall include one or more examinations or other means of verifying that a participating doctor has mastered the material presented in the course.

(c) Sponsor's obligation. The sponsor shall provide all information the Board deems necessary to evaluate the course according to the foregoing criteria set forth in Paragraph (b) of this Rule. Failure to provide information required by the Board shall be a basis for withholding approval.

(d) Professional development continuing education. A doctor of chiropractic may obtain continuing education credit for undertaking the professional development activities described below. Credit shall be awarded based on the actual time spent and shall not exceed two hours annually for all activities combined. To apply for credit, the doctor shall report such activities on his or her annual license renewal application. Approved professional development activities shall include:

- (1) Reading scientific, peer-reviewed professional journals;
(2) Visiting vendor displays at professional association conventions to become familiar with trends in treatment technologies and new products.

(e) Attendance at interstate regulatory meetings. A doctor of chiropractic may obtain as many as 12 hours of continuing education credit annually by attending daily sessions of a national meeting of the Federation of Chiropractic Licensing Boards or daily sessions of a meeting of the National Board of Chiropractic Examiners.

Authority G.S. 90-142; 90-151; 90-153.

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CHAPTER 17 – BOARD OF DIETETICS/NUTRITION

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Board of Dietetics/Nutrition intends to adopt the rule cited as 21 NCAC 17 .0119-.0121.

Link to agency website pursuant to G.S. 150B-19.1(c): http://www.ncbdn.org/laws\_rules/

Proposed Effective Date: May 1, 2015

Public Hearing:

Date: February 23, 2015

Time: 12:00 p.m.

Location: 1000 Centre Green Way, Suite 200, Cary, NC 27513

Reason for Proposed Action: These rules are being added as there is provision for them under the Administrative Procedure Act, and this Board seeks to provide further transparency to the public as to how the public may be more actively involved in the rule drafting process (as it relates to dietitians/nutritionists), and to ensure the public is aware of its administrative rights in regards to seeking a declaratory ruling.

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

Comment period ends: March 16, 2015

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)
Approved by OSBM
No fiscal note required by G.S. 150B-21.4

SECTION .0100 - LICENSURE

21 NCAC 17 .0119 DECLARATORY RULINGS

(a) The issuance of a declaratory ruling by the Board is governed by G.S. 150B-4.

(b) A request for a declaratory ruling shall be in writing and addressed to the Board. The request shall contain the following information:

- (1) The name and address of the person requesting the ruling;
- (2) The statute or rule to which the request relates;
- (3) A concise statement of the manner in which the person has been, or may be aggrieved by the statute or rule; and
- (4) A statement as to whether a hearing is desired, and if desired, the reason therefore.

(c) The Board shall 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 on a rule 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 pending litigation in North Carolina.

Authority G.S. 90-356(2); 150B-4.

**21 NCAC 17 .0120 PETITIONS FOR ADOPTION, AMENDMENT OR REPEAL OF RULES**

(a) The procedure for petitioning the Board to adopt, amend, or repeal a rule and for the Board's response is governed by G.S. 150B-20.

(b) Rule-making petitions shall be sent to the Board. No special form is required, but the petitioner shall state his or her name and address. The petition shall include:

- (1) A draft of any proposed rule or amendment to a rule;
- (2) The reasons for the proposal;
- (3) The effect of the proposal on existing rules or decisions;
- (4) Any data supporting the proposed rule change;
- (5) Practices likely to be affected by the proposed rule change; and
- (6) Persons likely to be affected by the proposed rule change.

(c) The Board, based on a study of the facts stated in the petition, whether the public interest will be better served by granting or denying the petition, and any other relevant information, shall make a decision as to whether to grant or deny the petition.

Authority G.S. 90-356(2); 150B-20.

**21 NCAC 17 .0121 RULE MAKING NOTICE**

Persons or agencies desiring to receive individual notice of the Board's rule making shall file a written request with the Board furnishing their name, mailing address, and electronic mailing address, if applicable.

Authority G.S. 90-356(2); 150B-20.

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**CHAPTER 32 – MEDICAL BOARD**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Medical Board intends to adopt the rules cited as 21 NCAC 32S .0224 and 32Y .0101, amend the rules cited as 21 NCAC 32S .0201, .0202, .0212, .0213, .0215-.0217 and repeal the rules cited as 21 NCAC 32S .0211 and .0214.*

**Link to agency website pursuant to G.S. 150B-19.1(c):** [www.ncmedboard.org/about\\_the\\_board/rule\\_changes](http://www.ncmedboard.org/about_the_board/rule_changes)

**Proposed Effective Date:** *May 1, 2015*

**Public Hearing:**

**Date:** *March 16, 2015*

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

**Location:** *North Carolina Medical board, 1203 Front Street, Raleigh, NC 27609*

**Reason for Proposed Action:**

**21 NCAC 32S .0201, .0211, .0212, .0213, .0214, .0215, .0217, .0224:** *To clarify that the purpose of the rules related to the supervisory relationship between physician assistants and their supervising physicians is to fulfill the board's directive to regulate, supervise and discipline physician assistants and their supervising physicians, and for no other purpose.*

**21 NCAC 32S .0202 & .0216:** *To increase the number of Category I CME hours a physician assistant must take every two years to maintain his or her license.*

**21 NCAC 32Y .0101:** *The General Assembly directed the Medical Board to promulgate the rule to ensure the Medical Board has information available through the Controlled Substance Reporting System concerning inappropriate or excessive prescribing of opioids by its licensees as part of a concerted statewide effort to stem prescription drug abuse, addiction and deaths due to overdose.*

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

**Comment period ends:** *March 16, 2015*

**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)
- Approved by OSBM
- No fiscal note required by G.S. 150B-21.4

**SUBCHAPTER 32S – PHYSICIAN ASSISTANTS**

**SECTION .0200 – PHYSICIAN ASSISTANT REGISTRATION**

**21 NCAC 32S .0201 DEFINITIONS**

The following definitions apply to this Subchapter:

- (1) "Board" means the North Carolina Medical Board.
- (2) "Examination" means the Physician Assistant National Certifying Examination.
- (3) "Family member" means a spouse, parent, grandparent, child, grandchild, sibling, aunt, uncle or first cousin, or persons to the same degree by marriage.
- (4) "Physician Assistant" means a person licensed by the Board under the provisions of G.S. 90-9.3.
- (5) "Physician Assistant License" means approval for the physician assistant to perform medical acts, tasks, or functions under North Carolina law.
- (6) "Physician Assistant Educational Program" is the educational program set out in G.S. 90-9.3(a)(1).
- (7) "License Renewal" means paying the annual fee and providing the information requested by the Board as outlined in this Subchapter.
- (8) ~~"Supervising"~~ "Supervise" or "Supervision" means the physician's function of overseeing the activities of, and accepting the responsibility for, the medical services rendered acts performed by a physician assistant.
- (9) "Supervisory Arrangement" is the written statement that describes the medical acts, ~~tasks~~ tasks, and functions delegated to the physician assistant by the primary supervising physician appropriate to the physician assistant's education, qualification, training, ~~skill~~ skills, and competence.
- (10) ~~"Supervising Physician" means a physician who is licensed by the Board and who is not prohibited by the Board from supervising physician assistants.~~ means the licensed physician who shall provide on-going

supervision, consultation evaluation of the medical acts performed by the physician assistant as defined in the in the Supervisory Arrangement. The physician may serve as a primary supervising physician or as a back-up supervising physician.

- (a) "Primary Supervising Physician" is the physician who ~~accepts full responsibility~~ is accountable to the Board for the physician assistant's medical activities and professional conduct at all times, whether the physician personally is providing supervision or the supervision is being provided by a Back-up Supervising Physician. The Primary Supervising Physician shall assure the Board that the physician assistant is qualified by education, ~~training~~ training, and competence to perform all medical acts required of the physician assistant ~~and is responsible for the physician assistant's performance~~ in the particular field or fields ~~in which~~ that the physician assistant is expected to perform medical acts. The Primary Supervising Physician shall also be accountable to the Board for his or her physician assistant's compliance with the rules of this Subchapter.
- (b) "Back-up Supervising Physician" means the physician who is ~~responsible~~ accountable to the Board for supervision of the physician assistant's activities in the absence of the Primary Supervising Physician and while actively supervising the physician assistant.
- (11) "Volunteer practice" means performance of medical acts, tasks, or functions without expectation of any form of payment or compensation.

Authority G.S. 90-9.3; 90-18(c)(13); 90-18.1.

**21 NCAC 32S .0202 QUALIFICATIONS AND REQUIREMENTS FOR LICENSE**

- (a) Except as otherwise provided in this Subchapter, an individual must obtain a license from the Board before practicing as a physician assistant. An applicant for a physician assistant license must:
  - (1) submit a completed application to the Board;
  - (2) meet the requirements set forth in G.S. 90-9.3 and has not committed any of the acts listed in G.S. 90-14;
  - (3) supply a certified copy of applicant's birth certificate if the applicant was born in the United States or a certified copy of a valid and

- unexpired U.S. passport. If the applicant does not possess proof of U.S. citizenship, the applicant must provide information about applicant's immigration and work status which the Board will use to verify applicant's ability to work lawfully in the United States;
- (4) submit to the Board proof that the applicant has completed a Physician Assistant Educational Program; if a physician assistant was licensed in North Carolina after June 1, 1994, he/she must also show successful completion of the Physician Assistant National Certifying Examination;
- (5) pay to the Board a non-refundable fee of two hundred dollars (\$200.00) plus the cost of a criminal background check. There is no fee to apply for a physician assistant limited volunteer license;
- (6) submit National Practitioner Data Bank (NPDB) and Healthcare Integrity and Protection Data Bank (HIPDB) reports. These reports must be requested by the Applicant and submitted to the Board within 60 days of the request;
- (7) submit a Board Action Data Bank Inquiry from the Federation of State Medical Boards (FSMB). This report must be requested by the Applicant and submitted to the Board within 60 days of the request;
- (8) submit to the Board two complete original fingerprint record cards, on fingerprint record cards supplied by the Board;
- (9) submit to the Board a signed consent form allowing a search of local, state, and national files to disclose any criminal record;
- (10) disclose whether he/she has ever been suspended from, placed on academic probation, expelled or required to resign from any school, including a PA educational program;
- (11) attest that he/she has no license, certificate, or registration as a physician assistant currently under discipline, revocation, suspension or probation or any other adverse action resulting from a health care licensing board;
- (12) certify that he or she is mentally and physically able to safely practice as a physician assistant and is of good moral character;
- (13) provide the Board with three original recommendation forms dated within six months of the application. These recommendations shall come from persons under whom the applicant has worked or trained who are familiar with the applicant's academic competence or clinical skills. At least one reference form must be from a physician and two reference forms must be from peers under whom the applicant has

worked or trained. References must be able to evaluate the applicant's academic competence, clinical skills and character as a physician assistant. References shall not be from any family member or in the case of new graduate applicants, references shall not be from fellow students of the applicant's Educational Program;

- (14) if two years or more have passed since graduation from a Physician Assistant Educational Program, document that he/she has successfully completed at least 100 hours of continuing medical education (CME) during the preceding two years, at least ~~40~~ 50 hours of which must be ~~American Academy of Physician Assistants~~ recognized by the National Commission on Certification of Physician Assistants as Category I CME; and
- (15) supply any other information the Board deems necessary to evaluate the applicant's qualifications.

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

*Authority G.S. 90-3; 90-9.3; 90-11; 90-18(c)(13); 90-18.1.*

**21 NCAC 32S .0211 AGENCY**

~~Physician assistants are the agents of their supervising physicians in the performance of all medical practice related activities, including the ordering of diagnostic, therapeutic and other medical services.~~

*Authority G.S. 90-9.3; 90-18(c)(13); 90-18.1.*

**21 NCAC 32S .0212 PRESCRIPTIVE AUTHORITY**

A physician assistant may prescribe, order, procure, ~~dispense~~ dispense, and administer drugs and medical devices subject to the following conditions:

- (1) The physician assistant complies with all state and federal laws regarding prescribing including G.S. 90-18.1(b);
- (2) Each supervising physician and physician assistant incorporates within his or her written supervisory arrangements, as defined in Rule ~~.0201(8)~~ .0201(9) of this Subchapter, instructions for prescribing, ordering, and administering drugs and medical devices and a policy for periodic review by the physician of these instructions and policy;
- (3) In order to compound and dispense drugs, the physician assistant complies with G.S. 90-18.1(c);
- (4) In order to prescribe controlled substances,
  - (a) the physician assistant must have a valid Drug Enforcement Administration (DEA) registration and prescribe in accordance with DEA rules;

- (b) all prescriptions for substances falling within schedules II, IIN, III, and IIIN, as defined in the federal Controlled Substances Act, shall not exceed a legitimate 30 day supply; and
  - (c) the supervising physician ~~must~~ shall possess the same schedule(s) of controlled substances as the physician assistant's DEA registration;
- (5) Each prescription issued by the physician assistant contains, in addition to other information required by law, the following:
- (a) the physician assistant's name, practice ~~address~~ address, and telephone number;
  - (b) the physician assistant's license number and, if applicable, the physician assistant's DEA number for controlled substances prescriptions; and
  - (c) the responsible authorizing supervising physician's, either primary or back-up, ~~physician's~~ ~~(primary or back-up)~~ name and telephone number;
- (6) The physician assistant documents prescriptions in writing on the patient's record, including the medication name and dosage, amount prescribed, directions for use, and number of refills;
- (7) A physician assistant who requests, receives, and dispenses medication samples to patients complies with all applicable state and federal regulations; and
- (8) A physician assistant shall not prescribe controlled substances, as defined by the state and federal controlled substances acts for:
- (a) the physician assistant's own use;
  - (b) the use of the physician assistant's supervising physician;
  - (c) the use of the physician assistant's immediate family;
  - (d) the use of any person living in the same residence as the physician assistant; or
  - (e) the use of any anyone with whom the physician assistant is having a sexual relationship.

As used in this Paragraph, "immediate family" means a spouse, parent, child, sibling, parent-in-law, son-in-law or daughter-in-law, brother-in-law or sister-in-law, step-parent, step-child, or step-sibling.

*Authority G.S. 90-18(c)(13); 90-18.1; 90-18.2A; 90-171.23(14); 21 C.F.R. 301.*

**21 NCAC 32S .0213      PHYSICIAN SUPERVISION OF PHYSICIAN ASSISTANTS**

(a) A physician wishing to serve as a primary supervising physician shall exercise supervision of the physician assistant in accordance with rules adopted by the Board.

~~(a)(b)~~ A physician assistant may perform medical acts, tasks, or functions only under the supervision of a physician. Supervision shall be continuous but, except as otherwise provided in the rules of this Subchapter, shall not be construed as requiring the physical presence of the supervising physician at the time and place that the services are rendered.

~~(b)(c)~~ Each team of physician(s) and physician assistant(s) shall ~~ensure~~ ensure

- (1) ~~that~~ the physician assistant's scope of practice is identified;
- (2) ~~that~~ delegation of medical tasks is appropriate to the skills of the supervising physician(s) as well as the physician assistant's level of competence;
- (3) ~~that~~ the relationship of, and access to, each supervising physician is defined; and
- (4) ~~that~~ a process for evaluation of the physician assistant's performance is established.

~~(e)(d)~~ Each supervising physician and physician assistant shall sign a statement, as defined in Rule ~~.0201(8)~~ .0201(9) of this Subchapter, that describes the supervisory arrangements in all settings. ~~Written prescribing instructions are required for each approved site.~~ The physician assistant shall maintain written prescribing instructions at each site. This statement shall be kept on file at all practice sites, and ~~must~~ shall be available upon request by the Board.

~~(d)(e)~~ A primary supervising physician and a physician assistant in a new practice arrangement shall meet monthly for the first six months to discuss practice relevant clinical issues and quality improvement measures. Thereafter, the primary supervising physician and the physician assistant shall meet at least once every six months. A written record of these meetings shall be signed and dated by both the supervising physician and the physician assistant, and shall be available for inspection upon request by the Board agent. The written record shall include a description of the relevant clinical issues discussed and the quality improvement measures taken.

*Authority G.S. 90-9.3; 90-18(c)(13); 90-18.1.*

**21 NCAC 32S .0214      SUPERVISING PHYSICIAN**

~~A physician wishing to serve as a primary supervising physician must exercise supervision of the physician assistant in accordance with rules adopted by the Board. The physician shall retain professional responsibility for the care rendered by the physician assistant within the scope of the supervisory arrangement.~~

*Authority G.S. 90-9.3; 90-18(c)(13); 90-18.1.*



**21 NCAC 32S .0215 RESPONSIBILITIES OF PRIMARY SUPERVISING PHYSICIANS IN REGARD TO BACK-UP SUPERVISING PHYSICIANS**

(a) The primary supervising physician shall ensure that a supervising physician, either primary or back-up, is readily accessible for the physician assistant to consult whenever the physician assistant is performing medical acts, tasks, or functions.

(b) A back-up supervising physician ~~must~~ shall be licensed to practice medicine by the Board, not prohibited by the Board from supervising a physician assistant, and approved by the primary supervising physician as a person willing and qualified to ~~assume responsibility for the care rendered~~ oversee the medical acts performed by the physician assistant in the absence of the primary supervising physician. ~~An ongoing~~ A current list of all approved back-up supervising physicians, signed and dated by each back-up supervising physician, the primary supervising physician, and the physician assistant, ~~must~~ shall be retained as part of the Supervisory Arrangement.

Authority G.S. 90-18(c)(13); 90-18.1.

**21 NCAC 32S .0216 CONTINUING MEDICAL EDUCATION**

(a) A physician assistant must complete at least 100 hours of continuing medical education (CME) every two years, at least ~~40~~ 50 hours of which must be ~~American Academy of Physician Assistants~~ recognized by the National Commission on Certification of Physician Assistants (NCCPA) as Category I CME. CME documentation must be available for inspection by the board or its agent upon request. The two year period shall run from the physician assistant's birthday, beginning in the year 1999, or the first birthday following initial licensure, whichever occurs later.

(b) A physician assistant who possesses a current certification with the ~~National Commission on Certification of Physician Assistants (NCCPA)~~ NCCPA will be deemed in compliance with the requirement of Paragraph (a) of this Rule. The physician assistant must attest on his or her annual renewal that he or she is currently certified by the NCCPA.

Authority G.S. 90-5.1(a)(3) and (10); 90-9.3; 90-18(c)(13); 90-18.1.

**21 NCAC 32S .0217 VIOLATIONS**

~~The Board may take disciplinary action against a supervising physician or a physician assistant, pursuant to G.S. 90-14. It is~~

~~unprofessional or dishonorable~~ conduct for a physician assistant to violate the rules of this Subchapter, or to represent him/herself as a physician. The Board may take disciplinary action against a supervising physician or a physician assistant, pursuant to G.S. 90-14(a)(6)(7), for violations of the rules of this Subchapter.

Authority G.S. 90-9.3; 90-14; 90-14.2.

**21 NCAC 32S .0224 SCOPE OF RULES**

The rules in the Subchapter are intended for the purpose of fulfilling the Board's statutory directive with regard to the regulation, supervision and disciplining of physician assistants and their supervising physicians, and for no other purpose.

Authority G.S. 90-5.1(a)(2)(3); 90-18.1.

**SUBCHAPTER 32Y –CONTROLLED SUBSTANCE REPORTING SYSTEM**

**21 NCAC 32Y .0101 REPORTING CRITERIA**

(a) The Department of Health and Human Services ("Department") may report to the North Carolina Medical Board ("Board") information regarding the prescribing practices of those physicians and physician assistants ("prescribers") whose prescribing:

- (1) Falls within the top one percent of those prescribing 100 milligrams of morphine equivalents ("MME") per patient per day; or
- (2) Falls within the top one percent of those prescribing 100 MME's per patient per day in combination with any benzodiazepine and who are within the top one percent of all controlled substance prescribers by volume.

(b) In addition, the Department may report to the Board information regarding prescribers who have had 2 or more patient deaths in the preceding 12 months due to opioid poisoning.

(c) The Department may submit these reports to the Board upon request and may include the information described in G.S. 90-113.73(b).

(d) The reports and communications between the Department and the Board shall remain confidential pursuant to G.S. 90-16 and G.S. 90-113.74.

Authority G.S. 90-113.74.

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

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

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

**CHAPTER 58A – REAL ESTATE COMMISSION**

**Rule-making Agency:** *Real Estate Commission*

**Rule Citation:** *21 NCAC 58A .0119*

**Effective Date:** *January 1, 2015*

**Date Approved by the Rules Review Commission:** *December 17, 2014*

**Reason for Action:** *Section 49(a) of S.L. 2014-120, which was enacted September 18, 2014, adds G.S. 47E-4.1 to the Residential Property Disclosure Act mandating the use of a mineral and oil and gas rights disclosure statement in all real estate transactions governed by G.S. 47E-1 and 47E-2(b) effective January 1, 2015. G.S. 47E-4.1 further requires the Real Estate Commission ("Commission") to develop and require the use of the mineral, gas and oil rights disclosure statement described in G.S. 47E-4.1. The Commission will not be able to adopt a rule governing the creation and use of the mandatory disclosure statement under permanent rulemaking procedures in time to meet the January 1, 2015 effective date. The Commission is therefore filing the proposed rule under temporary rulemaking procedures in the public interest so that it can be reviewed, approved and entered in to the Code by the effective date.*

**SUBCHAPTER 58A – REAL ESTATE BROKERS**

**SECTION .0100 – GENERAL BROKERAGE**

**21 NCAC 58A .0119 MINERAL AND OIL AND GAS RIGHTS MANDATORY DISCLOSURE STATEMENT**

(a) Every owner of real property subject to a transfer of the type governed by G.S. 47E-1 and G.S. 47E-2(b) shall complete a

disclosure statement form prescribed by the Commission and designated "Mineral and Oil and Gas Rights Mandatory Disclosure Statement," and shall furnish a copy of the completed form to a purchaser as required by G.S. 47E-4.1. The form shall bear the seal of the North Carolina Real Estate Commission and shall include the following:

- (1) instructions to property owners regarding transactions in ~~which~~ when the disclosure statement is required;
- (2) the text and format of the disclosure statement form as required by G.S. 47E-4.1(a);
- (3) a note to purchasers regarding their rights under G.S. 47E-5 in the event they are not provided with a disclosure statement as required by G.S. 47E-4.1;
- (4) the identification of the subject property and the parties to the transaction;
- (5) an acknowledgment by the owner(s) that the disclosure statement is true and correct as of the date signed; and
- (6) an acknowledgment by the buyer(s) of the receipt of a copy of the disclosure statement.

(b) The disclosure statement form described in Paragraph (a) of this Rule shall be available on the Commission's website at [www.ncrec.gov](http://www.ncrec.gov) or upon request to the Commission.

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

(d) Every broker representing a party in a real estate transaction governed by G.S. 47E-1 and G.S. 47E-2(b) shall inform each client of the client's rights and obligations under G.S. 47E.

(e) The disclosure statement form described in Paragraph (a) of this Rule applies to all contracts executed on or after January 1, 2015.

*History Note: Authority G.S. 47E-4.1; 47E-4.1(b); 47E-5; 47E-8; 93A-3(c); 93A-6;*

*Temporary Adoption Eff. January 1, 2015.*

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**RULES REVIEW COMMISSION**

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*This Section contains information for the meeting of the Rules Review Commission on December 17, 2014 and January 15, 2015 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-431-3000. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2<sup>nd</sup> business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.*

**RULES REVIEW COMMISSION MEMBERS**

**Appointed by Senate**

Margaret Currin (Chair)  
Jeff Hyde  
Jay Hemphill  
Faylene Whitaker

**Appointed by House**

Garth Dunklin (1<sup>st</sup> Vice Chair)  
Stephanie Simpson (2<sup>nd</sup> Vice Chair)  
Jeanette Doran  
Ralph A. Walker  
Anna Baird Choi

**COMMISSION COUNSEL**

Abigail Hammond (919)431-3076  
Amber Cronk May (919)431-3074  
Amanda Reeder (919)431-3079

**RULES REVIEW COMMISSION MEETING DATES**

January 15, 2015      February 19, 2015  
March 19, 2015      April 16, 2015

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**RULES REVIEW COMMISSION MEETING  
MINUTES**

***December 17, 2014***

The Rules Review Commission met on Wednesday, December 17, 2014, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Anna Choi, Margaret Currin, Jeanette Doran, Garth Dunklin, Jeff Hyde, Stephanie Simpson, Ralph Walker, and Faylene Whitaker.

Staff members present were: Commission counsels Abigail Hammond and Amanda Reeder; and Julie Brincefield, Alex Burgos, and Dana Vojtko.

The meeting was called to order at 9:01 a.m. with Chairman Currin presiding.

Chairman Currin read the notice required by G.S. 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**

Chairman Currin asked for any discussion, comments, or corrections concerning the minutes of the November 20, 2014 meeting. There were none and the minutes were approved as distributed.

**LOG OF FILINGS (PERMANENT RULES)**

**Board of Agriculture**

02 NCAC 090 .0103 was unanimously approved.

**Private Protective Services Board**

All rules were unanimously approved.

**Criminal Justice Education and Training Standards Commission**

All rules were unanimously approved.

**Sheriffs Education and Training Standards Commission**

All rules were unanimously approved.

**Environmental Management Commission**

All rules were unanimously approved with the following exception:

15A NCAC 02H .1030 – The Commission objected to the Rule, finding that the Rule failed to comply with Part 2 of the Administrative Procedure Act, by adopting a rule that differed substantially from the proposed rule. The Commission voted to object to the rule with Commissioners Currin, Doran, Dunklin, Hyde, Simpson, and Whitaker voting in favor and Commissioners Choi and Walker voting against.

Jennie Hauser from the Department of Justice addressed the Commission on behalf of the agency.

Commissioner Hyde was not present and did not participate in the vote or discussion for any rules until the vote on Rule 15A NCAC 02H .1030.

**Wildlife Resources Commission**

All rules were unanimously approved.

**Department of Transportation**

All rules were unanimously approved.

**Board of Cosmetic Art Examiners**

All rules were unanimously approved with the following exception:

21 NCAC 14T .0201 was withdrawn at the request of the agency.

**Hearing Aid Dealers and Fitters Board**

All rules were unanimously approved.

**Board of Landscape Architects**

The period of review was extended at the request of the agency.

**Board of Nursing**

All rules were unanimously approved.

Prior to the review of the rules from the Board of Nursing, Commissioner Choi recused herself and did not participate in any discussion or vote concerning these rules because her law firm provides legal representation to the board.

**Board of Occupational Therapy**

21 NCAC 38 .0802 was unanimously approved.

**Board of Pharmacy**

All rules were unanimously approved.

**Appraisal Board**

All rules were unanimously approved.

**Respiratory Care Board**

21 NCAC 61 .0401 was unanimously approved.

Prior to the review of the rule from the Respiratory Care Board, Commissioner Choi recused herself and did not participate in any discussion or vote concerning this rule because her law firm provides legal representation to the board.

**Veterinary Medical Board**

21 NCAC 66 .0108 was unanimously approved.

**Board for Licensing of Soil Scientists**

All rules were unanimously approved.

**TEMPORARY RULES**

**DHHS - Division of Mental Health**

The Commission reviewed the temporary rules filed by the Division of Mental Health. The Findings of Need forms filed indicated that the reason for the temporary rulemaking action was pursuant to a recent act of the General Assembly. The Commission declined to approve the three temporary rules based on the failure to comply with the Administrative Procedure Act (APA) in accordance with G.S. 150B-21.9, as S.L. 2014-53 directed the agency to adopt temporary rules no later than October 1, 2014.

Josephine Tetteh with the Department of Justice addressed the Commission on behalf of the agency.

#### **Real Estate Commission**

2<sup>nd</sup> Vice Chairman Simpson presided over the discussion and vote on the temporary rule submitted by the Real Estate Commission.

21 NCAC 58A .0119 was unanimously approved.

Prior to the review of the rule, Chairman Currin recused herself and did not participate in the discussion or vote concerning the rule because she holds an inactive Real Estate Broker's license.

Prior to the review of the rule, Commissioner Dunklin recused himself and did not participate in the discussion or vote concerning the rule because he practices in front of the Commission.

Chairman Currin and Commissioner Dunklin were not present during the discussion or vote on the rule.

#### **EXISTING RULES REVIEW**

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

10A NCAC 45 – The Commission unanimously approved the report as submitted by the agency.

Commissioner Doran was not present, and did not participate in the vote for this report.

##### **Board of Architecture**

21 NCAC 02 – The Commission unanimously approved the report as submitted by the agency.

Prior to the review of this report, Commissioner Choi recused herself and did not participate in any discussion or vote concerning this report because her law firm provides legal representation to the board.

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

21 NCAC 14 – The Commission unanimously approved the report as submitted by the agency.

##### **Board of Environmental Health Specialist Examiners**

21 NCAC 62 – The Commission unanimously approved the report as submitted by the agency.

#### **COMMISSION BUSINESS**

Commission staff gave the Commission a brief update on the Joint Legislative Administrative Procedure Oversight Committee meeting that took place on December 16, 2014.

At 11:06 a.m., Chairman Currin ended the public meeting of the Rules Review Commission and called the meeting into closed session pursuant to G.S 143-318.11 to discuss the lawsuit filed by the State Board of Education against the Rules Review Commission.

The Commission came out of closed session at 12:38 p.m.

The Commission took a break from 12:39 until 1:04 p.m.

Chairman Currin called the Commission to order in open session at 1:05 p.m.

#### **LOG OF FILINGS (PERMANENT RULES continued)**

##### **Mining and Energy Commission**

The Commission voted not to approve the staff recommendation to object to Rule 15A NCAC 05H .1307 with Commissioners Choi, Currin, Doran, Dunklin, Walker, and Whitaker voting against and Commissioner Hyde voting in favor.

The Commission voted not to approve the staff recommendation to object to Rules 15A NCAC 05H .1504 and .1616 with Commissioners Choi, Doran, Dunklin, Hyde, Walker, and Whitaker voting against and Commissioner Currin voting in favor.

All rules were unanimously approved with the following exceptions:

15A NCAC 05H .0604 and .0605 were withdrawn at the request of the agency.

The Commission objected to Rules 15A NCAC 05H .0804 and .1704. The Commission objected pursuant to G.S. 150B-21.9(a)(3), finding both rules were unnecessary, as they both repeated statute.

Commissioner Walker was not present, and did not participate in the vote for Rule 15A NCAC 05H .1704.

In addition, the Commission extended the period of review pursuant to G.S. 150B-21.10 for Rules 15A NCAC 05H .0704, .1308, .1310, .1404, .1405, .1406, .1407, .1603, .1613, .1804, .1902, .1903, and .2003.

Robert Josey and Walt Haven with the agency addressed the Commission.

Prior to the review of the rules, Commissioner Simpson recused herself and did not participate in any discussion or vote concerning the rules because of a possible conflict with her husband's law firm. Commissioner Simpson was not present during the discussion or vote.

**COMMISSION BUSINESS**

The meeting adjourned at 2:50 p.m.

The next regularly scheduled meeting of the Commission is scheduled for Thursday, January 15<sup>th</sup> 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,

\_\_\_\_\_  
Alexander Burgos

Minutes approved by the Rules Review Commission:

\_\_\_\_\_  
Margaret Currin, Chair

DECEMBER 2014

Rules Review Commission  
Meeting  
Please Print Legibly

Name	Agency
Seth Swift	NC ENVIRONMENTAL HEALTH SPECIALIST
Bill Craft	NC Respiratory Care Board
Althe Evans	NC Board of Architecture
Mark Odell	Lamar
Joelle Burleson	NC DENR-DAQ
CLINT PUNYAN	BOARD OF PHARMACY
Regina Covello	DOJ
Robertta Ouellette	NC Appraisal Board
Jennie Hauser	AG-EMC & MEC
Patrick Krawson	DENR-DAQ
Craig Justus	NCOAA
Paul Hickman	NCOAA
Curtis Aldenderfer	NC REC
Melisse Vuotto	NC REC
Josephine Tetteh	DOJ
Kate Pijkin	NCWRC
Evan Kanke	NC DENR
Anthony Bonapart	Private Protective Services
Melissa Vuotto	NC REC
Larry Michael	NC DHHS
Denise Tucker	NC DHHS DMH/OD/SA

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Rules Review Commission  
Meeting  
Please **Print** Legibly

Name	Agency
CONNIE BROWER	DENR - DWR
CRAIG BROMBY	DENR - OGC
Jeff Manning	DENR - DWR
Crystal Tillman	NCBON
Jennifer Everett	DENR
Helen Vandi	DOT
Bradley Bennett	NC DENR
Ken Pickle	"
Eileen Kugler	NCBON
Kathie MITIS	NC DENR
Trevor Allen	DOJ - CJETS
Julia Lohm	DOJ - SHETS
Ebony Pittman	DOJ - Transportation
Lynda Elliott	Cosmetic Arts
DON LEB	NCDCF
Donald Bryant	NC DOT
Chris Venturolo	DENR
Julie Venturolo	DENR
Thomas Mickey	NC VMB
Kim Gemenhardt	NC VMB
Jay Campbell	NCBOP







DECEMBER 2014

Rules Review Commission  
Meeting  
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Name	Agency
Jennie Hauser	AG- EMC & MEC
Sarah Collins	NCLM
JIM NOMAL	NC MEC
Katherine Marciniak	NCDENR-DEMLR
RYAN Channell	NCDENR-DEMLR
Brad Atkinson	NCDENR-DEMLR
TERRY DAVIS	NCDENR-DEMLR
WALT HAVEN	"
Matt Caulder	NC CAPITOL CONNECTION
MAY MAULDER ASHES	SELC
John Murawski	NFO
Karen Cochran Brown	NC GA staff
David McGowan	NLPC

**LIST OF APPROVED PERMANENT RULES  
December 17, 2014 Meeting**

**AGRICULTURE, BOARD OF**

Standards for Shell Eggs 02 NCAC 09O .0103

**PRIVATE PROTECTIVE SERVICES BOARD**

Uniforms and Equipment 12 NCAC 07D .0105

Application Completion Deadline 12 NCAC 07D .0116

Authorized Firearms 12 NCAC 07D .0809

Uniforms and Equipment 12 NCAC 07D .1408

Uniforms and Equipment 12 NCAC 07D .1508

**CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION**

Definitions 12 NCAC 09A .0103

Admission of Trainees 12 NCAC 09B .0203

Scope and Applicability of Subchapter 12 NCAC 09G .0101

Definitions 12 NCAC 09G .0102

Citizenship 12 NCAC 09G .0202

Age 12 NCAC 09G .0203

Education 12 NCAC 09G .0204

Physical and Mental Standards 12 NCAC 09G .0205

Moral Character 12 NCAC 09G .0206

Certification of Correctional Officers and Probation/Paro... 12 NCAC 09G .0301

Notification of Criminal Charges/Convictions 12 NCAC 09G .0302

Probationary Certification 12 NCAC 09G .0303

General Certification 12 NCAC 09G .0304

Retention of Records of Certification 12 NCAC 09G .0306

Basic Training for Probation/Parole Officers 12 NCAC 09G .0412

Basic Training for Probation/Parole Officers Intermediate 12 NCAC 09G .0413

Suspension: Revocation: or Denial of Certification 12 NCAC 09G .0504

General Provisions 12 NCAC 09G .0602

**SHERIFFS EDUCATION AND TRAINING STANDARDS COMMISSION**

Minimum Training Requirements 12 NCAC 10B .2005

In-Service Training Program Specifications 12 NCAC 10B .2006

**ENVIRONMENTAL MANAGEMENT COMMISSION**

Flow Design Criteria for Effluent Limitations 15A NCAC 02B .0206

Fresh Surface Water Quality Standards for Class C Waters 15A NCAC 02B .0211

Fresh Surface Water Quality Standards for Class WS-I Waters 15A NCAC 02B .0212

Fresh Surface Water Quality Standards for Class WS-II Waters 15A NCAC 02B .0214

Fresh Surface Water Quality Standards for Class WS-III Wa... 15A NCAC 02B .0215

Fresh Surface Water Quality Standards for Class WS-IV Waters 15A NCAC 02B .0216

<u>Fresh Surface Water Quality Standards for Class WS-V Waters</u>	15A NCAC 02B .0218
<u>Tidal Salt Water Quality Standards for Class SC Waters</u>	15A NCAC 02B .0220
<u>Definitions</u>	15A NCAC 02D .0101
<u>Purpose and Scope</u>	15A NCAC 02D .0801
<u>Definitions</u>	15A NCAC 02D .0802
<u>Airport Facilities</u>	15A NCAC 02D .0804
<u>Parking Facilities</u>	15A NCAC 02D .0805
<u>Ambient Monitoring and Modeling Analysis</u>	15A NCAC 02D .0806
<u>Open Burning Purpose Scope</u>	15A NCAC 02D .1901
<u>Definitions</u>	15A NCAC 02D .1902
<u>Definitions</u>	15A NCAC 02H .1002
<u>Required Air Quality Permits</u>	15A NCAC 02Q .0101
<u>Definitions</u>	15A NCAC 02Q .0103
<u>Where to Obtain and File Permit Applications</u>	15A NCAC 02Q .0104
<u>Permit and Application Fees</u>	15A NCAC 02Q .0203
<u>Final Action on Permit Applications</u>	15A NCAC 02Q .0308
<u>Purpose of Section and Requirement for a Permit</u>	15A NCAC 02Q .0601
<u>Definitions</u>	15A NCAC 02Q .0602
<u>Applications</u>	15A NCAC 02Q .0603
<u>Public Participation</u>	15A NCAC 02Q .0604
<u>Final Action on Permit Applications</u>	15A NCAC 02Q .0605
<u>Termination, Modification and Revocation of Permits</u>	15A NCAC 02Q .0606
<u>Application Processing Schedule</u>	15A NCAC 02Q .0607
<u>Permitting by Regulation</u>	15A NCAC 02T .0113
<u>Scope</u>	15A NCAC 02T .1001
<u>Scope</u>	15A NCAC 02T .1501
<u>Permitting by Regulation</u>	15A NCAC 02U .0113

**MINING AND ENERGY COMMISSION**

<u>General Provisions</u>	15A NCAC 05D .0101
<u>Definitions</u>	15A NCAC 05D .0103
<u>Registration</u>	15A NCAC 05D .0104
<u>Drilling Permits</u>	15A NCAC 05D .0105
<u>Well Spacing</u>	15A NCAC 05D .0106
<u>Drilling and Completion</u>	15A NCAC 05D .0107
<u>Completion Report</u>	15A NCAC 05D .0108
<u>Plugging of Wells</u>	15A NCAC 05D .0109
<u>Filing of the Log of Drilling</u>	15A NCAC 05D .0110
<u>Limitation of Productions and Allocation</u>	15A NCAC 05D .0111
<u>Purpose and Scope</u>	15A NCAC 05H .0101
<u>Terms of Reference and Definitions</u>	15A NCAC 05H .0102
<u>Forms</u>	15A NCAC 05H .0201
<u>Record Keeping and Reporting</u>	15A NCAC 05H .0202
<u>Inspections</u>	15A NCAC 05H .0203
<u>Variance Procedures</u>	15A NCAC 05H .0301
<u>Procedure for Submission of Petition</u>	15A NCAC 05H .0401

<u>Disposition of Petition</u>	15A NCAC 05H .0402
<u>Form and Contents of Petition</u>	15A NCAC 05H .0501
<u>Review by a Committee of the Commission</u>	15A NCAC 05H .0502
<u>Presentation to the Commission</u>	15A NCAC 05H .0503
<u>Recourse for Denial of Petition</u>	15A NCAC 05H .0504
<u>Purpose and Scope</u>	15A NCAC 05H .0601
<u>Procedures for Public Comment for Rulemaking Hearings</u>	15A NCAC 05H .0602
<u>Requirements of Rulemaking Hearing Officer or Panel</u>	15A NCAC 05H .0603
<u>Opportunity for Hearing</u>	15A NCAC 05H .0701
<u>Parties</u>	15A NCAC 05H .0702
<u>Procedure for Submission</u>	15A NCAC 05H .0703
<u>Order and Record of Proceeding</u>	15A NCAC 05H .0705
<u>Administrative and Judicial Review of Commission Decision</u>	15A NCAC 05H .0706
<u>Form and Contents of Request to Maintain Confidential Inf...</u>	15A NCAC 05H .0707
<u>Disposition of Confidential Information Request</u>	15A NCAC 05H .0708
<u>Notice to the Commission of Loss of Confidential Status</u>	15A NCAC 05H .0709
<u>Purpose and Scope</u>	15A NCAC 05H .0801
<u>Commencement of Proceedings</u>	15A NCAC 05H .0802
<u>Notice of Proceedings</u>	15A NCAC 05H .0803
<u>Notice of Public Hearing</u>	15A NCAC 05H .0805
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<u>Witnesses</u>	15A NCAC 05H .0807
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<u>Operation and Production Requirements for Oil and Gas Wells</u>	15A NCAC 05H .2201

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<u>Perquimans County</u>	15A NCAC 10F .0355

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<u>Requests for Selective Vegetation Removal Permits for a F...</u>	19A NCAC 02E .0602
<u>Issuance or Denial of Selective Vegetation Removal Permit...</u>	19A NCAC 02E .0603
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<u>Conditions of Selective Vegetation Removal Permit for Out...</u>	19A NCAC 02E .0610
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<u>Apprentice Cosmetology Curriculum</u>	21 NCAC 14T .0603
<u>Esthetics Curriculum</u>	21 NCAC 14T .0604
<u>Manicuring Curriculum</u>	21 NCAC 14T .0605
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December 17, 2014 Meeting**

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**RRC DETERMINATION  
PERIODIC RULE REVIEW  
December 17, 2014**

**Necessary with Substantive Public Interest**

<b>Architecture, Board of</b>	21 NCAC 14T .0305	21 NCAC 14T .0608
21 NCAC 02 .0703	21 NCAC 14T .0602	21 NCAC 14T .0609
	21 NCAC 14T .0603	21 NCAC 14T .0610
<b>Cosmetic Art Examiners, Board of</b>	21 NCAC 14T .0604	21 NCAC 14T .0701
21 NCAC 14H .0504	21 NCAC 14T .0605	21 NCAC 14T .0705
21 NCAC 14H .0505	21 NCAC 14T .0606	
21 NCAC 14T .0205	21 NCAC 14T .0607	

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**RRC DETERMINATION  
PERIODIC RULE REVIEW  
December 17, 2014**

**Necessary without Substantive Public Interest**

<b>Public Health, Commission for</b>	21 NCAC 02 .0212	<b>Cosmetic Art Examiners, Board of</b>
10A NCAC 45A .0101	21 NCAC 02 .0213	21 NCAC 14A .0101
10A NCAC 45A .0102	21 NCAC 02 .0214	21 NCAC 14A .0104
10A NCAC 45A .0201	21 NCAC 02 .0215	21 NCAC 14A .0401
10A NCAC 45A .0202	21 NCAC 02 .0217	21 NCAC 14A .0402
10A NCAC 45A .0203	21 NCAC 02 .0218	21 NCAC 14A .0403
10A NCAC 45A .0204	21 NCAC 02 .0301	21 NCAC 14A .0404
10A NCAC 45A .0301	21 NCAC 02 .0302	21 NCAC 14B .0101
10A NCAC 45A .0302	21 NCAC 02 .0303	21 NCAC 14B .0102
10A NCAC 45A .0303	21 NCAC 02 .0401	21 NCAC 14B .0105
10A NCAC 45A .0304	21 NCAC 02 .0402	21 NCAC 14B .0107
10A NCAC 45A .0305	21 NCAC 02 .0403	21 NCAC 14B .0201
10A NCAC 45A .0401	21 NCAC 02 .0404	21 NCAC 14B .0302
10A NCAC 45A .0402	21 NCAC 02 .0405	21 NCAC 14B .0304
10A NCAC 45A .0403	21 NCAC 02 .0406	21 NCAC 14B .0305
10A NCAC 45A .0404	21 NCAC 02 .0501	21 NCAC 14B .0306
10A NCAC 45A .0405	21 NCAC 02 .0601	21 NCAC 14B .0307
10A NCAC 45A .0501	21 NCAC 02 .0603	21 NCAC 14B .0308
10A NCAC 45A .0502	21 NCAC 02 .0604	21 NCAC 14B .0309
10A NCAC 45A .0503	21 NCAC 02 .0605	21 NCAC 14B .0501
10A NCAC 45B .0101	21 NCAC 02 .0606	21 NCAC 14B .0502
10A NCAC 45B .0104	21 NCAC 02 .0607	21 NCAC 14B .0503
	21 NCAC 02 .0608	21 NCAC 14B .0505
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21 NCAC 02 .0101	21 NCAC 02 .0610	21 NCAC 14B .0601
21 NCAC 02 .0102	21 NCAC 02 .0701	21 NCAC 14B .0603
21 NCAC 02 .0106	21 NCAC 02 .0702	21 NCAC 14B .0605
21 NCAC 02 .0107	21 NCAC 02 .0704	21 NCAC 14B .0607
21 NCAC 02 .0108	21 NCAC 02 .0705	21 NCAC 14C .0101
21 NCAC 02 .0109	21 NCAC 02 .0901	21 NCAC 14C .0103
21 NCAC 02 .0201	21 NCAC 02 .0903	21 NCAC 14C .0201
21 NCAC 02 .0202	21 NCAC 02 .0904	21 NCAC 14C .0203
21 NCAC 02 .0203	21 NCAC 02 .0905	21 NCAC 14C .0204
21 NCAC 02 .0204	21 NCAC 02 .0906	21 NCAC 14C .0205
21 NCAC 02 .0205	21 NCAC 02 .0907	21 NCAC 14C .0503
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21 NCAC 02 .0208	21 NCAC 02 .0909	21 NCAC 14C .0801
21 NCAC 02 .0209	21 NCAC 02 .0910	21 NCAC 14C .0802
21 NCAC 02 .0210		21 NCAC 14C .0803
21 NCAC 02 .0211		21 NCAC 14C .0804

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*RULES REVIEW COMMISSION*

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21 NCAC 14C .0805  
21 NCAC 14C .0807  
21 NCAC 14C .0808  
21 NCAC 14C .0903  
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21 NCAC 14T .0706  
21 NCAC 14T .0802  
21 NCAC 14T .0803  
21 NCAC 14T .0901

**Environmental Health Specialist  
Examiners, Board of**

21 NCAC 62 .0102  
21 NCAC 62 .0103  
21 NCAC 62 .0201  
21 NCAC 62 .0401  
21 NCAC 62 .0402  
21 NCAC 62 .0403  
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21 NCAC 62 .0411  
21 NCAC 62 .0414  
21 NCAC 62 .0415

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**RRC DETERMINATION  
PERIODIC RULE REVIEW  
December 17, 2014  
Unnecessary**

**Cosmetic Art Examiners, Board of**

21 NCAC 14B .0504  
21 NCAC 14K .0107  
21 NCAC 14O .0106

RRC DETERMINATION  
PERIODIC RULE REVIEW  
November 20, 2014  
Necessary with Substantive Public Interest

**Insurance, Department of**

11 NCAC 18 .0103  
11 NCAC 20 .0202  
11 NCAC 20 .0203  
11 NCAC 20 .0204  
11 NCAC 20 .0301  
11 NCAC 20 .0302  
11 NCAC 20 .0404  
11 NCAC 20 .0410  
11 NCAC 20 .0601  
11 NCAC 21 .0106

15A NCAC 12B .1105  
15A NCAC 12B .1106  
15A NCAC 12B .1201  
15A NCAC 12B .1202  
15A NCAC 12B .1204  
15A NCAC 12B .1205  
15A NCAC 12B .1206  
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15A NCAC 12C .0102  
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15A NCAC 12K .0106  
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15A NCAC 12K .0109  
15A NCAC 12K .0110

**Environment and Natural  
Resources, Department of**

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15A NCAC 12B .0103  
15A NCAC 12B .0104  
15A NCAC 12B .0201  
15A NCAC 12B .0203  
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15A NCAC 12G .0103  
15A NCAC 12G .0201  
15A NCAC 12G .0202

**Foresters, Board of Registration  
for**  
21 NCAC 20 .0103  
21 NCAC 20 .0104

**RRC DETERMINATION  
PERIODIC RULE REVIEW  
November 20, 2014**

**Necessary without Substantive Public Interest**

**Insurance, Department of**

11 NCAC 18 .0101  
11 NCAC 18 .0102  
11 NCAC 18 .0104  
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**Environment and Natural  
Resources, Department of**

15A NCAC 12A .0101  
15A NCAC 12A .0104  
15A NCAC 12A .0105

**Foresters, Board of Registration  
for**

21 NCAC 20 .0101  
21 NCAC 20 .0102  
21 NCAC 20 .0105  
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21 NCAC 20 .0122  
21 NCAC 20 .0123  
21 NCAC 20 .0124  
21 NCAC 20 .0125  
21 NCAC 20 .0126

**Geologists, Board for Licensing of**

21 NCAC 21 .0101  
21 NCAC 21 .0103  
21 NCAC 21 .0104  
21 NCAC 21 .0105  
21 NCAC 21 .0107  
21 NCAC 21 .0202  
21 NCAC 21 .0203  
21 NCAC 21 .0301  
21 NCAC 21 .0302  
21 NCAC 21 .0501  
21 NCAC 21 .0502  
21 NCAC 21 .0505  
21 NCAC 21 .0506  
21 NCAC 21 .0507  
21 NCAC 21 .0508  
21 NCAC 21 .0510  
21 NCAC 21 .0511  
21 NCAC 21 .0513  
21 NCAC 21 .0514  
21 NCAC 21 .0515  
21 NCAC 21 .0601  
21 NCAC 21 .0602  
21 NCAC 21 .0603  
21 NCAC 21 .0604

21 NCAC 21 .0605  
21 NCAC 21 .0606  
21 NCAC 21 .0607  
21 NCAC 21 .0802  
21 NCAC 21 .0803  
21 NCAC 21 .0804  
21 NCAC 21 .0807  
21 NCAC 21 .0902  
21 NCAC 21 .0903  
21 NCAC 21 .0904  
21 NCAC 21 .1001  
21 NCAC 21 .1002  
21 NCAC 21 .1101  
21 NCAC 21 .1102

**Landscape Contractors  
Registration Board**

21 NCAC 28 .0101  
21 NCAC 28 .0103  
21 NCAC 28 .0106  
21 NCAC 28 .0107  
21 NCAC 28 .0201  
21 NCAC 28 .0203  
21 NCAC 28 .0204  
21 NCAC 28 .0205  
21 NCAC 28 .0301  
21 NCAC 28 .0304  
21 NCAC 28 .0401

**Soil Scientists, Board for  
Licensing of**

21 NCAC 69 .0101  
21 NCAC 69 .0103  
21 NCAC 69 .0104  
21 NCAC 69 .0201  
21 NCAC 69 .0202  
21 NCAC 69 .0301  
21 NCAC 69 .0302  
21 NCAC 69 .0303  
21 NCAC 69 .0304  
21 NCAC 69 .0305  
21 NCAC 69 .0306  
21 NCAC 69 .0307  
21 NCAC 69 .0308  
21 NCAC 69 .0401  
21 NCAC 69 .0402  
21 NCAC 69 .0501

**Occupational Safety and Health  
Review Commission**

24 NCAC 03 .0101  
24 NCAC 03 .0102  
24 NCAC 03 .0103  
24 NCAC 03 .0104

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**RULES REVIEW COMMISSION**

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24 NCAC 03 .0105	24 NCAC 03 .0401	24 NCAC 03 .0514
24 NCAC 03 .0106	24 NCAC 03 .0402	24 NCAC 03 .0515
24 NCAC 03 .0107	24 NCAC 03 .0403	24 NCAC 03 .0516
24 NCAC 03 .0108	24 NCAC 03 .0404	24 NCAC 03 .0601
24 NCAC 03 .0109	24 NCAC 03 .0405	24 NCAC 03 .0602
24 NCAC 03 .0110	24 NCAC 03 .0406	24 NCAC 03 .0603
24 NCAC 03 .0111	24 NCAC 03 .0501	24 NCAC 03 .0604
24 NCAC 03 .0201	24 NCAC 03 .0502	24 NCAC 03 .0605
24 NCAC 03 .0202	24 NCAC 03 .0503	24 NCAC 03 .0701
24 NCAC 03 .0203	24 NCAC 03 .0504	24 NCAC 03 .0702
24 NCAC 03 .0301	24 NCAC 03 .0505	24 NCAC 03 .0703
24 NCAC 03 .0302	24 NCAC 03 .0506	24 NCAC 03 .0704
24 NCAC 03 .0303	24 NCAC 03 .0507	24 NCAC 03 .0705
24 NCAC 03 .0304	24 NCAC 03 .0508	24 NCAC 03 .0706
24 NCAC 03 .0305	24 NCAC 03 .0509	24 NCAC 03 .0707
24 NCAC 03 .0306	24 NCAC 03 .0510	24 NCAC 03 .0708
24 NCAC 03 .0307	24 NCAC 03 .0511	24 NCAC 03 .0709
24 NCAC 03 .0308	24 NCAC 03 .0512	24 NCAC 03 .0710
24 NCAC 03 .0309	24 NCAC 03 .0513	

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**RRC DETERMINATION  
PERIODIC RULE REVIEW  
November 20, 2014  
Unnecessary**

<b>Commerce, Department of</b>	11 NCAC 22 .0106	13 NCAC 10 .0111
04 NCAC 14A .0104	11 NCAC 22 .0107	13 NCAC 10 .0201
	11 NCAC 22 .0108	13 NCAC 10 .0202
<b>Insurance, Department of</b>	11 NCAC 22 .0109	13 NCAC 10 .0203
11 NCAC 14 .0201	11 NCAC 22 .0110	13 NCAC 10 .0301
11 NCAC 14 .0202	11 NCAC 22 .0111	13 NCAC 10 .0302
11 NCAC 14 .0203	11 NCAC 22 .0112	13 NCAC 10 .0303
11 NCAC 14 .0409	11 NCAC 22 .0113	13 NCAC 10 .0304
11 NCAC 14 .0416	11 NCAC 22 .0114	13 NCAC 10 .0305
11 NCAC 14 .0417	11 NCAC 22 .0115	13 NCAC 10 .0306
11 NCAC 14 .0427	11 NCAC 22 .0116	13 NCAC 10 .0307
11 NCAC 14 .0428		13 NCAC 10 .0308
11 NCAC 14 .0429	<b>Labor, Department of</b>	13 NCAC 10 .0309
11 NCAC 14 .0502	13 NCAC 08 .0101	13 NCAC 10 .0401
11 NCAC 14 .0503	13 NCAC 08 .0102	13 NCAC 10 .0402
11 NCAC 14 .0506	13 NCAC 08 .0103	13 NCAC 10 .0403
11 NCAC 14 .0601	13 NCAC 08 .0104	13 NCAC 10 .0404
11 NCAC 14 .0602	13 NCAC 08 .0105	13 NCAC 10 .0405
11 NCAC 14 .0603	13 NCAC 08 .0301	13 NCAC 10 .0406
11 NCAC 14 .0604	13 NCAC 08 .0302	13 NCAC 10 .0501
11 NCAC 14 .0605		13 NCAC 10 .0502
11 NCAC 14 .0701	<b>Occupational Safety and Health</b>	13 NCAC 10 .0503
11 NCAC 14 .0702	<b>Review Commission</b>	13 NCAC 10 .0504
11 NCAC 14 .0703	13 NCAC 10 .0101	13 NCAC 10 .0505
11 NCAC 14 .0704	13 NCAC 10 .0102	13 NCAC 10 .0506
11 NCAC 20 .0303	13 NCAC 10 .0103	13 NCAC 10 .0507
11 NCAC 20 .0409	13 NCAC 10 .0104	13 NCAC 10 .0508
11 NCAC 20 .0510	13 NCAC 10 .0105	13 NCAC 10 .0509
11 NCAC 22 .0101	13 NCAC 10 .0106	13 NCAC 10 .0510
11 NCAC 22 .0102	13 NCAC 10 .0107	13 NCAC 10 .0511
11 NCAC 22 .0103	13 NCAC 10 .0108	13 NCAC 10 .0512
11 NCAC 22 .0104	13 NCAC 10 .0109	13 NCAC 10 .0513
11 NCAC 22 .0105	13 NCAC 10 .0110	13 NCAC 10 .0514

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13 NCAC 10 .0515	13 NCAC 10 .0707	
13 NCAC 10 .0516	13 NCAC 10 .0708	<b>Foresters, Board of Registration</b>
13 NCAC 10 .0601	13 NCAC 10 .0709	<b>for</b>
13 NCAC 10 .0602	13 NCAC 10 .0710	21 NCAC 20 .0109
13 NCAC 10 .0603		21 NCAC 20 .0110
13 NCAC 10 .0604	<b>Environment and Natural</b>	21 NCAC 20 .0112
13 NCAC 10 .0605	<b>Resources, Department of</b>	
13 NCAC 10 .0701	15A NCAC 01G .0101	<b>Soil Scientists, Board for</b>
13 NCAC 10 .0702	15A NCAC 01G .0102	<b>Licensing of</b>
13 NCAC 10 .0703	15A NCAC 01G .0103	21 NCAC 69 .0102
13 NCAC 10 .0704	15A NCAC 01H .0101	
13 NCAC 10 .0705	15A NCAC 01H .0102	
13 NCAC 10 .0706	15A NCAC 01H .0103	

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**AGENDA**  
**RULES REVIEW COMMISSION**  
**THURSDAY, JANUARY 15, 2015 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. DHHS – Division of Mental Health – 10A NCAC 26E .0701 -.0703 (Hammond)
  - B. Environmental Management Commission – 15A NCAC 02H .1030 (Hammond)
  - C. Mining and Energy Commission – 15A NCAC 05H .0704, .0804, .1308, .1310, .1404, .1405, .1406, .1407, .1603, .1613, .1704, .1804, .1902, .1903, .2003 (Reeder)
  - D. Board of Landscape Architects – 21 NCAC 26 .0101, .0103, .0105, .0106, .0107, .0201, .0301, .0303, .0307, .0308, .0309, .0310, .0311, .0312, .0313, .0314, .0315, .0510 (Hammond)
- IV. Review of Log of Filings (Permanent Rules) for rules filed between November 21, 2014 and December 22, 2014
  - Department of Commerce – Credit Union Division (May)
  - DHHS – Division of Health Service Regulation (May)
  - Department of State Treasurer (Reeder)
  - Hearing Aid Dealers and Fitters Board (Reeder)
  - Board of Physical Therapy Examiners (Hammond)
  - Board of Refrigeration Examiners (Reeder)
  - Office of Administrative Hearings
- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
- VI. Existing Rules Review
  1. 02 NCAC 09B – Board of Agriculture (Reeder)
  2. 02 NCAC 09C – Board of Agriculture (Reeder)
  3. 02 NCAC 09D – Board of Agriculture (Reeder)
  4. 02 NCAC 09E – Board of Agriculture (Reeder)
  5. 02 NCAC 09F – Board of Agriculture (Reeder)
  6. 02 NCAC 09G – Board of Agriculture (Reeder)
  7. 02 NCAC 09H – Board of Agriculture (Reeder)
  8. 02 NCAC 09J – Board of Agriculture (Reeder)
  9. 02 NCAC 09K – Board of Agriculture (Reeder)
  10. 02 NCAC 09M – Board of Agriculture (Reeder)
  11. 02 NCAC 09N – Board of Agriculture (Reeder)
  12. 02 NCAC 09O – Board of Agriculture (Reeder)
  13. 02 NCAC 38 – Board of Agriculture (Reeder)
  14. 02 NCAC 43F – Board of Agriculture (Reeder)
  15. 02 NCAC 51 – Board of Agriculture (Reeder)
  16. 02 NCAC 52A – Board of Agriculture (Reeder)
  17. 02 NCAC 52K – Board of Agriculture (Reeder)
  18. 02 NCAC 54 – Board of Agriculture (Reeder)

- 19. 10A NCAC 13A – Medical Care Commission (Reeder)
  - 20. 10A NCAC 13D – Medical Care Commission (Reeder)
  - 21. 10A NCAC 14I – DHHS, Director – Division of Health Service Regulation (Reeder)
  - 22. 15A NCAC 01F – Department of Environment and Natural Resources (May)
- VII. Review of the 2015 State Medical Facilities Plan (Reeder)
- VIII. Commission Business
- Next meeting: Thursday, February 19, 2015
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**Commission Review**  
**Log of Permanent Rule Filings**  
**November 21, 2014 through December 22, 2014**

**COMMERCE, DEPARTMENT OF - CREDIT UNION DIVISION**

The rules in Chapter 6 are from the Credit Union Division.

The rules in Subchapter 6C concern credit unions and include general information (.0100); organization of credit unions (.0200); basic internal controls: accounting procedures and operation standards for state-chartered credit unions (.0300); loans (.0400); impairment and insolvency (.0500); dividends deposits and interest rebate (.0600); accounts (.0700); reports to administrator (.0800); pension plans (.0900); retention of records (.1000); forms used by credit union division (.1100); investments (.1200); reserves (.1300); and signature guarantee services.

<u>Fields of Membership</u>	04	NCAC 06C .0203
Amend/*		
<u>Loans to Credit Union Officials</u>	04	NCAC 06C .0205
Amend/*		
<u>General Provisions</u>	04	NCAC 06C .0301
Amend/*		
<u>Procedures</u>	04	NCAC 06C .0302
Amend/*		
<u>Depreciation and Amortization</u>	04	NCAC 06C .0303
Repeal/*		

**HHS - HEALTH SERVICE REGULATION, DIVISION OF**

The rules in Subchapter 14L concern stroke center designations.

<u>Definitions</u>	10A	NCAC 14L .0101
Adopt/*		
<u>Stoke Center Designation</u>	10A	NCAC 14L .0201
Adopt/*		

**STATE TREASURER, DEPARTMENT OF**

The rules in Subchapter 1G concern investment programs including general provisions (.0100); short-term investment funds (.0200); long-term investment funds (.0300); equity investment fund (.0400); and real estate investment fund (.0500).

<u>Description of the Program</u>	20	NCAC 01G .0101
Repeal/*		
<u>Definitions</u>	20	NCAC 01G .0102
Repeal/*		



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**RULES REVIEW COMMISSION**

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<u>Principles of Accounting and Valuation</u> Repeal/*	20	NCAC 01G .0103
<u>Accounting for Exchanges</u> Repeal/*	20	NCAC 01G .0104
<u>Allocation of Management Costs</u> Repeal/*	20	NCAC 01G .0105
<u>Consolidation of Existing Investments of Participants</u> Repeal/*	20	NCAC 01G .0106
<u>Mergers of Additional Investment Portfolios</u> Repeal/*	20	NCAC 01G .0107
<u>Loans Between Investment Funds</u> Repeal/*	20	NCAC 01G .0108
<u>Delegation of Authority</u> Repeal/*	20	NCAC 01G .0109
<u>General</u> Repeal/*	20	NCAC 01G .0201
<u>Eligible Investments</u> Repeal/*	20	NCAC 01G .0202
<u>Eligible Participants</u> Repeal/*	20	NCAC 01G .0203
<u>Allocation of Income to Participants</u> Repeal/*	20	NCAC 01G .0204
<u>Voluntary Deposits for Investments</u> Repeal/*	20	NCAC 01G .0207
<u>General</u> Repeal/*	20	NCAC 01G .0301
<u>Eligible Investments</u> Repeal/*	20	NCAC 01G .0302
<u>Eligible Participants</u> Repeal/*	20	NCAC 01G .0303
<u>Allocation of Income to Participants</u> Repeal/*	20	NCAC 01G .0304
<u>Valuation of Ownership Units</u> Repeal/*	20	NCAC 01G .0305
<u>Purchase of Ownership Units</u> Repeal/*	20	NCAC 01G .0306
<u>Redemption of Ownership Units</u> Repeal/*	20	NCAC 01G .0307
<u>General</u> Repeal/*	20	NCAC 01G .0401
<u>Eligible Investments</u> Repeal/*	20	NCAC 01G .0402
<u>Eligible Participants</u> Repeal/*	20	NCAC 01G .0403
<u>Allocation of Income to Participants</u> Repeal/*	20	NCAC 01G .0404
<u>Valuation of Ownership Units</u> Repeal/*	20	NCAC 01G .0405
<u>Purchase of Ownership Units</u> Repeal/*	20	NCAC 01G .0406
<u>Redemption of Ownership Units</u> Repeal/*	20	NCAC 01G .0407

<u>Responsibility of Equity Investment Advisory Committee</u> Repeal/*	20	NCAC 01G .0408
<u>Rebalancing of Ownership</u> Repeal/*	20	NCAC 01G .0409
<u>General</u> Repeal/*	20	NCAC 01G .0501
<u>Eligible Investments</u> Repeal/*	20	NCAC 01G .0502
<u>Eligible Participants</u> Repeal/*	20	NCAC 01G .0503
<u>Allocation of Income to Participants</u> Repeal/*	20	NCAC 01G .0504
<u>Valuation of Ownership Units</u> Repeal/*	20	NCAC 01G .0505
<u>Purchase of Ownership Units</u> Repeal/*	20	NCAC 01G .0506
<u>Redemption of Ownership Units</u> Repeal/*	20	NCAC 01G .0507
<u>Rebalancing of Ownership</u> Repeal/*	20	NCAC 01G .0508

The rules in Subchapter 1H concern the master trust for safekeeping of securities including general provisions (.0100); certification of master trust (.0200); operation of master trust (.0300); and default by depositor (.0400).

<u>General Information</u> Repeal/*	20	NCAC 01H .0101
<u>Definition of Terms</u> Repeal/*	20	NCAC 01H .0102
<u>Minimum Standards</u> Repeal/*	20	NCAC 01H .0103
<u>Delegation of Authority</u> Repeal/*	20	NCAC 01H .0104
<u>Requirements for the RFP</u> Repeal/*	20	NCAC 01H .0201
<u>Issuance of the RFP</u> Repeal/*	20	NCAC 01H .0202
<u>Contract Period: Termination of Trustee</u> Repeal/*	20	NCAC 01H .0203
<u>Termination for Cause</u> Repeal/*	20	NCAC 01H .0204
<u>Availability of Records</u> Repeal/*	20	NCAC 01H .0205
<u>Establishment of Individual Accounts</u> Repeal/*	20	NCAC 01H .0301
<u>Eligible Securities: Case Deposits</u> Repeal/*	20	NCAC 01H .0302
<u>Deposit of Cash or Securities</u> Repeal/*	20	NCAC 01H .0303
<u>Substitution of Securities</u> Repeal/*	20	NCAC 01H .0304
<u>Required Reporting</u>	20	NCAC 01H .0305

Repeal/*	
<u>Withdrawal of Cash or Securities</u>	20 NCAC 01H .0306
Repeal/*	
<u>Fees</u>	20 NCAC 01H .0307
Repeal/*	
<u>Notification of Default</u>	20 NCAC 01H .0401
Repeal/*	
<u>Sale of Securities After Default</u>	20 NCAC 01H .0402
Repeal/*	

**HEARING AID DEALERS AND FITTERS BOARD**

The rules in Subchapter 22F concern general examination and license provisions.

<u>Passing Examination</u>	21 NCAC 22F .0105
Amend/*	

**PHYSICAL THERAPY EXAMINERS, BOARD OF**

The rules in Chapter 48 are from the Board of Physical Therapy Examiners. The rules in Subchapter 48A concern organization of the board.

<u>Membership of Board</u>	21 NCAC 48A .0103
Amend/*	

The rules in Subchapter 48B concern types of licenses.

<u>Exemptions</u>	21 NCAC 48B .0104
Adopt/*	

The rules in Chapter 48 are from the Board of Physical Therapy Examiners.

The rules in Subchapter 48C concern the scope of physical therapy practice and include physical therapists (.0100); physical therapists assistants (.0200); recent graduates (.0300); physical therapy aides (.0400); physical therapy students (.0500); and other assistive personnel (.0600).

<u>Responsibilities</u>	21 NCAC 48C .0102
Amend/*	

<u>Dry Needing</u>	21 NCAC 48C .0104
Adopt/*	

The rules in Subchapter 48D concern examinations.

<u>Retaking Examination</u>	21 NCAC 48D .0109
Amend/*	

The rules in Subchapter 48E deal with the requirements for application for licensure (.0100).

<u>Foreign-Trained Physical Therapist Applicant by Examination</u>	21 NCAC 48E .0110
Amend/*	

<u>Foreign-Trained Physical Therapist by Endorsement</u>	21 NCAC 48E .0111
Adopt/*	

<u>Foreign-Trained Physical Therapist Assistant Applicant</u> Adopt/*	21 NCAC 48E .0112
<u>Criminal History</u> Adopt/*	21 NCAC 48E .0113

The rules in Subchapter 48G concern retention of license including licensure renewal (.0100); lapsed licenses (.0200); refusal to renew or grant license suspension or revocation (.0300); probation or warning (.0400); contested case hearings (.0500); and disciplinary action (.0600).

<u>Continuing Competence Activities</u> Amend/*	21 NCAC 48G .0109
<u>Evidence of Compliance</u> Amend/*	21 NCAC 48G .0110
<u>Complaints and Investigations</u> Adopt/*	21 NCAC 48G .0504
<u>Subpoenas</u> Amend/*	21 NCAC 48G .0512
<u>Prohibited Actions</u> Amend/*	21 NCAC 48G .0601
<u>Definitions</u> Adopt/*	21 NCAC 48G .0701
<u>Programs</u> Adopt/*	21 NCAC 48G .0702
<u>Information of Impairment</u> Adopt/*	21 NCAC 48G .0703
<u>Confidentiality</u> Adopt/*	21 NCAC 48G .0704
<u>Reports</u> Adopt/*	21 NCAC 48G .0705
<u>Program Standards</u> Adopt/*	21 NCAC 48G .0706

**REFRIGERATION EXAMINERS, BOARD OF**

The rules in Chapter 60 are from the Board of Refrigeration Examiners and concern organization and definitions (.0100); examinations (.0200); licenses and fees (.0300); disciplinary action (.1100); and continuing education.

<u>Licensure for Military-Trained Applicant; Licensure for M...</u> Adopt/*	21 NCAC 60 .0214
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**ADMINISTRATIVE HEARINGS, OFFICE OF**

The rules in Chapter 3 are from the Hearings Division and cover procedure (.0100), mediated settlement conferences (.0200), and expedited hearing procedures for complex contested cases (.0300).

<u>Continuances</u> Amend/*	26 NCAC 03 .0118
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**CONTESTED CASE DECISIONS**

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

**OFFICE OF ADMINISTRATIVE HEARINGS**

*Chief Administrative Law Judge  
JULIAN MANN, III*

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

**ADMINISTRATIVE LAW JUDGES**

Melissa Owens Lassiter	A. B. Elkins II
Don Overby	Selina Brooks
J. Randall May	Craig Croom
J. Randolph Ward	

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<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>DATE</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<b><u>ALCOHOLIC BEVERAGE CONTROL COMMISSION</u></b>			
ABC Commission v. Noble 6 Enterprises LLC, T/A Peppermint Rabbit	13 ABC 20226	08/13/14	
ABC Commission v. Demetrius Earl Smith, T/A Smith's Convenient Store	14 ABC 01354	08/18/14	
Melody Locklear McNair v. ABC Commission	14 ABC 02323	06/25/14	
Marcus L. Bellamy T/A Bellas Grill v. ABC Commission	14 ABC 03485	07/24/14	
Kelvin M. Williams, dba Da Wave v. ABC Commission	14 ABC 04723	09/12/14	
ABC Commission v. Prescott Elliot Urban Environments LLC T/A Marquis Market	14 ABC 04798	10/02/14	
ABC Commission v. Noa Noa LLC T/A Noa Noa	14 ABC 05891	11/20/14	
M & K Investments Inc. v. ABC Commission	14 ABC 06199	11/24/14	
<b><u>DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY</u></b>			
Travis Earl Atkinson v. NC Victims Compensation Commission	13 CPS 16304	09/02/14	
Carl John Perkinson v. Department of Public Safety	14 CPS 02245	06/24/14	
Karen Tate v. Victims Compensation Commission	14 CPS 02397	09/03/14	
Waheeda Ammeri v. Department of Public Safety	14 CPS 03254	07/21/14	
Mitchell Kent Wilson v. NC Crime Victims Compensation Commission	14 CPS 05569	11/06/14	
Jacorey Thomas v. NC DPS Victim Services	14 CPS 05922	10/20/14	
Rodger L. Ackerson v. Janice W. Carmichael, NC Crime Victims Compensation Commission	14 CPS 06627	10/14/14	
<b><u>DEPARTMENT OF HEALTH AND HUMAN SERVICES</u></b>			
M. Yaghi, DDS, P.A. v. DHHS	11 DHR 11579	09/15/14	
M. Yaghi, DDS, P.A. v. DHHS	11 DHR 11580	09/15/14	
Senior Home Care Services, Inc. v. DHHS	12 DHR 09750	08/13/14	
Parker Home Care LLC v. DHHS, Division of Medical Assistance	12 DHR 10864	10/06/14	
Johnson Allied Health Services, Inc. v. DHHS	12 DHR 11536	09/02/14	
Helen Graves v. Alamance County Department of Social Services and NC Department of Health and Human Services, Division of Health Service Regulation	12 DHR 12411	09/02/14	
AHB Psychological Services v. DHHS and Alliance Behavioral Healthcare	13 DHR 00115	01/06/14	29:02 NCR 202
Albert Barron, Sr. v. Eastpointe Human Services Local Management Entity	13 DHR 00784	04/22/14	29:04 NCR 444
At Home Personal Care Services, Inc. v. DHHS, Division of Medical Assistance	13 DHR 01922	03/20/14	29:07 NCR 834
AHB Psychological Services v. DHHS and Alliance Behavioral Healthcare	13 DHR 08874	01/06/14	29:02 NCR 202
Sheryl A. Lyons v. DHHS	13 DHR 10228	05/12/14	29:05 NCR 559
Cleveland Otis Dunston v. North Carolina Nurse Aide Registry	13 DHR 10364	10/06/14	
Kenneth Terrell Ford v. DHHS, Division of Facility Services	13 DHR 10745	02/12/14	29:03 NCR 356
Pamela Byrd v. DHHS	13 DHR 12691	11/05/13	29:06 NCR 685

**CONTESTED CASE DECISIONS**

Mary Lynne Nance v. DHHS, Division of Health Service	13 DHR 13351	05/13/14	29:08 NCR 959
Tricare Counseling and Consulting, Inc. v. DHHS, Division of Medical Assistance	13 DHR 14221	12/31/13	29:04 NCR 460
Neogenesis, LLC v. DHHS, Division of Medical Assistance and its agent Eastpointe Human Services Local Management Entity	13 DHR 14222	06/09/14	29:09 NCR 1113
J. Mark Oliver DDS, PLLC v. DHHS, Division of Medical Assistance	13 DHR 14369	02/19/14	29:02 NCR 206
Jabez Home Infusion Company Services v. DHHS	13 DHR 15135	09/02/14	29:12 NCR 1531
Genesis Project 1 Inc. v. DHHS, Division of Medical Assistance and its agent, Mecklink Behavioral Healthcare	13 DHR 17094	12/16/13	29:01 NCR 70
Ervin Smith v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	13 DHR 17560	07/30/14	
Ashley Renee Davis v. Department of Human Services	13 DHR 17606	09/02/14	
Estate of Earlene W. Alston, Lewis E. Alston v. DHHS, DMA	13 DHR 17909	04/08/14	29:02 NCR 211
Total Renal Care of North Carolina, LLC v. DHHS, Division of Health Service Regulation, Certificate of Need Section and Bio-Medical Applications of North Carolina	13 DHR 18127	06/23/14	29:07 NCR 842
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