

NORTH CAROLINA REGISTER

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November 15, 2016

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NORTH CAROLINA REGISTER
Publication Schedule for January 2016 – December 2016

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	Earliest Eff. Date of Permanent Rule	Delayed Eff. Date of Permanent Rule 31st legislative day of the session beginning:	270 th day from publication in the Register
30:13	01/04/16	12/08/15	01/19/16	03/04/16	03/21/16	05/01/16	01/2017	09/30/16
30:14	01/15/16	12/21/15	01/30/16	03/15/16	03/21/16	05/01/16	01/2017	10/11/16
30:15	02/01/16	01/08/16	02/16/16	04/01/16	04/20/16	06/01/16	01/2017	10/28/16
30:16	02/15/16	01/25/16	03/01/16	04/15/16	04/20/16	06/01/16	01/2017	11/11/16
30:17	03/01/16	02/09/16	03/16/16	05/02/16	05/20/16	07/01/16	01/2017	11/26/16
30:18	03/15/16	02/23/16	03/30/16	05/16/16	05/20/16	07/01/16	01/2017	12/10/16
30:19	04/01/16	03/10/16	04/16/16	05/31/16	06/20/16	08/01/16	01/2017	12/27/16
30:20	04/15/16	03/24/16	04/30/16	06/14/16	06/20/16	08/01/16	01/2017	01/10/17
30:21	05/02/16	04/11/16	05/17/16	07/01/16	07/20/16	09/01/16	01/2017	01/27/17
30:22	05/16/16	04/25/16	05/31/16	07/15/16	07/20/16	09/01/16	01/2017	02/10/17
30:23	06/01/16	05/10/16	06/16/16	08/01/16	08/22/16	10/01/16	01/2017	02/26/17
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31:01	07/01/16	06/10/16	07/16/16	08/30/16	09/20/16	11/01/16	01/2017	03/28/17
31:02	07/15/16	06/23/16	07/30/16	09/13/16	09/20/16	11/01/16	01/2017	04/11/17
31:03	08/01/16	07/11/16	08/16/16	09/30/16	10/20/16	12/01/16	01/2017	04/28/17
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31:05	09/01/16	08/11/16	09/16/16	10/31/16	11/21/16	01/01/17	01/2017	05/29/17
31:06	09/15/16	08/24/16	09/30/16	11/14/16	11/21/16	01/01/17	01/2017	06/12/17
31:07	10/03/16	09/12/16	10/18/16	12/02/16	12/20/16	02/01/17	05/2018	06/30/17
31:08	10/17/16	09/26/16	11/01/16	12/16/16	12/20/16	02/01/17	05/2018	07/14/17
31:09	11/01/16	10/11/16	11/16/16	01/03/17	01/20/17	03/01/17	05/2018	07/29/17
31:10	11/15/16	10/24/16	11/30/16	01/17/17	01/20/17	03/01/17	05/2018	08/12/17
31:11	12/01/16	11/07/16	12/16/16	01/30/17	02/20/17	04/01/17	05/2018	08/28/17
31:12	12/15/16	11/22/16	12/30/16	02/13/17	02/20/17	04/01/17	05/2018	09/11/17

This publication is printed on permanent, acid-free paper in compliance with G.S. 125-11.13

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



State of North Carolina

PAT McCrORY
GOVERNOR

October 18, 2016

EXECUTIVE ORDER NO. 110

REGARDING HURRICANE MATTHEW'S IMPACT ON NORTH CAROLINA SCHOOLS

WHEREAS, on October 3, 2016, in anticipation of the effects of Hurricane Matthew on the State of North Carolina, I issued Executive Order No. 107. Pursuant to Executive Order 107, I declared a state of emergency, as defined in N.C. Gen. Stat. §§ 166A-19.3(6) and 166A-19.3(19); and

WHEREAS, Hurricane Matthew caused historic flooding, destruction, and damage in North Carolina; and

WHEREAS, on October 10, 2016, President Obama issued expedited major federal disaster declaration FEMA-4285-DR-NC as a result of the massive flooding caused by Hurricane Matthew; and

WHEREAS, many North Carolina school districts closed for at least one week, with some schools in the affected areas continuing to remain closed; and

WHEREAS, the State has historically adjusted school calendar requirements to accommodate extraordinary circumstances, such as the flexibility provided for the 1999-2000 school year in response to Hurricane Floyd; and

NOW, THEREFORE, pursuant to the authority vested in me as Governor:

I support and encourage the General Assembly to take all necessary steps to provide the counties covered by the President's disaster declaration, FEMA-4285-DR-NC, with flexibility in the school calendar, including but not limited to, a waiver of the current minimum number of days.

I am also requesting all local boards of education and superintendents in the affected counties to not schedule additional school days between now and when the General Assembly takes up this issue.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this eighteenth day of October in the year of our Lord two thousand and sixteen.


Pat McCrory
Governor

ATTEST:


Elaine F. Marshall
Secretary of State



Notice of Application to modify existing 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: Carl Perry
EZ Treat
PO Box 176
Haymarket, VA 20168

For: Modification of Innovative Approvals for EZ Treat advanced pretreatment 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.

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 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health intends to adopt the rules cited as 15A NCAC 18A .1821 -.1834 and repeal the rules cited as 15A NCAC 18A .1801-.1815, .1817-.1818, .2201-.2221 and .3001-.3016.

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

Proposed Effective Date: April 1, 2017

Public Hearing:

Date: December 5, 2016

Time: 10:00 a.m.

Location: Cardinal room, located at: 5605 Six Forks Road, Raleigh, NC

Reason for Proposed Action: *These rules govern overall sanitation requirements for lodging establishments in North Carolina. Currently, these rules are contained in three separate sections within the environmental health rules.*

- 15A NCAC 18A .1800 – SANITATION OF LODGING PLACES (Adopt and Repeal)
- 15A NCAC 18A .2000 – SANITATION OF BED AND BREAKFAST HOMES (Repeal)
- 15A NCAC 18A .3000 – BED AND BREAKFAST INNS (Repeal)

These separate rules share many requirements that are repeated separately within each section. The proposed rule-making action consolidates the separate sections into one set of rules.

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

Comment period ends: January 1, 2017

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

NOTE: Pursuant to G.S. 150B-21.17, the Codifier has determined that publication of the complete text of the rules proposed for repeal is impractical. The text of the repealed rules is accessible on the OAH Website: <http://www.ncoah.com>.

SUBCHAPTER 18A - SANITATION

SECTION .1800 - SANITATION OF LODGING PLACES

15A NCAC 18A .1801	DEFINITIONS
15A NCAC 18A .1802	PERMITS
15A NCAC 18A .1803	PUBLIC DISPLAY OF GRADE CARD
15A NCAC 18A .1804	INSPECTIONS
15A NCAC 18A .1805	INSPECTION FORMS
15A NCAC 18A .1806	GRADING
15A NCAC 18A .1807	APPROVED LODGING
15A NCAC 18A .1808	LOBBY: HALLS: STAIRS: AND VENDING AREAS
15A NCAC 18A .1809	LAVATORIES AND BATHS
15A NCAC 18A .1810	WATER SUPPLY
15A NCAC 18A .1811	DRINKING WATER FACILITIES
15A NCAC 18A .1812	GUESTROOMS
15A NCAC 18A .1813	STORAGE AND LAUNDRY
15A NCAC 18A .1814	DISPOSAL OF GARBAGE AND TRASH: PREMISES
15A NCAC 18A .1815	SEVERABILITY
15A NCAC 18A .1817	APPEALS PROCEDURE
15A NCAC 18A .1818	PLAN REVIEW

Authority G.S. 130A-250.

15A NCAC 18A .1821 **DEFINITIONS**

The following definitions shall apply throughout this Section:

- (1) "Accredited Program"
 - (a) "Accredited program" means a food protection manager certification program that has been evaluated and listed by an accrediting agency as conforming to national standards for organizations that certify individuals.
 - (b) "Accredited program" refers to the certification process and is a designation based upon an independent evaluation of factors such as the sponsor's mission; organizational structure; staff resources; revenue sources; policies; public information regarding program scope, eligibility requirements, re-certification, discipline and grievance procedures; and test development and administration.
 - (c) "Accredited program" does not refer to training functions or educational programs.
- (2) "Adulterated" has the meaning stated in the Federal Food, Drug, and Cosmetic Act, 402.
- (3) "Approved" means acceptable to the regulatory authority based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.
- (4) "Bed and Breakfast Home" means bed and breakfast home as defined in G.S. 130A-247(5a).
- (5) "Bed and Breakfast Inn" means bed and breakfast inn as defined in G.S. 130A-247(6).
- (6) "CFR" means Code of Federal Regulations. Citations in this Code to the CFR refer sequentially to the Title, Part, and Section numbers, such as 40 CFR 180.194 refers to Title 40, Part 180, Section 194.
- (7) "Department" means the North Carolina Department of Health and Human Services.
- (8) "Employee" means the permit holder, person in charge, food employee, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a lodging establishment.
- (9) "Equipment" means an article that is used in the operation of a lodging establishment such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, table, temperature measuring device for ambient air, vending machine, or warewashing machine.
- (10) "Food" means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.
- (11) "Food-contact surface" means:
 - (a) A surface of equipment or a utensil with which food normally comes into contact; or
 - (b) A surface of equipment or a utensil from which food may drain, drip, or splash:
 - (i) Into a food, or
 - (ii) Onto a surface normally in contact with food.
- (12) "Food employee" means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.
- (13) "Furnishings" means furniture, fittings, window coverings, and other accessories, including decorative accessories, provided in the guest rooms.
- (14) "Good Repair" means equipment and utensils shall be maintained in a state of repair and condition that meets the requirements specified under Parts 4-1 and 4-2 of the Food Code as amended by Rule .2654.
- (15) "Guest Rooms" means the accommodations or designated areas for persons who pay for the services of the lodging establishment, such as bedrooms, suite areas, and bathrooms.
- (16) "Handwashing sink" means:
 - (a) A lavatory, basin, or vessel for washing, a wash basin, or a plumbing fixture especially placed for use in personal hygiene and designed for the washing of the hands.
 - (b) "Handwashing sink" includes an automatic handwashing facility.
- (17) "Hazard" means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.
- (18) "Kitchenware" means food preparation and storage utensils.
- (19) "Linen" means fabric items such as bedding, towels, cloth hampers, cloth napkins, table cloths, wiping cloths, and work garments including cloth gloves.
- (20) "Lodging establishment" means all hotels, motels, inns, tourist homes, and other places providing lodging accommodations for pay. Facilities described in G.S. 130A-250 (1) through (5) shall not be regulated as lodging establishments. For the purposes of this section, the term lodging establishment also includes bed and breakfast homes and bed and breakfast inns, unless otherwise described.
- (21) mg/L" means milligrams per liter, which is the metric equivalent of parts per million (ppm).
- (22) "Packaged" means: packaged as defined in 15A NCAC 18A .2651.

- (23) "Permit" means the document issued by the regulatory authority that authorizes a person to operate a lodging establishment.
- (24) "Permit Holder" means:
- (a) The person in charge who resides in and owns or rents the bed and breakfast home or bed and breakfast inn.
 - (b) The legal entity responsible for the operation of the lodging establishment such as the owner, the owner's agent, or other person.
- (25) "Person" means person as defined in G.S. 130A-2(7).
- (26) "Person in charge" means the individual present at a lodging establishment who is responsible for the operation at the time of inspection.
- (27) "Physical facilities" means the structure and interior surfaces of a lodging establishment including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents.
- (28) "Poisonous or toxic materials" means substances that are not intended for ingestion and are included in four categories:
- (a) Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;
 - (b) Pesticides, except sanitizers, which include substances such as insecticides and rodenticides;
 - (c) Substances that are necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health; and
 - (d) Substances that are not necessary for the operation and maintenance of the establishment and are on the PREMISES for retail sale, such as petroleum products and paints
- (29) "Potentially Hazardous Food" means potentially hazardous food (time/temperature control for safety food) as defined in 15A NCAC 18A .2651.
- (30) "Premises" means the physical facility, its contents, and the contiguous land or property under the control of the permit holder.
- (31) "Refuse" means solid waste not carried by water through the sewage system.
- (32) "Registered Environmental Health Specialist" means a Registered Environmental Health Specialist as defined in G.S. 90A-51(2b) and G.S. 90A-51(4) and authorized agent of the department.
- (33) "Regulatory Authority" means the department or authorized agent of the department.
- (34) "Sanitization" means the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to a 99.999% reduction, of representative disease microorganisms of public health importance.
- (35) "Sewage" means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution, and as defined in 15A NCAC 18E .1900.
- (36) "Single-use articles" means tableware, carry-out utensils, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use after which they are intended for discard. It also includes utensils and bulk food containers designed and constructed to be used once and discarded, such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles and number 10 cans.
- (37) "Tableware" means eating, drinking and serving utensils for table use such as flatware including forks, knives, and spoons; hollowware including bowls, cups, serving dishes, and tumblers; and plates.
- (38) "Temperature measuring device" means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.
- (39) "Transitional Permit" means a permit issued by the regulatory authority upon the transfer of ownership or lease of an existing lodging establishment to allow the correction of construction and equipment problems that do not represent an immediate threat to public health.
- (40) "Utensil" means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multiuse, single-service, or single-use; gloves used in contact with food; temperature sensing probes of food temperature measuring devices; and probe-type price or identification tags used in contact with food.
- (41) "Warewashing" means the cleaning and sanitizing of utensils and food-contact surfaces of equipment.

Authority G.S. 130A-248.

15A NCAC 18A .1822 MANAGEMENT AND PERSONNEL

Bed and breakfast homes or bed and breakfast inns shall comply with Parts 2-1 through 2-4 of the Food Code as amended by Rules .2652 of the "Rules Governing the Food Protection and Sanitation of Food Establishments," with the following exceptions:

- (1) Food preparation shall not be prohibited in a bed and breakfast home or bed and breakfast inn.
- (2) Nothing shall prohibit family style dining or return to self-service areas such as buffets in a bed and breakfast home or bed and breakfast inn.

Authority G.S. 130A-248.

15A NCAC 18A .1823 FOOD

(a) Except as required by G.S. 130A-247 through 130A-250, food services at lodging establishments shall not be required to obtain food establishment permits.

(b) Food prepared in a bed and breakfast home or a bed and breakfast inn shall comply with Chapter 3 of the Food Code as amended by Section .2653 of the "Rules Governing the Food Protection and Sanitation of Food Establishments." These rules shall not prohibit family style service in bed and breakfast homes and bed and breakfast inns, and no additional protection or labeling of food is required during display and service in these establishments.

(c) In lodging establishments ice used for room service shall be manufactured from an approved water supply and shall be stored and handled in a sanitary manner. All ice machines for use by guests shall dispense ice without exposing stored ice to guests.

Authority G.S. 130A-248.

15A NCAC 18A .1824 EQUIPMENT AND UTENSILS

(a) Food-contact surfaces shall comply with Parts 4-1 and 4-2 of the Food Code as amended by Section .2654 of the "Rules Governing the Food Protection and Sanitation of Food Establishments." This shall not prohibit the use of domestic equipment.

(b) Equipment and utensils shall be kept clean and in good repair.

(c) All kitchenware and food-contact surfaces of equipment, exclusive of cooking surfaces of equipment, used in the preparation or serving of food or drink, and all food storage utensils, in a bed and breakfast home or bed and breakfast inn shall be cleaned and sanitized, as required in Parts 4-6 and 4-7 of the Food Code as amended by Section .2654 of the "Rules Governing the Food Protection and Sanitation of Food Establishments," after each use, properly air dried, and stored in a manner to prevent contamination.

(d) Cooking surfaces of equipment in a bed and breakfast home or bed and breakfast inn shall be cleaned at least once each day.

(e) Nonfood-contact surfaces of equipment shall be cleaned at such intervals as to keep them clean.

(f) Sanitizers used for sanitization of kitchenware and food-contact surfaces must be maintained at proper concentrations as required in Part 4-5 of the Food Code as amended by Section

.2654 of the "Rules Governing the Food Protection and Sanitation of Food Establishments."

(g) Nothing in this section shall require sanitization as exempted in guest rooms per G.S. 130A-248 (A3) (3).

(h) Single-use articles may be used if discarded after each use. Single use articles must be properly stored and handled to prevent contamination.

(i) A food temperature measuring device with a suitable small diameter probe shall be provided and readily accessible for use in ensuring attainment and maintenance of food temperatures.

(j) A test kit or other device that accurately measures the concentration in MG/L of sanitizing solutions shall be provided.

(k) Equipment for preparing coffee and tea shall be kept clean, but is exempt from sanitization as stated in (c).

Authority G.S. 130A-248.

15A NCAC 18A .1825 WATER, PLUMBING, AND WASTE

(a) Water, plumbing and waste shall comply with Chapter 5 of the Food Code as amended by Rules .2655 of the "Rules Governing the Food Protection and Sanitation of Food Establishments." The requirements of sections 5-202.12, 5-203.11, 5-204.11, and 5-205.11 of the Food Code as amended by Rule .2655 of the "Rules Governing the Food Protection and Sanitation of Food Establishments" shall be effective one year after the effective date of these Rules.

(b) A handwashing sink, located to allow for convenient use by employees handling clean and soiled linen, shall be provided. This requirement shall be effective one year after the effective date of these rules.

(c) All refuse shall be collected and stored in covered receptacles in such a manner as not to create a nuisance. refuse receptacles shall be kept clean and in good repair.

(d) Where dumpsters are used, a contract for off-site cleaning shall constitute compliance with the provision for cleaning.

(e) Refuse, recyclables, and returnables shall be removed from the premises at a frequency that will minimize development of objectionable odors and other conditions that attract or harbor insects and rodents.

Authority G.S. 130A-248.

15A NCAC 18A .1826 PHYSICAL FACILITIES

(a) Handwashing sinks as required in Rule .1825 in this Subchapter shall be supplied with hand soap, and either individual, disposable towels or an approved hand drying device.

(b) Toilets or urinals shall be provided as in Rule .1825 in this Subchapter and shall have a supply of toilet tissues available at each toilet.

(c) The light intensity shall be: At least 108 lux (10 foot candles) at a distance of 75 cm (30 inches) above the floor, in walk-in refrigeration units and dry food storage areas and in other areas and rooms during periods of cleaning; at least 215 lux (20 foot candles) inside equipment such as reach-in and under-counter refrigerators; at least 215 lux (20 foot candles) at a distance of 75 cm (30 inches) above the floor in areas used for handwashing, warewashing, and equipment and utensil storage, and in toilet

rooms; and at least 540 lux (50 foot candles) at a surface where a food employee is working with food.

(d) Where natural ventilation only is provided, outside openings shall be screened and in good repair. windows and doors shall be kept clean and in good repair.

(e) Window coverings in a guest room shall be kept clean and in good repair.

(f) Physical facilities shall be kept clean and in good repair.

(g) Floors, walls, and ceilings, including inside guest rooms, shall be maintained clean and in good repair.

(h) Perimeter walls and roofs shall effectively protect the lodging establishment from the weather and the entry of insects, rodents, and other pests.

(i) Furniture, furnishings, bathroom fixtures, carpets and other accessories in guest rooms, shall be kept clean and in good repair.

(j) The premises and guest rooms shall be maintained free of insects, rodents, and other pests. The presence of insects, rodents, and other pests shall be controlled to eliminate their presence on the premises by: routinely inspecting incoming shipments of food and supplies; routinely inspecting the premises for evidence of pests; and eliminating harborage conditions.

(k) Live animals shall be prohibited from entering areas of food preparation, storage, sales, display, or dining.

Authority G.S. 130A-248.

15A NCAC 18A .1827 PREMISES, STORAGE, POISONOUS OR TOXIC MATERIALS

(a) There shall be no fly or mosquito breeding places, rodent harborage, or undrained areas on the premises. The premises shall be kept neat and clean. Rubbish, litter and other items not used in the operation of the establishment shall not be permitted to accumulate on the premises.

(b) Storage rooms or spaces shall be kept clean.

(c) Only pesticides that have been registered with the EPA and with the N.C. Department of Agriculture and Consumer Services shall be used and only for the specific use for which they have been approved. Such pesticides shall be used as directed on the label and shall be handled and stored to avoid health hazards and not be accessible to guests.

(d) Household cleaning agents such as bleaches, detergents, and polishers shall be used and stored according to manufacturer's recommendations.

(e) Sanitizing solutions shall not be stored in or dispensed from containers previously containing other poisonous or toxic materials.

(f) Chemical sanitizers and other chemical antimicrobials applied to food-contact surfaces shall meet the requirements specified in 40 CFR 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (food-contact surface sanitizing solutions).

(g) Medications shall be securely stored.

(h) A separate storage area shall be provided for building and ground maintenance tools and supplies.

Authority G.S. 130A-248.

15A NCAC 18A .1828 LAUNDRY AND LINENS

(a) Clean bed and bath linen in good repair shall be provided for each guest who is provided accommodations and shall be changed between successive guests and as often as necessary.

(b) Two sheets shall be provided for each bed. The lower sheet shall be folded under both ends of the mattress. The upper sheet shall be folded under the mattress at the lower end and folded over the cover for a least six inches at the top end.

(c) Clean linen and supplies shall be stored in cabinets, or on shelves in linen and supply storage rooms. Cabinets, shelves, and storage rooms shall be constructed to facilitate cleaning and kept clean.

(d) Items on housekeeping carts shall be arranged in a manner to prevent cross-contamination between soiled and cleaned items. Housekeeping carts shall be kept clean and stored in a clean area.

(e) Soiled laundry shall be handled and stored separately from clean laundry using separate cleanable carts or bags. Carts used for soiled laundry shall be labeled or otherwise designated for soiled laundry use only.

Authority G.S. 130A-248.

15A NCAC 18A .1829 PERMITS

(a) No permit for a lodging establishment shall be issued to a person until an evaluation by the regulatory authority shows that the establishment complies with this Section.

(b) Upon transfer of ownership of an existing lodging establishment, the regulatory authority shall complete an evaluation. If the lodging establishment satisfies all the requirements of the rules, a permit shall be issued. If the lodging establishment does not satisfy all the requirements of the rules, a permit shall not be issued. A transitional permit shall be issued if the regulatory authority determines that the noncompliant items are construction or equipment problems that do not represent an immediate threat to public health. The transitional permit shall expire 180 days after the date of issuance, unless suspended or revoked before that date, and shall not be renewed. Upon expiration of a transitional permit, the permit holder shall have corrected the noncompliant items and obtained a permit, or the lodging establishment shall not continue to operate.

(c) The regulatory authority shall impose conditions on the issuance of a permit or a transitional permit if necessary to ensure that a lodging establishment remains in compliance with this Section. Conditions may be specified for one or more of the following areas:

- (1) The number of bedrooms or persons housed.
- (2) The amount of laundry or kitchen and warewashing equipment on the premises.
- (3) Time schedules in completing minor construction items.
- (4) Modification or maintenance of water supplies, water use fixtures and sanitary sewage systems.
- (5) Use of facilities for more than one purpose.
- (6) Continuation of contractual arrangements upon which basis the permit was issued.
- (7) Submission and approval of plans for renovation.
- (8) Any other conditions necessary for a lodging place to remain in compliance with this Section.

(e) If a permit or transitional permit has been suspended, the suspension shall be lifted if the regulatory authority has evaluated the lodging establishment and found that the violations causing the suspension have been corrected. If a permit or transitional permit has been revoked, a new permit shall be issued only after the regulatory authority has evaluated the lodging establishment and found it to comply with all applicable rules. The evaluations shall be conducted within 15 days after the request is made by the permit holder.

Authority G.S. 130A-248.

15A NCAC 18A .1830 PUBLIC DISPLAY OF GRADE CARD

(a) Upon initial inspection of a lodging establishment or if a renovation or other change in the establishment makes the grade card inconspicuous, the regulatory authority shall designate the location for posting the grade card. The grade card shall be located in a conspicuous place where it may be readily observed by the public upon entering the lodging establishment. If the person in charge of the lodging establishment objects to the location designated by the regulatory authority, then the person in charge may suggest an alternative location which meets the criteria of this Rule.

(b) When an inspection of a lodging establishment is made, the regulatory authority shall remove the existing grade card, issue a new grade card, and post the new grade card in the same location where the grade card was previously posted as long as that location remains conspicuous. the person in charge of the lodging establishment shall keep the grade card posted at the designated location at all times. The grade card may be posted in another location which meets the criteria of this Rule if agreed upon by the person in charge and the regulatory authority.

Authority G.S. 130A-248.

15A NCAC 18A .1831 INSPECTIONS AND REINSPECTIONS

(a) Upon entry into a lodging establishment, the regulatory authority shall provide identification and the purpose in visiting that establishment. The regulatory authority shall inquire as to the identity of the person in charge and invite the person in charge to accompany the regulatory authority during the inspection. If no employee is identified as the person in charge, the regulatory authority shall invite an employee to accompany them on the inspection. Following the inspection, the regulatory authority shall offer to review the results of the inspection with the person in charge or employee, as applicable.

(b) The grading of lodging establishments shall be conducted using an inspection form furnished by the regulatory authority. The form shall provide the following information:

- (1) The name and mailing address of the lodging establishment;
- (2) The name of the permit holder;
- (3) The permit status and score given;
- (4) Standards of construction and operation as listed in Rules .1824 through .1826 of this Section.
- (5) An explanation for all points deducted;

(6) The signature of the regulatory authority; and

(7) The date.

(c) The grading of lodging establishments shall be based on the standards of operation and construction as set forth in Rules .1821 through .1834 of this Section.

(d) The Inspection of Lodging Establishment form shall be used to document points assessed for violation of the rules of this Section as follows:

(1) Violation of Rule .1822 of this Section related to person in charge present, certification by accredited program or performs duties shall equal no more than 2 points.

(2) Violation of Rule .1822 of this Section related to management awareness, policy present, and allergy awareness shall equal no more than 3 points.

(3) Violation of Rule .1822 of this Section related to proper use of reporting, restriction, and exclusion shall equal no more than 3 points.

(4) Violation of Rule .1822 of this Section related to proper eating, tasting, drinking, or tobacco use shall equal no more than 2 points.

(5) Violation of Rule .1822 of this Section related to personal cleanliness and hair restraints shall equal no more than 1 point.

(6) Violation of Rule .1822 of this Section related to hands clean and properly washed shall equal no more than 4 points.

(7) Violation of Rule .1823 of this Section related to food obtained from approved source, good condition, safe, and unadulterated shall equal no more than 3 points.

(8) Violation of Rule .1823 of this Section related to food separated, protected from contamination shall equal no more than 3 points.

(9) Violation of Rule .1823 of this Section related to food protected from environmental or other sources of contamination, including proper dispensing of ice, shall equal no more than 3 points.

(10) Violation of Rule .1823 of this Section related to cooking/reheating temperatures shall equal no more than 3 points.

(11) Violation of Rule .1823 of this Section related to proper cooling and approved methods shall equal no more than 3 points.

(12) Violation of Rule .1823 of this Section related to cold/hot holding temperatures shall equal no more than 3 points.

(13) Violation of Rule .1823 of this Section related to date marking shall equal no more than 3 points.

(14) Violation of Rules .1824 of this Section related to equipment, food and nonfood-contact surfaces approved, cleanable, properly designed, constructed and used shall equal no more than 1 point.

- (15) Violation of Rules .1824 of this Section related to utensils, equipment properly stored, dried and handled shall equal no more than 1 point.
- (16) Violation of Rules .1824 of this Section related to warewashing facilities installed, maintained and used shall equal no more than 2 points.
- (17) Violation of Rules .1824 of this Section related to food-contact surfaces cleaned and sanitized where required shall equal no more than 3 points.
- (18) Violation of Rules .1824 of this Section related to nonfood-contact surfaces clean shall equal no more than 1 points.
- (19) Violation of Rule .1824 of this Section related to single-use articles properly stored and used shall equal no more than 1 point.
- (20) Violation of Rule .1823 of this Section related to temperature measuring devices provided shall equal no more than 2 points.
- (21) Violation of Rules .1825 and .1826 of this Section related to handwashing sinks supplied and accessible shall equal no more than 2 points.
- (22) Violation of Rule .1825 of this Section related to water from approved source shall equal no more than 4 points.
- (23) Violation of Rule .1825 related to service sink or other approved method and mop storage shall equal no more than 2 points.
- (24) Violation of Rule .1825 of this Section related to sewage and waste water properly disposed shall equal no more than 4 points.
- (25) Violation of Rules .1826 of this Section related to ventilation and lighting requirements shall equal no more than 2 points.
- (26) Violation of Rules .1826 of this Section related to window coverings clean and good repair shall equal no more than 2 points.
- (27) Violation of Rules .1826 of this Section related to physical facilities installed, maintained and clean shall equal no more than 3 points.
- (28) Violation of Rule .1826 of this Section related to insects and rodents not present shall equal no more than 4 points.
- (29) Violation of Rule .1828 of this Section related to linens changed as required shall equal no more than 3 points.
- (30) Violation of Rule .1828 of this Section related to linen clean and in good repair shall equal no more than 3 points.
- (31) Violation of Rule .1828 of this Section related to linen properly handled and stored shall equal no more than 3 points.
- (32) Violation of Rule .1828 of this Section related to housekeeping carts shall equal no more than 3 points.
- (33) Violation of Rule .1825 of this Section related to garbage and refuse properly disposed shall equal no more than 2 points.

- (34) Violation of Rule .1827 of this Section related to premises maintained to prevent breeding and harborages shall equal no more than 2 points.
- (35) Violation of Rule .1827 of this Section related to storage areas maintained clean, provided for maintenance equipment shall equal no more than 3 points.
- (36) Violation of Rule .1827 of this Section related to approved pesticide use shall equal no more than 2 points.
- (37) Violation of Rule .1827 of this Section related to household cleaning agents and sanitizers properly stored and handled shall equal no more than 3 points.
- (38) Violation of Rule .1827 of this Section related to premises kept neat and clean shall equal no more than 2 points.

(e) Upon request of the permit holder or his or her representative a reinspection shall be made. In the case of establishments which request an inspection for the purpose of raising the alphabetical grade, and which hold unrevoked permits, the regulatory authority shall make an unannounced inspection within 15 days from the date of the request.

Authority G.S. 130A-248.

15A NCAC 18A .1832 GRADING

(a) The grading of lodging establishments shall be based on a system of scoring. A lodging establishment that earns a score of at:

- (1) 90 percent shall receive a grade A;
- (2) 80 percent and less than 90 percent shall receive a grade B;
- (3) 70 percent and less than 80 percent shall receive a grade C.

Permits shall be immediately revoked in accordance with G.S. 130A-23(d) for lodging establishments receiving a score of less than 70 percent.

(b) The posted grade card shall be black on a white background. All graphics, letters, and numbers for the grade card shall be approved by the State. The alphabetical and numerical rating shall be 1.5 inches in height.

Authority G.S. 130A-248.

15A NCAC 18A .1833 APPLICATION AND PLAN REVIEW

(a) Plans, drawn to scale, and specifications, for new lodging establishments shall be submitted for review and approval to the local health department prior to initiating construction, or prior to construction of additions or renovations, excluding cosmetic or nonstructural changes to existing lodging establishments.

(b) An applicant shall submit an application for a permit or transitional permit at least 30 days before the date planned for opening the lodging establishment. The applicant shall submit to the regulatory authority a written application for a permit on a form provided by the regulatory authority.

(c) The application shall include:

- (1) The name, mailing address, telephone number, and signature of the person applying for the permit and the name, mailing address, and location of the lodging establishment;
- (2) Information specifying whether the lodging establishment is owned by an association, corporation, individual, partnership, or other legal entity;
- (3) The name, title, address, and telephone number of the person directly responsible for the lodging establishment;
- (4) The names, titles, and addresses of:
 - (A) The person comprising the legal ownership as specified in Subparagraph (2) of this Paragraph including the owners and officers, and
 - (B) The local resident agent if one is required based on the type of lodging establishment;
- (5) A statement specifying the number of guest rooms or units and whether the lodging establishment is an operation that includes one or more of the following:
 - (A) Prepares, or serves potentially hazardous food (time/temperature control for safety food) for guests;
 - (B) Prepares only food that is not potentially hazardous for guests;
 - (C) Does not prepare, but serves only prepackaged food that is not potentially hazardous for guests;
- (6) Number, type of meals served and menu;
- (7) Information regarding water supply and wastewater disposal;
- (8) A statement signed by the applicant that attests to the accuracy of the information provided in the application;
- (9) Other information required by the regulatory authority.

Authority G.S. 130A-248.

15A NCAC 18A .1834 INFORMAL REVIEW PROCESS AND APPEALS PROCEDURE

(a) If a permit holder disagrees with a decision of the local health department on the interpretation, application, or enforcement of the rules of this section the permit holder may:

- (1) Request an informal review pursuant to Paragraphs (d) and (e) of this Rule; or
- (2) Initiate a contested case in accordance with G.S. 150B.

(b) The permit holder is not required to complete the alternative dispute resolution prior to initiating a contested case in accordance with G.S. 150B.

(c) When a petition for a contested case is filed, the informal review process shall terminate.

(d) If the permit holder requests an informal review, the request shall be in writing and shall be postmarked or hand delivered to the local health department within seven days of notice of the

decision giving rise to the review. The request shall state the issues in dispute. If the inspection giving rise to the informal review was conducted by the Environmental Health Supervisor in the county or area where the lodging establishment is located, or when the county or area has only one Registered Environmental Health Specialist assigned to inspect lodging establishments, the Environmental Health Regional Specialist assigned to that county or area shall conduct the local informal review. As soon as possible, but at least within 30 days of receipt of the request, the person conducting the review shall contact the permit holder, provide that permit holder an opportunity to be heard on the issues in dispute and issue a written decision addressing the issues raised in the appeal. Copies of the decision shall be mailed to the permit holder and to the State Health Director. That decision shall be binding for the purposes of future inspections of the establishment in question unless modified pursuant to Paragraph (e) of this Rule or by the State Health Director.

(e) Following receipt of the written decision of the Environmental Health Supervisor or his or her representative issued pursuant to Paragraph (d) of this Rule, the permit holder who initiated the informal review may appeal the resulting decision to an Informal Review Officer designated by the Department to be responsible for final decisions on appeals from throughout the state. Notice of such appeal shall be in writing, shall include a copy of the Environmental Health Supervisor's or his or her representative's decision, and shall be postmarked or hand-delivered to the local health department and to the Department within seven days of receipt of the written decision issued pursuant to Paragraph (a) of this Rule. Within 35 days of receipt of this appeal, the designated Informal Review Officer shall hold a conference in Wake County. At least 10 days prior to the conference, the Informal Review Officer shall provide notice of the time and place of this conference to the permit holder and the Environmental Health Supervisor for the county or area where the issue arose. Within 10 days following the date of the conference, the Informal Review Officer shall issue a written decision addressing the issues raised in the appeal and that decision shall be binding for purposes of future inspections of the establishment in question unless modified pursuant to Paragraph (g) of this Rule or by the State Health Director.

(f) If the decision on appeal at the local or state level results in a change in the score resulting from an inspection of an establishment, the regulatory authority shall post a new grade card reflecting that new score.

(g) Appeals of the decision of the designated Informal Review Officer shall be in accordance with G.S. 150B.

(h) Nothing in this Rule shall impact the right of a permit holder to a reinspection pursuant to Rule .1831 of this Section.

Authority G.S. 130A-248.

SECTION .2200 - SANITATION OF BED AND BREAKFAST HOMES

- | | |
|---------------------------|------------------------------|
| 15A NCAC 18A .2201 | DEFINITIONS |
| 15A NCAC 18A .2202 | PERMITS |
| 15A NCAC 18A .2203 | INSPECTIONS: VISITS: |
| 15A NCAC 18A .2204 | POSTING OF GRADE CARD |
| | INSPECTION FORMS |

15A NCAC 18A .2205 GRADING
 15A NCAC 18A .2206 FLOORS
 15A NCAC 18A .2207 WALLS AND CEILINGS
 15A NCAC 18A .2208 LIGHTING AND VENTILATION
 15A NCAC 18A .2209 TOILET: HANDWASHING:
 LAUNDRY: AND BATHING FACILITIES
 15A NCAC 18A .2210 WATER SUPPLY
 15A NCAC 18A .2211 DRINKING WATER
 FACILITIES: ICE HANDLING
 15A NCAC 18A .2212 DISPOSAL OF WASTES
 15A NCAC 18A .2213 VERMIN CONTROL: PREMISES
 15A NCAC 18A .2214 STORAGE: MISCELLANEOUS
 15A NCAC 18A .2215 BEDS: LINEN: FURNITURE
 15A NCAC 18A .2216 FOOD SERVICE UTENSILS AND
 EQUIPMENT
 15A NCAC 18A .2217 FOOD SUPPLIES
 15A NCAC 18A .2218 FOOD PROTECTION
 15A NCAC 18A .2219 FOOD SERVICE PERSONS
 15A NCAC 18A .2220 SEVERABILITY
 15A NCAC 18A .2221 APPEALS PROCEDURE

Authority G.S. 130A-250.

SECTION .3000 - BED AND BREAKFAST INNS

15A NCAC 18A .3001 DEFINITIONS
 15A NCAC 18A .3002 PERMITS
 15A NCAC 18A .3003 INSPECTIONS: VISITS:
 POSTING OF GRADE CARDS
 15A NCAC 18A .3004 INSPECTION FORMS
 15A NCAC 18A .3005 GRADING
 15A NCAC 18A .3006 FOOD SOURCES AND
 PROTECTION
 15A NCAC 18A .3007 FOOD SERVICE PERSONS
 15A NCAC 18A .3008 FOOD SERVICE UTENSILS AND
 EQUIPMENT AND THEIR CLEANING
 15A NCAC 18A .3009 LAVATORIES AND
 BATHROOMS
 15A NCAC 18A .3010 WATER SUPPLY
 15A NCAC 18A .3011 DRINKING WATER FACILITIES
 15A NCAC 18A .3012 BEDS: LINEN
 15A NCAC 18A .3013 VERMIN CONTROL: PREMISES
 15A NCAC 18A .3014 STORAGE: MISCELLANEOUS
 15A NCAC 18A .3015 FLOORS: WALLS: CEILINGS:
 LIGHTING: VENTILATION
 15A NCAC 18A .3016 DISPOSAL OF GARBAGE AND
 TRASH

Authority G.S. 130A-248.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 30 – BOARD OF MASSAGE AND BODYWORK THERAPY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Massage and Bodywork Therapy intends to adopt the

rule cited 21 NCAC 30 .0906 and amend the rules cited as 21 NCAC 30 .0504, .0601, .0602, .0618, .0620, .0623, .0628, .0629, .0630, and .0903.

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://bmbt.org/pages/news.html>

Proposed Effective Date: April 1, 2017

Public Hearing:

Date: December 15, 2016

Time: 10:0 a.m.

Location: Wells Fargo Capitol Center, 13th Floor Conference Room, 150 Fayetteville Street, Raleigh, NC 27601

Reason for Proposed Action: The amendment to Rule .0504 is being submitted to clarify documentation requirements. The amendments to Section .0600 are being submitted to comply with the approval portion of the State authorization regulations for the US Department of Education and to clarify the confidentiality of investigative materials. The adoption of Rule .0906 is being submitted to allow summary suspension on a license.

Comments may be submitted to: Charles P. Wilkins, P.O. Box 2539, Raleigh, NC 27602, phone (919) 546-0050, fax (919) 833-1059, email cwilkins@bws-law.com

Comment period ends: January 17, 2017

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 .0500 - STANDARDS OF PROFESSIONAL CONDUCT

**21 NCAC 30 .0504 DOCUMENTATION;
REFERRALS**

On an ongoing basis, the licensee shall:

- (1) maintain documentation for each session, ~~when practicable~~, including the date of service, needs assessment, plan of care, observations made and actions taken by the licensee;
- (2) refer the client to other health care practitioners or other professional service providers when in the best interest of the client or licensee;
- (3) follow recommendations for the plan of care when receiving a client referral from a medical care provider. Questions or concerns regarding such referrals shall be directed to the referring provider.

Authority G.S. 90-626(9).

**SECTION .0600 - MASSAGE AND BODYWORK
THERAPY SCHOOLS**

21 NCAC 30 .0601 BOARD APPROVAL

(a) Any postsecondary school of higher education, ~~school~~, whether in this State or another state or territory that offers a certificate, diploma or degree program in massage and bodywork therapy may make application for Board approval on a form provided by the Board. Every school must submit an application to be considered for approval, whether or not such school has been licensed, approved or accredited by another regulatory agency, accreditation commission or trade association. A school that operates in more than one location shall submit a separate application for each location.

(b) The Board shall grant approval to postsecondary schools of higher education ~~schools~~ that meet the standards set forth in this Section. Such approval authorizes the school to offer a certificate, diploma or degree program in massage and bodywork therapy that prepares individuals to become Licensed Massage and Bodywork Therapists in this State. The approval shall be for a period of one year unless increased pursuant to Paragraph (c) of this Rule. The Board shall maintain a list of approved schools.

(c) In order to maintain approval status, each school shall submit a report by April 1 of the year the school's approval expires. This report shall be on a form provided by the Board, that shall require documentation of authority to operate pursuant to Rule .0610 of this Section if granted by any entity other than this Board, student enrollments, and any changes in curriculum, instructional staff or administrative staff. If a school has remained in compliance with all Board rules for a period of five consecutive years and has no disciplinary action taken against it by the Board for a period of five consecutive years, the Board shall increase the period of approval for that school from one to two years.

(d) An approved school shall notify the Board in writing within 30 days of any change in the school's location address, ownership, controlling interest, administration, facilities, instructional staff, or curriculum.

(e) The school approval term begins on July 1 and ends on June 30. For the purposes of this Section, this term shall be considered the fiscal year.

(f) If a Board-approved school has not met the requirements for renewal by June 30 preceding the new fiscal year, its approval status shall be deemed expired.

(g) Approval shall be reinstated by the Board if a school whose approval has expired pursuant to Paragraph (f) of the Rule completes its renewal process by July 31 of the fiscal year. A school that has had its approval reinstated by July 31 shall be considered to have maintained its approval status on a continuous basis, pursuant to Paragraph (i) of this Rule.

(h) The Board shall not renew the approval of a school that has not met the approval standards by July 31 of the year in which the school is scheduled to renew.

(i) Pursuant to G.S. 90-629(4), "successful completion of a course of study at a Board-approved school" means that the applicant graduated from a school that maintained its approval status with the Board on a continuous basis during the applicant's time of enrollment.

Authority G.S. 90-626(9); 90-631.

21 NCAC 30 .0602 DEFINITIONS

The following definitions shall apply to this Section:

- (1) Accreditation; accredited – Status granted to a postsecondary school of higher education ~~post-secondary institution of higher learning~~ that has met standards set by an accrediting agency recognized by the Secretary of the United States Department of Education.
- (2) Additional location. -- A facility not part of, nor adjoining the facility of an approved school, where an approved school intends to offer a program. Each such location is considered a separate school, requiring a new Application for School Approval to be submitted to the Board.
- (3) Additional program. -- A program that is of a different title, subject matter, or that increases or decreases by more than 10 percent the number of hours of instruction than the program under which the school received its initial approval from the Board. An approved school that intends to offer an additional program shall submit an Application for Additional Program Approval.
- (4) College – A postsecondary school of higher education ~~An institution of higher learning~~ that awards an Associate degree or higher.
- (5) Instructor. -- A person who meets the qualifications set forth in Rule .0612 who is responsible for delivering course content according to curricula established by the school, and who is responsible for managing the classroom environment.
- (6) Key administrative staff. -- The school's program director, director of education, and other administrative staff members who direct areas such as operations, admissions, financial aid, placement, or student services.

- (7) Massage and bodywork therapy school. – ~~A postsecondary school of higher education. Any educational institution~~ that conducts a program, as defined in this Rule, for a tuition charge. Such institutions may be organized as proprietary schools that are privately owned and operated by a sole proprietor, partnership, corporation, association, or other entity; or may be post-secondary colleges or universities, whether publicly or privately owned.
- (8) One classroom hour of supervised instruction. -
- At least 50 minutes of any one clock hour during which the student participates in a learning activity in the physical presence of a member of the school's instructional staff.
- (9) One year of professional experience. -- In determining the qualifications of administrative or instructional staff members, at least 500 hours of documented work in the professional job responsibility or subject area in a given year.
- (10) Program. -- A course of study or curriculum consisting of a specified number hours of instruction consistent with the standards set forth in Rule .0620 that is intended to teach adults the skills and knowledge necessary for the professional practice of massage and bodywork therapy, as defined in G.S. 90-622(3). Each program of a specified number of instructional hours shall be considered a separate program for the purposes of Board approval, and shall require a separate application for approval.
- (11) Student enrollment. -- The total number of students at an approved school in a designated fiscal year who have begun a program for which they have registered and paid a fee for that fiscal year, and who have completed more than 15 percent of such program.
- (12) Teaching assistant. -- A person who meets the qualifications set forth in Rule .0612, who is in the classroom to support the role of the instructor, and who may provide instruction to students only in the presence of and under the direct supervision of the instructor.

Authority G.S. 90-626(9); 90-631.

21 NCAC 30 .0618 ADMISSIONS

- (a) A school shall maintain admission policies and procedures that are disclosed to the public and administered consistently.
- (b) A school shall conduct an orientation session for persons who have applied for admission or who are considering application for admission. Such orientation shall include an overview of the program's educational objectives and curriculum, the academic and physical requirements of the program, existing employment opportunities in the field, the time and financial requirements of the program, and state requirements for licensure.

(c) Admissions standards shall be designed to ensure that only those applicants are admitted who have the cognitive, motor and behavioral skills and moral character necessary to successfully complete the program and to practice massage and bodywork therapy in a safe and effective manner.

(d) A school shall conduct a pre-enrollment interview with each applicant to determine the applicant's qualifications. The information gathered from this interview shall be evaluated with all written documentation submitted by the applicant before the school renders a decision on the application.

(e) A school shall only admit applicants who are high school graduates or who have earned a General Equivalency Diploma (GED).

~~(e)(f)~~ A school shall maintain written documentation of the basis for admission of the student. Such records shall include copies of high school ~~diploma~~ GED, or transcripts, proof of age, and other specific admission requirements of the school.

~~(f)(g)~~ Documentation of the reasons for the denial of admission of any student shall be maintained for at least three years.

~~(g)(h)~~ A school must comply with the admissions standards of this Rule but may enroll students in individual courses not leading to a credential.

Authority G.S. 90-626(9); 90-631.

21 NCAC 30 .0620 PROGRAM REQUIREMENTS

Pursuant to G.S. 90-631(1), programs shall meet the following requirements:

- (1) A school shall develop and adhere to a set of educational objectives that describe the intended skills, knowledge, and attitudes that the program is designed to develop in the student by the completion of the program;
- (2) The program shall have a core curriculum of at least 500 classroom hours of supervised instruction. The core curriculum shall contain the following hours of specific course work that are consistent with the school's mission and educational objectives:
 - (a) 200 hours in the fundamental theory and practice of massage and bodywork therapy that is designed to produce comprehensive entry-level skills in the application of direct manipulation to the soft tissues of the human body, and is based in therapeutic methods consistent with the definition set forth in G.S. 90-622(3) such as Swedish massage, acupressure, shiatsu, deep muscle massage, trigger point therapy, and connective tissue bodywork. Of the 200 hours in this category, at least 100 hours shall be in the application of hands-on methods. The balance of the hours shall include client assessment skills, indications and contraindications for treatment, body mechanics, draping procedures, standard practices for hygiene and

- control of infectious diseases, and the history of massage and bodywork therapy;
- (b) 100 hours in anatomy and physiology related to the practice of massage and bodywork therapy, that shall include the structure and function of the human body and common pathologies;
- (c) 15 hours in professional ethics, and North Carolina laws and rules for the practice of massage and bodywork therapy;
- (d) 15 hours in business management practices related to the practice of massage and bodywork therapy;
- (e) 20 hours in psychological concepts related to the practice of massage and bodywork therapy, including dynamics of the client/therapist relationship, professional communication skills, the mind-body connection, and boundary functions;
- (f) 150 hours in other courses related to the practice of massage and bodywork therapy. The courses may include additional hands-on techniques, specific applications, adjunctive modalities, in-depth anatomy and physiology, kinesiology, psychological concepts, or supervised clinical practice. First Aid or CPR shall not be included in this category. Techniques that are considered exempt from licensure pursuant to G.S. 90-624(6) or (7), and that are further defined by Rule .0203(a) constitute up to 50 hours of the 150 hours in this category.
- (3) For programs that include a student clinic or fieldwork experiential component, the hours shall not exceed 100 hours of the minimum requirement set forth in Sub-item (2)(f) of this Rule. All work shall be in the presence of and directly supervised and evaluated by an instructional staff member;
- (4) For programs that include an externship component, the hours shall not be included in the requirements set forth in Item (2) of this Rule, and shall not comprise more than 20 percent of the total program hours. All work at the externship site shall be supervised by a person at the externship site who is acceptable to the school, and shall be monitored and evaluated by the school;
- (5) The program shall provide curriculum hours that allow its graduates to meet the minimum eligibility requirements for at least one of the competency assurance examinations that are approved by the Board as meeting the licensure requirement set forth in G.S. 90-629(5);
- (6) Programs shall consist of a series of courses that are organized in a logical sequence, and that are consistent with the educational objectives. Sequential organization means that within a course, each class prepares students for the next class; overall, each course gives students the skills and knowledge necessary for the next course. Material is not presented unless students have the necessary skills and knowledge to utilize that material safely and effectively;
- (7) Course titles shall match the content of the course; published course descriptions shall accurately reflect the specific learning objectives of each course; sufficient hours shall be allotted to each course to allow students to gain competence in the subject areas covered;
- (8) A course curriculum is developed for each course that shows the basic content of each individual class in the course in the sequence presented;
- (9) Course requirements and competencies are consistent from instructor to instructor. Teaching materials, including lesson plans, for every class taught, are developed and maintained for each course to ensure consistency. Teaching methods are appropriate to course content, and to diverse learning styles;
- (10) Programs shall be at least 24 weeks in length, with no more than nine instructional hours in one day. There shall be no more than two hours of instruction without a break. There shall be no more than four hours of instruction without a meal break;
- (11) For a student to receive credit in a course, the student shall attend no less than 75 percent of the instructional hours of the course. The student shall also make up sufficient missed instructional hours to equal no less than 98 percent of the instructional hours in the course according to the procedures established by the school;
- (12) A syllabus shall be developed for each course and provided to students prior to the beginning of instruction. The syllabus shall include the following elements:
 - (a) course title,
 - (b) course description,
 - (c) learning objectives,
 - (d) teaching methodologies,
 - (e) total number of instructional hours,
 - (f) meeting dates and class times,
 - (g) assignments,
 - (h) textbooks,
 - (i) evaluation methods,
 - (j) quiz and examination dates, and
 - (k) performance standards.

- (13) For post-secondary institutions, courses that fulfill the requirements set forth in Item (2) of this Rule shall support the program in massage and bodywork therapy. Courses in addition to these requirements may include courses from other departments or programs that are relevant to the practice of massage and bodywork therapy; and
- (14) For classes that involve hands-on practice, the student to instructor ratio shall not exceed 16 to 1. Both instructors and teaching assistants, as defined in Rule .0612 of this Section shall be considered in calculating these ratios.

Authority G.S. 90-626(9); 90-631.

21 NCAC 30 .0623 LEARNING RESOURCES

The school shall provide sufficient learning resources to students and instructional staff to support the educational objectives of the program as follows:

- (1) The school shall maintain a ~~library or~~ resource center that contains or provides access to books, periodicals, and other informational materials in the field of massage and bodywork therapy. As an alternative, the school may have a contractual agreement with another facility to provide access to such resources.
- (2) All other resources, such as charts, models, or electronic media, shall be maintained in good condition.

Authority G.S. 90-626(9); 90-631.

21 NCAC 30 .0628 ETHICAL REQUIREMENTS IN ADVERTISING

The following requirements pertain to all advertising and promotional activities conducted by, or on behalf of the school, including such media utilized as print, broadcast, verbal presentations, ~~data transfer technologies, electronic, internet, videotape, or audiotape:~~

- (1) Educational programs and services offered shall be the primary emphasis of all advertisements, publications, promotional literature, and recruitment activities, whether distributed to prospective students or the general public.
- (2) All statements and representations made shall be factually accurate and current. Supporting information shall be kept on file and available for review for at least three years. All advertising and promotional materials shall include the correct name and location of the school.
- (3) A school shall not falsely represent its facilities in photographs, illustrations, or through other means.
- (4) The school catalog or bulletin shall contain all information required in Rule .0630 of this Section.

- (5) All advertising and promotional activities shall indicate that massage and bodywork training and not employment is being offered. No overt or implied claim of individual employment shall be made. No false or deceptive statements regarding employment opportunities or earning potential in the field of massage and bodywork as a result of the completion of the course of study shall be used to solicit students.
- (6) Letters of endorsement, commendation, or recommendation in favor of a school shall be used for advertising or promotion only with the written consent of the author without any offer of financial compensation, and only when such letters portray current conditions or facts. Letters shall contain the date they were received, shall be kept on file and be subject to inspection.
- (7) Programs that use placement information in advertisements, catalogs or other printed documentation shall corroborate the data.
- (8) School literature and advertisements shall not quote "high top" or "up to" salaries unless they also indicate the normal range or starting salaries for graduates.
- (9) Schools offering programs that are not approved by the Board shall identify which programs are Board approved.
- (10) Schools shall describe requirements for state licensure.
- (11) Schools shall not defame competitors by falsely imputing to them dishonorable conduct, inability to perform on contracts, or by the false disparagement of the character, nature, quality, values, or scope of their educational services, or in any other material respect.

Authority G.S. 90-626(9); 90-631.

21 NCAC 30 .0629 STUDENT ENROLLMENT AGREEMENT

(a) An approved school shall execute a Student Enrollment Agreement for training with every student. The agreement must contain the following:

- (1) Name and telephone number of the school and location of where the student will attend classes;
- (2) Student's name, address, telephone number;
- (3) Name of the program in which student is enrolling, number of clock or credit hours of the program, beginning and ending dates, length of program in weeks or months, and expected graduation date;
- (4) Program tuition and all related costs, including application and registration fees and estimated cost of books and supplies;
- (5) Refund and cancellation policies, including student's right to cancel;

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| <p>(6) Payment methods, including cash, installment payment plans, or financial aid (as applicable); interest charged; and methods used to collect delinquent tuition;</p> <p>(7) Placement guarantee disclaimer;</p> <p>(8) Grounds for dismissal from the school;</p> <p>(9) Statement that you must hold a North Carolina massage and bodywork therapy license in order to practice massage and bodywork therapy in North Carolina;</p> <p>(10) Statement that good moral character is a requirement for licensure as a massage and bodywork therapist in North Carolina and, pursuant to G.S. 90-629.1, the North Carolina Board of Massage and Bodywork Therapy may deny a license to practice massage and bodywork therapy if an applicant has a criminal record or there is other evidence that indicates the applicant lacks good moral character;</p> <p>(11) Statement referencing the school catalog and student handbook as a part of the enrollment agreement;</p> <p>(12) Statement certifying that student has read and understands all terms of the enrollment agreement; and</p> <p>(13) Signature lines for school official and student.</p> <p>(b) A copy of the executed agreement <u>signed and dated Student Enrollment Agreement</u> shall be provided to the student and a copy shall be placed in the student's permanent file.</p> | <p>(9) Graduation requirements, including type of credential issued upon graduation;</p> <p>(10) Requirements for licensure, certification or registration of therapists in the state, province, or country in which the school operates;</p> <p>(11) Standards for admission, description of the school's admissions process, and requirement of a signed Student Enrollment Agreement;</p> <p>(12) School calendar, including beginning and ending dates of all programs, all holidays and days off;</p> <p>(13) Length of time required for completion of the program;</p> <p>(14) Program tuition and all associated costs, including textbooks, supplies, and other expenses;</p> <p>(15) Refund policy;</p> <p>(16) Description of facilities and learning resources;</p> <p>(17) Student services;</p> <p>(18) Policy regarding prohibition of compensation to student for performing massage and bodywork therapy;</p> <p>(19) Academic policies, including the following:</p> <ul style="list-style-type: none"> (a) Grading system; (b) Standards of satisfactory academic progress; (c) Description of disciplinary procedures, including conditions for probation, suspension, dismissal or expulsion, conditions of reentrance for students dismissed for unsatisfactory academic progress; (d) Transfer of credit from other institutions; (e) Attendance requirements, make-up work, tardiness, leave of absence; (f) Standards of conduct, including a sexual harassment policy; and (g) Complaint policy, process for complaint resolution, name and address of the school regulatory agency for filing complaints when institutional process does not bring resolution; and <p>(20) Statement pursuant to G.S. 90-629.1, that the North Carolina Board of Massage and Bodywork Therapy may deny a license to practice massage and bodywork therapy if an applicant has a criminal record or there is other evidence that indicates the applicant lacks good moral character.</p> |
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Authority G.S. 90-626(9); 90-631.

21 NCAC 30 .0630 SCHOOL CATALOG

An approved school shall publish a catalog or bulletin that is certified by an official of the school as being current, true, and correct in content and policy. All school catalogs or bulletins, in print or online, shall be current and accurate. If updates are being printed, addenda shall be used for the printed catalog or bulletin and online sources, such as websites, shall continuously be updated so as to be current. The catalog shall include the following information:

- (1) School name, location address, and phone number;
- (2) Volume number and date of publication;
- (3) Ownership structure, including type of legal entity and names of owners, Board of Directors members, or academic officers at public institutions;
- (4) Names and titles of all instructional and key administrative staff;
- (5) Statement of school mission, philosophy, and educational program objectives;
- (6) School history and identification of all licenses, approvals or accreditations that the school maintains;
- (7) Definition of measurement of program, whether in clock hours or credit hours;
- (8) Course descriptions, including number of hours for each course;

Authority G.S. 90-626(9); 90-631.

SECTION .0900 - COMPLAINTS, DISCIPLINARY ACTION AND HEARINGS

21 NCAC 30 .0903 ACTION ON A COMPLAINT
Action on a complaint consists of the following:

- (1) The Board shall receive and acknowledge complaints, open a file and initiate complaint tracking.
- (2) Complaints shall be screened to determine jurisdiction and the type of response appropriate for the complaint.
- (3) Investigation:
 - (a) If the facts indicate a Practice Act violation that cannot be verified and the complaint can be handled without an investigation, the Board may request that the licensee or school cease conduct that could result in a Practice Act violation.
 - (b) If the facts indicate a Practice Act violation, the Board shall commence an investigation. The Board may utilize additional personnel such as licensees, law enforcement officials, or other technical personnel that may be required in a particular case. If a Board member is utilized in the investigation, due process must be observed by separating
 - (i) investigation;
 - (ii) prosecution; and
 - (iii) hearings and final decision-making.
 No Board member shall participate in more than one of these three steps in the enforcement process.
 - (c) A confidential report of each investigation shall be prepared for the Board's review.
 - (d) Prior to a decision rendered by the Board, any materials generated or obtained by the Board in conducting an investigation shall be considered confidential investigation records not subject to the Public Records Act (Chapter 132 of the General Statutes); however, copies of such materials may be provided to a licensee subject to disciplinary action, or to the licensee's attorney, so long as identifying information concerning the treatment or delivery of professional services to a patient who has not consented to its public disclosure is deleted or redacted.
- (4) Formal and Informal Hearings:
 - (a) The Board, after review of an investigative file, may schedule an informal meeting.
 - (b) If the matter cannot be resolved informally, then a formal hearing shall be held.
 - (c) Members of the Board shall not make ex parte communication with parties to a hearing.
 - (5) Final Orders: Within 60 days, the Board will issue its final decision in writing specifying the date on which it will take effect. The Board will serve one copy of the decision on each party to the hearing.
 - (6) Compliance: The Board Chair will cause a follow-up inquiry to determine that the orders of the Board are being obeyed.

Authority G.S. 90-626(5), (6), (7), (13).

21 NCAC 30 .0906 SUMMARY SUSPENSION

The Board may impose an immediate suspension of licensure in cases where the continued practice of a massage and bodywork therapist poses an imminent and continuing threat to public health, welfare or safety so long as the Board schedules a hearing to occur within 60 days of the effective date of the suspension order.

Authority G.S. 90-626(3).

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CHAPTER 46 - BOARD OF PHARMACY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Pharmacy intends to adopt the rule cited as 21 NCAC 46 .1615.

Link to agency website pursuant to G.S. 150B-19.1(c): www.ncbop.org/lawandrules.htm

Proposed Effective Date: May 1, 2017

Public Hearing:

Date: February 21, 2017

Time: 9:00 a.m.

Location: North Carolina Board of Pharmacy, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517

Reason for Proposed Action: *The Board has proposed the adoption of this rule in order to more efficiently and accurately fulfill its statutory function of reviewing applications for issuance and renewal of licenses, permits and registrations.*

Comments may be submitted to: Jay Campbell, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517, fax (919)246-1056, email jcampbell@ncbop.org.

Comment period ends: 9:00 a.m. February 21, 2017

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 .1600 - LICENSES AND PERMITS

**21 NCAC 46 .1615 E-PROFILE NUMBER
REQUIRED FOR LICENSE, PERMIT, OR
REGISTRATION**

(a) As part of the application for issuance or renewal of any in-state or out-of-state pharmacy permit, device and medical equipment permit, license to practice pharmacy, or pharmacy technician registration issued by the Board, the permittee, licensee, or registrant must report an e-Profile number to the Board.

(b) An e-Profile number is a unique identifier for permittees, licensees, and registrants that allows for the accurate identification and collection of licensure, disciplinary, inspection, and other information in a secured electronic profile.

(c) A permittee, licensee, or registrant may obtain an e-Profile number at no cost by contacting the National Association of Boards of Pharmacy by phone at (847) 391-4406; by mail at 1600 Feehanville Drive, Mount Prospect, Illinois 60056; or electronically at www.nabp.pharmacy.

(d) Any person or entity holding a permit, license, or registration as of the effective date of this rule must obtain an e-Profile number prior to renewal of the permit, license, or registration for 2018.

Authority G.S. 90-85.6; 90-85.15; 90-85.15A; 90-85.17; 90-85.20; 90-85.21; 90-85.21A; 90-85.22.

CHAPTER 58 – REAL ESTATE COMMISSION

Notice is hereby given in accordance with G.S. 150B-21.2 that the Real Estate Commission intends to adopt the rules cited as 21 NCAC 58G .0102, .0103; 58H .0101, .0201-.0215, .0301-.0306, .0401-.0414, amend the rules cited as 21 NCAC 58A .1702, .1703, .1705, .1708-.1711, .1904, and repeal the rules cited as 21 NCAC 58C .0101-.0105, .0107, .0108, .0201-.0214, .0216-.0221, .0301-.0307, .0309-.0313, .0601-.0608; 58E .0101-.0105, .0201-.0206, .0301-.0310, .0401-.0406, .0408-.0412, and .0501-.0515.

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

Proposed Effective Date: July 1, 2017

Public Hearing:

Date: December 14, 2016

Time: 9:00 a.m.

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

Reason for Proposed Action:

Section 58A .1700 – Mandatory Continuing Education:

21 NCAC 58A .1702 – Continuing Education Requirement

The amendments are proposed to remove rule references to the proposed repeal of Subchapter 58E.

21 NCAC 58A .1703 – Continuing Education for License Activation

The amendments are proposed to clarify the rule text.

21 NCAC 58A .1705 – Attendance and Participation Requirements

The amendments are proposed to remove a rule reference to the proposed repeal of Subchapter 58E and clarify attendance and participation requirements.

21 NCAC 58A .1708 – Equivalent Credit

The amendments are proposed to remove rule references to the proposed repeal of Subchapter 58E, to clarify the rule text, and to increase fees for unapproved continuing education credit applications.

21 NCAC 58A .1709 – Extensions of Time to Complete Continuing Education

The amendments are proposed to remove rule references to the proposed repeal of Subchapter 58E and to clarify the rule text.

21 NCAC 58A .1710 – Denial or Withdrawal of Continuing Education Credit

The amendments are proposed to remove rule references to the proposed repeal of Subchapter 58E and to clarify the rule text.

21 NCAC 58A .1711 – Continuing Education Required of Nonresident Brokers

The amendments are proposed to remove rule references to the proposed repeal of Subchapter 58E, to clarify the rule text, and to increase the fee for unapproved continuing education credit applications for nonresident brokers.

Section 58A .1900 – Postlicensing Education:

21 NCAC 58A .1904 – Denial or Withdrawal of Postlicensing Education Credit

The amendments are proposed to allow 30 Postlicensing instructional hours in any given seven day period instead of 21 hours and to clarify the rule text.

Section 58G .0100 – General:**21 NCAC 58G .0102 – Location**

The adoption of this Rule is proposed to list the physical and mailing address and the website of the Commission.

21 NCAC 58G .0103 – Definitions

The adoption of this Rule is proposed to clarify the terms used throughout Chapter 58.

Subchapter 58H – Real Estate Education

The adoption of Subchapter 58H is proposed to consolidate all education rules found in Subchapters 58C and 58E, then to repeal Subchapters 58C and 58E. This will help to eliminate redundant rules and create a unified Subchapter for educators.

Section 58H .0100 – General:**21 NCAC 58H .0101 – Definitions**

The adoption of this Rule is proposed to clarify education terms used throughout Chapter 58H.

Section 58H .0200 – Real Estate Schools:**21 NCAC 58H .0201 – Applicability**

The adoption of this Rule is proposed to clarify that Section .0200 governs public and private real estate schools.

21 NCAC 58H .0202 – Application for Original Approval of a Public Real Estate School

The adoption of this Rule is proposed to clarify the approval requirements of a public real estate school.

21 NCAC 58H .0203 – Application for Original Licensure of a Private Real Estate School

The adoption of this Rule is proposed to clarify the licensure requirements of a private real estate school.

21 NCAC 58H .0204 – School Director

The adoption of this Rule is proposed to clarify the qualifications and responsibilities of a school director.

21 NCAC 58H .0205 – Private Real Estate School Bulletin

The adoption of this Rule is proposed to clarify the requirements for a private real estate school bulletin.

21 NCAC 58H .0206 – Approval of Textbooks

The adoption of this Rule is proposed to clarify the textbook approval process and requirements.

21 NCAC 58H .0207 – School Advertising and Recruitment Activities

The adoption of this Rule is proposed to clarify school advertising and recruitment activities.

21 NCAC 58H .0208 – Prelicensing and Postlicensing Course Scheduling and Notification

The adoption of this Rule is proposed to require schools to provide notices of Prelicensing and Postlicensing courses, require schools to notify the Commission of any change or cancellation in course scheduling, and to clarify instructional hours allowed for class meetings.

21 NCAC 58H .0209 – Prelicensing and Postlicensing Course Enrollment

The adoption of this Rule is proposed to clarify student enrollment requirements.

21 NCAC 58H .0210 – Prelicensing and Postlicensing Course Completion Standards

The adoption of this Rule is proposed to clarify the requirements to complete a Prelicensing or Postlicensing course.

21 NCAC 58H .0211 – Prelicensing and Postlicensing Roster Reporting

The adoption of this Rule is proposed to clarify roster reporting requirements for Prelicensing and Postlicensing courses.

21 NCAC 58H .0212 – School Records

The adoption of this Rule is proposed to clarify the records schools are required to retain for three years.

21 NCAC 58H .0213 – Evaluations of Instructor Performance

The adoption of this Rule is proposed to require student evaluations of instructors and submit a summary report to the Commission.

21 NCAC 58H .0214 – Expiration and Renewal of a School Approval or License

The adoption of this Rule is proposed to clarify the renewal process for public and private real estate schools.

21 NCAC 58H .0215 – Denial, Withdrawal, or Termination of School Approval or License

The adoption of this Rule is proposed to clarify when a public or private real estate school approval or license may be denied, withdrawn, or terminated.

Section 58H .0300 – Approved Instructors:**21 NCAC 58H .0301 – Prelicensing, Postlicensing, and Update Course Instructor Approval**

The adoption of this Rule is proposed to clarify the types of courses an approved instructor may teach.

21 NCAC 58H .0302 – Application and Criteria for Original Prelicensing, Postlicensing, or Update Course Instructor Approval

The adoption of this Rule is proposed to clarify the requirements to be approved as an instructor.

21 NCAC 58H .0303 – Denial or Withdrawal of Instructor Approval

The adoption of this Rule is proposed to clarify when an instructor may be denied approval or when approval may be withdrawn.

21 NCAC 58H .0304 – Instructor Conduct and Performance

The adoption of this Rule is proposed to clarify an approved instructor's conduct and performance during class sessions.

21 NCAC 58H .0305 – Digital Video Recordings

The adoption of this Rule is proposed to clarify digital video recording requirements.

21 NCAC 58H .0306 – Renewal and Expiration of Instructor Approval

The adoption of this Rule is proposed to clarify the renewal process for approved instructors.

Section 58H .0400 – Continuing Education

21 NCAC 58H .0401 – Applicability

The adoption of this Rule is proposed to define that Section .0400 applies to continuing education.

21 NCAC 58H .0402 – Application for Original Approval of Continuing Education Sponsor

The adoption of this Rule is proposed to clarify the requirements for original approval as a CE Sponsor.

21 NCAC 58H .0403 – Continuing Education Coordinator

The adoption of this Rule is proposed to clarify the CE Coordinator's responsibilities.

21 NCAC 58H .0404 – Renewal of Sponsor Approval

The adoption of this Rule is proposed to clarify the renewal process for CE Sponsors.

21 NCAC 58H .0405 – Denial or Withdrawal of Sponsor Approval

The adoption of this Rule is proposed to clarify when a sponsor may be denied approval or when approval may be withdrawn.

21 NCAC 58H .0406 – Approval and Renewal of Elective Courses

The adoption of this Rule is proposed to clarify the approval and renewal process of elective courses.

21 NCAC 58H .0407 – Continuing Education Elective Course Requirements

The adoption of this Rule is proposed to clarify the requirements for an elective course to be approved by the Commission.

21 NCAC 58H .0408 – Commission Created Update Courses

The adoption of this Rule is proposed to clarify how to obtain Update course materials and who shall teach the Update Courses.

21 NCAC 58H .0409 – Records and Commission Review

The adoption of this Rule is proposed to require sponsors to retain student records for three years and admit any Commission representative to monitor a continuing education course.

21 NCAC 58H .0410 – Continuing Education Course Scheduling and Notification

The adoption of this Rule is proposed to require sponsors to submit course schedules and to notify the Commission of any change or cancellation in course scheduling.

21 NCAC 58H .0411 – Continuing Education Course Attendance

The adoption of this Rule is proposed to clarify course attendance requirements.

21 NCAC 58H .0412 – Continuing Education Roster Reports and Certificates

The adoption of this Rule is proposed to clarify continuing education roster reports and course completion submissions and certificates.

21 NCAC 58H .0413 – Continuing Education Course Cost, Cancellation, and Refunds

The adoption of this Rule is proposed to require continuing education sponsors to charge an all-inclusive cost to students, to provide notice to registered students of any course cancellation, and to establish refund policies.

21 NCAC 58H .0414 – Advertising

The adoption of this Rule is proposed to govern sponsor advertising during a course.

Comments may be submitted to: Melissa A. Vuotto, P.O. Box 17100, Raleigh, NC 27619-7100, phone (919) 875-3700

Comment period ends: January 17, 2017

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 58A - REAL ESTATE BROKERS

**SECTION .1700 - MANDATORY CONTINUING
EDUCATION**

**21 NCAC 58A .1702 CONTINUING EDUCATION
REQUIREMENT**

(a) Except as provided in Rules .1708 and .1711 of this Section, in order to renew a broker license on active status, the person requesting renewal of a license shall, upon the second renewal of such license following initial licensure, and upon each subsequent annual renewal, have completed, within one year preceding license expiration, eight ~~classroom-credit~~ hours of real estate continuing education in courses approved by the Commission as provided in ~~Subchapter 58E, 21 NCAC 58H~~. Four of the required eight ~~classroom-credit~~ hours ~~must shall~~ be obtained each license period by completing ~~a the mandatory update course developed annually by the Commission and known as the "General Update Course," the subject matter of which is described in Rule 58E .0102,~~ except that a broker-in-charge or broker who is broker-in-charge eligible shall complete the "Broker-In-Charge Update Course" in lieu of the "General Update Course" as set forth in Rule .0110 of this Subchapter. The remaining four credit hours shall be obtained by completing one or more Commission-approved elective ~~courses described in Rule .0305 of Subchapter 58E,~~ courses. The broker shall provide upon request of the Commission, evidence of continuing education course completion.

(b) No continuing education shall be required to renew a broker license on inactive status. In order to change a license from inactive status to active status, the broker must satisfy the continuing education requirement described in Rule .1703 of this Section.

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

(d) The terms "active status" and "inactive status" are defined in Rule .0504 of this Subchapter. For continuing education purposes, the term "initial licensure" shall include the first time that a license of a particular type is issued to a person, the reinstatement of a canceled, revoked or surrendered license, and any license expired for more than six months.

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

**21 NCAC 58A .1703 CONTINUING EDUCATION
FOR LICENSE ACTIVATION**

(a) A broker requesting to change an inactive license to active status on or after the ~~licensee's broker's~~ second license renewal following his or her initial licensure shall demonstrate completion of continuing education as described in Paragraph (b) or (c) of this Rule, whichever is appropriate.

(b) If the inactive ~~licensee's broker's~~ license has properly been on active status at any time since the preceding July 1, the ~~licensee broker~~ is considered to be current with regard to continuing education and no additional continuing education is required to activate the license.

(c) If the inactive ~~licensee's broker's~~ license has not properly been on active status since the preceding July 1 and the ~~licensee broker~~ has a deficiency in his or her continuing education record for the previous license period, the ~~licensee must broker shall~~ make up

the deficiency and fully satisfy the continuing education requirement for the current license period in order to activate the license. Any deficiency may be made up by completing, during the current license period or previous license period, approved continuing education elective courses; however, such courses shall not be credited toward the continuing education requirement for the current license period. When crediting elective courses for purposes of making up a continuing education deficiency, the maximum number of credit hours that will be awarded for any course is four hours. ~~When evaluating the continuing education record of a licensee with a deficiency for the previous license period to determine the licensee's eligibility for active status, the licensee shall be deemed eligible for active status if the licensee has fully satisfied the continuing education requirement for the current license period and has taken any two additional continuing education courses since the beginning of the previous license period, even if the licensee had a continuing education deficiency prior to the beginning of the previous license period.~~

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

**21 NCAC 58A .1705 ATTENDANCE AND
PARTICIPATION REQUIREMENTS**

(a) In order to receive ~~any credit for satisfactorily~~ completing an approved continuing education course, a ~~licensee must broker~~ shall:

- (1) attend at least 90 percent of the scheduled ~~classroom-instructional~~ hours for the ~~course,~~ course; regardless of the length of the course, and must comply with student participation standards described in Rule .0511 of Subchapter 58E.
- (2) provide his or her legal name and license number;
- (3) present his or her photo identification card, if necessary; and
- (4) personally perform all work required to complete the course.

(b) ~~No credit shall be awarded for attending less than 90 percent of the scheduled classroom hours.~~ The 10 percent absence allowance is permitted ~~for any reason~~ at any time during the ~~course course~~, except that it may not be used to skip the last 10 percent of the course unless the absence ~~is is~~:

- (1) approved by the instructor; and
 - (2) for circumstances beyond the ~~licensee's~~ broker's control that could not have been reasonably foreseen by the ~~licensee and is~~ approved by the instructor, broker, such as:
- (A) an illness;
 - (B) a family emergency; or
 - (C) acts of God.

(c) With regard to the Commission's 12-hour Broker-In-Charge Course that is taught over two days, a ~~licensee must broker shall~~ attend at least 90 percent of the scheduled ~~classroom-instructional~~ hours on each day of the course and the 10 percent absence allowance ~~cited above~~ referred to in Paragraph (b) of this Rule shall apply to each day of the course.

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

21 NCAC 58A .1708 EQUIVALENT CREDIT

~~(a) A licensee may request that the Commission award continuing education credit for a course taken by the licensee that is not approved by the Commission, or for some other real estate education activity, by making such request on a form prescribed by the Commission and submitting a nonrefundable evaluation fee of thirty dollars (\$30.00) for each request for evaluation of a course or real estate education activity. In order for requests for equivalent credit to be considered and credits to be entered into a licensee's continuing education record prior to the June 30 license expiration date, such requests and all supporting documents must be received by the Commission on or before June 10 preceding expiration of the licensee's current license, with the exception that requests from instructors desiring equivalent credit for teaching Commission approved continuing education courses must be received by June 30. Any equivalent continuing education credit awarded under this Rule shall be applied first to make up any continuing education deficiency for the previous license period and then to satisfy the continuing education requirement for the current license period; however, credit for an unapproved course or educational activity, other than teaching an approved elective course, that was completed during a previous license period shall not be applied to a subsequent license period.~~

~~(b) The Commission may award continuing education elective credit for completion of an unapproved course which the Commission finds equivalent to the elective course component of the continuing education requirement set forth in Section .0300 of Subchapter 58E. Completion of an unapproved course may serve only to satisfy the elective requirement and shall not be substituted for completion of the mandatory update course.~~

~~(c) Real estate education activities, other than teaching a Commission approved course, which may be eligible for credit include: developing a Commission approved elective continuing education course; authorship of a published real estate textbook; and authorship of a scholarly article, on a topic acceptable for continuing education purposes, which has been published in a professional journal such as a law journal or professional college or university journal or periodical. The Commission shall award continuing education elective credit for activities which the Commission finds equivalent to the elective course component of the continuing education requirement set forth in Section .0300 of Subchapter 58E. No activity other than teaching a Commission-developed mandatory update course shall be considered equivalent to completing the mandatory update course.~~

~~(d) The Commission shall award credit for teaching the Commission-developed mandatory update course and for teaching an approved elective course. Credit for teaching an approved elective course shall be awarded only for teaching a course for the first time. Credit for teaching a Commission-developed mandatory update course shall be awarded for each licensing period in which the instructor teaches the course. The amount of credit awarded to the instructor of an approved continuing education course shall be the same as the amount of credit earned by a licensee who completes the course. Licensees who are instructors of continuing education courses approved by the Commission shall not be subject to the thirty dollars (\$30.00) evaluation fee when applying for continuing education credit for teaching an approved course. No credit toward the continuing~~

~~education requirement shall be awarded for teaching a real estate prelicensing or postlicensing course.~~

~~(e) A licensee completing a real estate appraisal prelicensing, precertification or continuing education course approved by the North Carolina Appraisal Board may obtain real estate continuing education elective credit for such course by submitting to the Commission a written request for equivalent continuing education elective credit accompanied by a nonrefundable processing fee of twenty dollars (\$20.00) and a copy of the certificate of course completion issued by the course sponsor for submission to the North Carolina Appraisal Board.~~

(a) The Commission shall award a broker continuing education credit for teaching a Commission Update Course. A broker seeking continuing education credit for teaching a Commission Update Course shall submit a form, available on the Commission's website, that requires the broker to set forth the:

- (1) broker's name, license number, instructor number, address, telephone number, and email address;
- (2) Update Course number;
- (3) sponsor's name and number;
- (4) sponsor's address; and
- (5) date the course was taught.

(b) The Commission shall award a broker continuing education elective credit for teaching a Commission approved continuing education elective. However, a broker shall only receive credit for the first time they teach a given continuing education elective. A broker seeking continuing education credit under this Paragraph shall submit a form, available on the Commission's website, that requires the broker to set forth the:

- (1) broker's name, license number, address, telephone number, and email address;
- (2) course title;
- (3) course number;
- (4) sponsor's name and number;
- (5) sponsor's address; and
- (6) date the course was taught.

(c) The Commission may award continuing education elective credit for completion of an unapproved course that the Commission finds equivalent to the elective course component of the continuing education requirement set forth in 21 NCAC 58H .0407. A broker seeking continuing education credit for a course that is not approved by the Commission shall submit a form, available on the Commission's website, that requires the broker to set forth the:

- (1) broker's name, license number, address, telephone number, and email address;
- (2) course title;
- (3) number of instructional hours;
- (4) course instructor's name; and
- (5) course sponsor's name, address, telephone number, and email address.

(d) Along with the form described in Paragraph (c) of this Rule, the broker shall submit a course completion certificate issued by the course sponsor, a copy of the course description or course outline, and a fifty dollar (\$50.00) fee for each course for which the broker seeks credit.

(e) The Commission may award continuing education elective credit for completion of a real estate appraisal prelicensing,

precertification, or continuing education course approved by the North Carolina Appraisal Board. A broker seeking continuing education credit for an Appraisal Board course shall submit a form, available on the Commission's website, that requires the broker to set forth the broker's name, license number, address, telephone number, and email address. Along with the form, the broker shall submit a course completion certificate issued by the course sponsor and a fifty dollar (\$50.00) fee for each course for which the broker seeks credit.

(f) The Commission may award continuing education elective credit for developing a continuing education elective course that is approved by the Commission pursuant to 21 NCAC 58H .0400. However, a broker shall only receive credit for the year in which the continuing education elective is approved. A broker seeking continuing education credit under this Paragraph shall submit a form, available on the Commission's website, that requires the broker to set forth the broker's name, license number, address, telephone number, and email address. Along with the form, the broker shall submit the course title, the course number, the date of the course approval, and a fifty dollar (\$50.00) fee for each course for which the broker seeks credit.

(g) The Commission may award continuing education elective credit for authoring a real estate textbook. However, a broker shall receive credit for any single textbook only once. A broker seeking continuing education credit under this Paragraph shall submit a form, available on the Commission's website, that requires the broker to set forth the broker's name, license number, address, telephone number, and email address. Along with the form, the broker shall submit the title page of the textbook, showing the title, publisher, and publication date, the table of contents, and a fifty dollar (\$50.00) fee for each textbook for which the licensee seeks credit.

(h) The Commission may award continuing education elective credit for authoring of a scholarly article on a real estate topic published in a professional journal or periodical. However, a broker shall receive credit for any single article only once. A broker seeking continuing education credit under this Paragraph shall submit a form, available on the Commission's website, that requires the broker to set forth the broker's name, license number, address, telephone number, and email address. Along with the form, the broker shall submit a copy of the article, proof of publication, and a fifty dollar (\$50.00) fee for each article for which the broker seeks credit.

(i) In order for any application for equivalent credit to be considered and credits applied to the current licensing period, a complete application, the appropriate fee, and all supporting documents shall be received by the Commission no later than 5:00 p.m. on June 10.

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

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

(a) A broker on active status may request ~~and be granted~~ an extension of time to satisfy the continuing education requirement for ~~a particular license~~ the current license period if the broker ~~provides evidence to the Commission that he or she was unable to~~ obtain the necessary education due to an incapacitating illness, military deployment, or other circumstance that existed for a

substantial portion of the license period and that constituted a severe ~~hardship—hardship~~, evidenced ~~by supporting documentation, such as a written physician's statement, deployment orders, or other corroborative evidence, such that~~ compliance with the continuing education requirement would have been impossible or burdensome.

(b) The Commission shall not grant an extension of time to satisfy the continuing education requirement for reasons of business or personal conflicts.

(c) The Commission shall not grant such an extension of time when the broker's inability to obtain the required education in a timely manner was unreasonable delay on the part of the broker in obtaining such education.

(d) If an extension of time is granted, the broker shall be permitted to renew his or her license on active status but the license shall be automatically changed to inactive status at the end of the extension period unless the broker satisfies the continuing education requirement prior to that time.

(e) If an extension of time is not granted, the broker may either satisfy the continuing education requirement prior to expiration of the license period or renew his or her license on inactive status.

(f) In no event shall an extension of time be granted that extends the continuing education deadline beyond June 10 of the license year following the license year in which the request is made.

~~(g)(b) The broker's request for an extension of time shall be submitted on a form prescribed by the Commission and must be received by the Commission on or before June 10 of the license year for which the extension is sought. The form for requesting an extension of time to satisfy the continuing education requirement shall include available on the Commission's website that requires the broker to set out the broker's name, mailing address, license number, telephone number, email address, and a description of the incapacitating illness or other circumstance upon which the request for extension of time is based. The form can be obtained on the Commission's website at www.ncree.gov, or upon request to the Commission. The requesting broker shall submit, along the form, supporting documentation, such as a written physician's statement, deployment orders, or other corroborative evidence, demonstrating that compliance with the continuing education requirement would have been impossible or burdensome.~~

(c) All requests for an extension of time shall be received by the Commission by 5:00 p.m. on June 10 of the licensing period for which the extension is sought.

(d) If an extension of time is granted, the broker shall be permitted to renew his or her license on active status. The broker's license shall automatically be change to inactive status if the broker fails to satisfy the continuing education requirement prior to the end of the extension period.

(e) In no event shall an extension of time be granted that extends the continuing education requirement deadline beyond June 10 of the license year following the license year in which the request is made.

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

21 NCAC 58A .1710 DENIAL OR WITHDRAWAL OF CONTINUING EDUCATION CREDIT

(a) The Commission may deny continuing education credit claimed by a ~~licensee-broker~~ or reported by a course sponsor for a licensee, and may withdraw continuing education credit previously awarded by the Commission to a ~~licensee-broker~~ upon finding ~~that: that the broker:~~

- (1) ~~The licensee—~~or course sponsor provided incorrect or incomplete information to the Commission concerning continuing education completed by the ~~licensee; broker;~~
- (2) ~~The licensee~~ failed to comply with either the attendance requirement established by Rule .1705 of this Section ~~or the student participation standards set forth in Rule .0511 of Subchapter 58E; Section;~~ or
- (3) ~~The licensee—~~was mistakenly awarded continuing education credit due to an administrative error.

(b) ~~When continuing education credit is denied or withdrawn by the Commission under Paragraph (a) of this Rule, the licensee remains responsible for satisfying the continuing education requirement. However, when~~ If an administrative error or an incorrect report by a course sponsor results in the denial or withdrawal of continuing education credit for a ~~licensee-broker~~, the Commission may, upon the written request of the ~~licensee; broker,~~ grant the ~~licensee broker~~ an extension of time to satisfy the continuing education requirement.

(c) A ~~licensee-broker~~ who obtains or attempts to obtain continuing education credit through misrepresentation of fact, ~~dishonesty-dishonesty,~~ or other improper conduct shall be subject to disciplinary action pursuant to G.S. 93A-6.

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

21 NCAC 58A .1711 CONTINUING EDUCATION REQUIRED OF NONRESIDENT BROKERS

(a) To be considered a nonresident for continuing education purposes, a real estate broker licensed in North Carolina shall not have a North Carolina business address, mailing address, or residence address at the time he or she applies for license renewal if he or she seeks to renew his or her license on active status. A nonresident North Carolina broker who wishes to renew his or her license on active status may fully satisfy the continuing education requirement by any one of the following means:

- (1) A nonresident broker may, at the time of license renewal, hold a real estate license on active status in another state and certify on a form prescribed by the Commission that the broker holds such license. If at any time after renewal there is a change in the status of the out-of-state license, the nonresident broker shall notify the Commission within 10 days and request that his or her North Carolina license be placed on inactive status, or provide evidence to the Commission that he or she has satisfied either Subparagraph (a)(2) or (a)(3) of this Rule or the requirements of Rule .1702 of this Section.

(2) A nonresident broker may, within one year preceding license expiration, complete the Commission-prescribed Update course plus one Commission-approved continuing education elective course, or complete two Commission-approved continuing education elective courses.

(3) A nonresident broker may, within one year preceding license expiration, complete eight classroom hours in courses approved for continuing education credit by the real estate licensing agency in the broker's state of residence or in the state where the course was taken. To obtain credit for a continuing education course completed in another state and not approved by the Commission, the broker must submit a written request for continuing education credit accompanied by a ~~nonrefundable processing fee of twenty dollars (\$20.00)-fifty dollars (\$50.00)~~ per request and evidence satisfactory to the Commission that the course was completed and that the course was approved for continuing education credit by the real estate licensing agency in the broker's state of residence or in the state where the course was taken.

(4) A nonresident broker may obtain eight hours equivalent credit for a course or courses not approved by the Commission or for related educational activities as provided in Rule .1708 of this Section. The maximum amount of continuing education credit the Commission will award a nonresident broker for an unapproved course or educational activity is eight hours.

(b) When requesting to change an inactive license to active status, or when applying for reinstatement of a license expired for not more than six months, a nonresident broker may fully satisfy the continuing education requirements described in Rules .0505 and .1703 of this Subchapter by complying with any of the options described in Paragraph (a) of this Rule, except that the requirements in Subparagraphs (a)(2) and (a)(3) of this Rule restricting the taking of courses to one year preceding license expiration shall not be applicable.

(c) No carry-over credit to a subsequent license period shall be awarded for a course taken in another state that has not been approved by the North Carolina Real Estate Commission as an elective course.

(d) A nonresident broker who has renewed his or her license on active status pursuant to Paragraph (a) of this Rule shall notify the Commission within 10 days if he or she subsequently affiliates with an office with a North Carolina business or mailing address, or becomes a resident of this State, and within 30 days provide evidence to the Commission that he or she has satisfied the requirements of either Subparagraphs (a)(2) or (a)(3) of this Rule or the requirements of Rule .1702 of this Section.

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

SECTION .1900 – POSTLICENSING EDUCATION

21 NCAC 58A .1904 DENIAL OR WITHDRAWAL OF POSTLICENSING EDUCATION CREDIT

(a) The Commission may deny ~~postlicensing~~ Postlicensing education credit claimed by a provisional broker or reported by a school for a provisional broker, and may withdraw ~~postlicensing~~ Postlicensing education credit previously awarded by the Commission to a provisional broker and make appropriate license status changes for that ~~licensee-broker~~ upon finding that:

- (1) the provisional broker or school provided incorrect or incomplete information to the Commission concerning ~~postlicensing~~ Postlicensing education completed by the provisional broker;
- (2) the provisional broker was mistakenly awarded ~~postlicensing~~ Postlicensing education credit due to an administrative error; or
- (3) the provisional broker attended a ~~postlicensing~~ Postlicensing course while concurrently attending a different ~~postlicensing~~ Postlicensing course at the same school or a different school if such concurrent attendance in the two courses resulted in the provisional broker participating in ~~postlicensing~~ Postlicensing course sessions for more than 24 ~~classroom~~ instructional hours in any given seven-day period.

(b) When ~~postlicensing~~ Postlicensing education credit is denied or withdrawn by the Commission under Paragraph (a) of this Rule, the provisional broker remains responsible for satisfying the ~~postlicensing~~ Postlicensing education requirement in a timely manner.

(c) A ~~licensee-broker~~ who obtains or attempts to obtain ~~postlicensing~~ Postlicensing education credit through misrepresentation of fact, dishonesty or other improper conduct is subject to disciplinary action pursuant to G.S. 93A-6.

Authority G.S. 93A-4.

SUBCHAPTER 58C - REAL ESTATE PRELICENSING EDUCATION

SECTION .0100 – SCHOOLS

21 NCAC 58C .0101 APPLICABILITY: REQUIREMENT FOR APPROVAL

~~This Section applies to all schools, except private real estate schools, offering real estate prelicensing courses prescribed by G.S. 93A-4(a) or postlicensing courses prescribed by G.S. 93A-4(a1). In order for courses conducted by a school to be recognized as real estate prelicensing or postlicensing courses by the Commission, the school must obtain approval by the Commission prior to the commencement of any such courses.~~

Authority G.S. 93A-4.

21 NCAC 58C .0102 APPLICATION FOR APPROVAL

~~Schools seeking approval to conduct real estate prelicensing or postlicensing courses must make written application to the Commission upon a form provided by the Commission.~~

Authority G.S. 93A-4.

21 NCAC 58C .0103 CRITERIA FOR APPROVAL

(a) ~~After due investigation and consideration, approval shall be granted to a school when it is shown to the satisfaction of the Commission that:~~

- (1) ~~The school has submitted a complete and accurate application for approval;~~
- (2) ~~The school is a North Carolina post-secondary educational institution licensed or approved by the State Board of Community Colleges or the Board of Governors of the University of North Carolina or a North Carolina private business or trade school licensed under G.S. 115D-90;~~
- (3) ~~The courses to be conducted comply with the standards described in Section .0300 of this Subchapter; and~~
- (4) ~~The school has designated one professional-level employee to serve as the director of all the school's real estate prelicensing and postlicensing course offerings and, in that capacity, be responsible for liaison with the Commission and for assuring compliance with all Commission rules relating to the conduct of such courses regardless of where the courses are offered.~~

~~(b) A North Carolina college or university which grants a baccalaureate or higher degree with a major or minor in the field of real estate, real estate brokerage, real estate law, real estate finance, real estate development, or other similar fields shall request that appropriate real estate and related courses in its curriculum be approved by the Commission as equivalent to the real estate prelicensing education program prescribed by G.S. 93A-4(a). The Commission shall grant such approval and shall exempt such school from compliance with the course standards set forth in Section .0300 of this Subchapter.~~

Authority G.S. 93A-4.

21 NCAC 58C .0104 SCOPE, DURATION AND RENEWAL OF APPROVAL

(a) ~~Approval extends only to the courses and location reported in the application for school approval.~~

(b) ~~Commission approval of schools shall terminate on December 31 in the next odd-numbered year following the effective date of approval.~~

(c) ~~Schools must renew their approval to conduct real estate prelicensing and postlicensing courses by satisfying the criteria for original approval described in Rule .0103 of this Section. In order to assure continuous approval, renewal applications shall be filed with the Commission biennially on or before November 15 in the year that approval terminates.~~

Authority G.S. 93A-4.

21 NCAC 58C .0105 WITHDRAWAL OR DENIAL OF APPROVAL

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

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

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

21 NCAC 58C .0107 USE OF EXAMINATION PERFORMANCE DATA

An approved school utilizing licensing examination performance data for advertising or promotional purposes must assure that the data is accurate and that the data:

- (1) ~~is limited to the annual examination performance data for the particular school and for all examination candidates in the state;~~
- (2) ~~includes the time period covered, the number of first time candidates examined, and either the number or percentage of first time candidates passing the examination; and~~
- (3) ~~is presented in a manner that is not misleading.~~

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

21 NCAC 58C .0108 STUDENT EVALUATIONS OF INSTRUCTOR PERFORMANCE

~~Schools shall obtain and submit, at the request of the Commission, student evaluations of a course and instructor. The evaluations shall be completed by students on a form prescribed by the Commission and submitted by the school administrator within 15 days after completion of the course.~~

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

SECTION .0200 - PRIVATE REAL ESTATE SCHOOLS

21 NCAC 58C .0201 APPLICABILITY

~~This Section applies to all private real estate schools, as defined in G.S. 93A-32.~~

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

21 NCAC 58C .0202 ORIGINAL APPLICATION FEE

~~The original license application fee shall be two hundred dollars (\$200.00) for each proposed school location and forty dollars (\$40.00) for each real estate prelicensing or postlicensing course for which the applicant requests approval. The fee shall be paid by certified check, bank check or money order payable to the North Carolina Real Estate Commission and is nonrefundable. The school may offer approved courses at any licensed school location as frequently as is desired during the licensing period without paying additional course fees. Requests for approval of additional courses which are submitted subsequent to filling an original license application shall be accompanied by the appropriate fee of forty dollars (\$40.00) per course.~~

Authority G.S. 93A-33; 93A-34(b).

21 NCAC 58C .0203 SCHOOL NAME

~~The official name of any licensed private real estate school must contain the words "real estate" and other descriptive words which identify the school as a real estate school and which distinguish the school from other licensed private real estate schools and from continuing education course sponsors approved by the Commission. If the official school name includes the name of a person or business entity that is not an owner of the school, then the school owner must have the express permission of such person or business. The official school name shall not include words or terms such as "online," ".com," ".org," ".net," "computer based," "correspondence" or similar words or terms that might imply to prospective students that the real estate prelicensing and postlicensing courses are available through the school utilizing an instructional delivery method not permitted by the Commission. The school name must be used in all school publications and advertising.~~

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

21 NCAC 58C .0204 COURSES

~~Schools shall comply with the provisions of Section .0300 of this Subchapter regarding prelicensing and postlicensing courses.~~

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

21 NCAC 58C .0205 ADDITIONAL COURSE OFFERINGS

~~Schools may also offer courses in addition to those described in Section .0300 of this Subchapter or Sections .0100 and .0300 of Subchapter 58E provided that references to such courses are not made or published in a manner which implies that such courses are sanctioned by the Commission. However, if licensure as a private business or trade school under G.S. 115D-90 is required in order for the school to offer such additional courses that are not~~

approved by the Commission, then the school must obtain such license prior to offering such additional courses.

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

21 NCAC 58C .0206 ADMINISTRATION

~~(a) One person must be designated as the director of the school. The school director shall personally provide direct and active supervision of all school operations related to the conduct of real estate prelicensing and postlicensing courses and shall assure compliance with all statutory and rule requirements governing the licensing and operation of the school. The director shall act as the school's contact person for communication with the Commission.~~

~~(b) The school director must be possessed of good character and reputation and must satisfy one of the following qualification standards:~~

- ~~(1) hold a baccalaureate or higher degree in the field of education; or~~
- ~~(2) have at least two years full time experience within the past 10 years as an instructor or school administrator; or~~
- ~~(3) possess qualifications which are found by the Commission to be substantially equivalent to those described in Subparagraph (1) or (2) of this Paragraph.~~

Authority G.S. 93A-4; 93A-33; 93A-34.

21 NCAC 58C .0207 FACILITIES AND EQUIPMENT

~~(a) All school facilities and equipment shall be in compliance with all applicable local, state and federal laws and regulations regarding health, safety and welfare, including the Americans with Disabilities Act and other laws relating to accessibility standards for places of public accommodation. Schools shall furnish the Commission with inspection reports from appropriate local building, health and fire inspectors upon request of the Commission.~~

~~(b) Classrooms shall be of sufficient size to accommodate comfortably all students enrolled in a course, shall have sufficient light, heat, cooling and ventilation to provide a comfortable environment and shall be free of distractions which would disrupt class sessions.~~

~~(c) Classrooms shall contain student desks or worktables sufficient to accommodate all students enrolled in a course and shall have the capability for instructors to make electronic visual presentations.~~

~~(d) Classroom facilities must be in a fixed building. No bus, van, tractor trailer or other motor vehicle shall be used as a classroom facility.~~

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

21 NCAC 58C .0208 BULLETINS

(a) A school shall publish a single bulletin addressing prelicensing and postlicensing courses offered and this bulletin shall be used at all licensed locations where the school operates. A school may provide in its bulletin information about real estate continuing education courses for which the school is approved by the Commission as a sponsor, but any such information shall

comply with the standards described in Paragraph (c) of this Rule. A school may provide in its bulletin information about courses that are not approved by the Commission only if the bulletin states that such courses are not approved or sanctioned by the Commission. A school may not include in its bulletin any promotional information for a particular real estate broker, firm, franchise or association, even if the entity being promoted owns the school.

~~(b) In addition to the information required by G.S. 93A-34(c)(5), a school's bulletin shall describe the purpose of prelicensing and postlicensing courses, describe the school's policies and procedures on all other matters affecting students and include the name and address of the North Carolina Real Estate Commission along with a statement to the effect that any complaints concerning the school should be directed to the Commission.~~

~~(c) All information provided in a school bulletin shall be accurate, complete, clearly stated, internally consistent and logically organized. The bulletin shall be typed or printed and shall utilize correct spelling, grammar and punctuation.~~

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

21 NCAC 58C .0209 ENROLLMENT PROCEDURES AND CONTRACTS

~~(a) A school shall provide to a prospective student a copy of the school's bulletin prior to the time that a student becomes committed to payment of any portion of tuition or registration deposit without the right to a full refund.~~

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

~~(c) A school's student enrollment contract shall include:~~

- ~~(1) the student's name;~~
- ~~(2) the contract date;~~
- ~~(3) the title of the course(s) for which the student is enrolling;~~
- ~~(4) the course schedule (beginning date, end date and meeting days and times);~~
- ~~(5) the amount of tuition and other required fees;~~
- ~~(6) a provision incorporating by reference the school's policies as described in the school's bulletin;~~
- ~~(7) a provision whereby the school certifies that the school's bulletin has been provided to the student and that the student acknowledges receipt of the bulletin;~~
- ~~(8) any provisions needed to address special accommodations or arrangements applicable to a particular student;~~
- ~~(9) the signatures of both the student and a school official; and~~
- ~~(10) the following prescribed text: "NOTICE: Pursuant to North Carolina Real Estate~~

Commission Rule 21 NCAC 58A .1904, the Commission may deny or withdraw credit for a postlicensing course that a provisional broker begins taking while already enrolled in another postlicensing course at the same school or a different school if participating in the two courses concurrently results in the provisional broker attending postlicensing course sessions that total more than 21 classroom hours in any given seven day period."

(d) Other than the amount of tuition and fees, an enrollment contract shall not address other school policies that are addressed in the school's bulletin.

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

21 NCAC 58C .0210 ADMISSIONS POLICY AND PRACTICE

Schools shall not discriminate in their admissions policy or practice against any person on the basis of age, sex, race, color, creed, national origin or religious preference. A statement to this effect shall be included in all school bulletins, catalogues or similar official publications. Schools shall not offer postlicensing courses in a manner that results in the courses being conducted only for licensees affiliated with a particular real estate broker, firm, franchise or association, even if the entity whose affiliated licensees would benefit from the closed course is the school owner.

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

21 NCAC 58C .0211 RECORDS

In addition to complying with the course records requirements stated in Rule .0310 of this Subchapter, schools shall retain the following on file for at least two years:

- (1) student enrollment contracts;
- (2) class schedules;
- (3) advertisements;
- (4) bulletins, catalogues and other official publications; and
- (5) statements of consent required by Rule .0214(c) of this Subchapter.

These records shall be made available to the commission upon request.

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

21 NCAC 58C .0212 ENFORCEMENT OF INSTITUTIONAL STANDARDS

Schools shall enforce institutional policies and standards relating to entrance requirements, grades, attendance and tuition and fees in a fair and reasonable manner.

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

21 NCAC 58C .0213 PERFORMANCE BOND

An applicant for a private real estate school license shall execute, on a form prescribed by the Commission, a bond as required by G.S. 93A-36, and shall submit with the license application a copy

of said executed bond. Upon approval of the bond by the Commission, the applicant shall file the bond with the clerk of superior court of the county in which the school's administrative office is located, and shall provide evidence of such filing to the Commission prior to issuance of a license.

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

21 NCAC 58C .0214 ADVERTISING AND RECRUITMENT ACTIVITIES

(a) A school advertising or promoting licensing examination performance data must assure that the data is accurate and that the data:

- (1) is limited to the annual examination performance data for the particular school and for all examination candidates in the state;
- (2) include includes the time period covered, the number of first time candidates examined, and either the number or percentage of first time candidates passing the examination; and
- (3) is presented in a manner that is not misleading.

(b) Schools shall not make or publish, by way of advertising or otherwise, any false or misleading statement regarding employment opportunities which may be available as a result of successful completion of a course offered by that school or acquisition of a real estate license.

(c) Schools shall not use endorsements or recommendations of any person or organization, by way of advertising or otherwise, unless such person or organization has consented in writing to the use of the endorsement or recommendation and is not compensated for such use.

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

21 NCAC 58C .0216 CHANGES DURING THE LICENSING PERIOD

Schools shall obtain advance approval from the Commission for any changes to be made during the licensing period with respect to textbooks, facilities, directors, policies and procedures, publications or any other matter subject to regulation by the Commission. Schools are limited to one change in classroom facilities within the same county during any licensing period. In the event a school desires to make a second change in classroom facilities within the same county, or to relocate such facilities to another county, during any licensing period, it shall be necessary for the owner to make application for an original license for the new location.

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

21 NCAC 58C .0217 LICENSE RENEWAL AND FEES

(a) Private real estate school licenses expire on the next June 30 following the date of issuance. In order to assure continuous licensure, applications for license renewal, accompanied by the prescribed renewal fee shall be filed with the Commission annually on or before June 1. Incomplete renewal applications not completed by July 1 shall be treated as original license applications.

~~(b) The license renewal fee shall be one hundred dollars (\$100.00) for each previously licensed school location and twenty dollars (\$20.00) for each real estate prelicensing or postlicensing course for which the applicant requests continuing approval. The fee shall be paid by check payable to the North Carolina Real Estate Commission and is nonrefundable. If the applicant requests approval of additional courses for which approval was not granted in the previous year, the fee for such additional courses is forty dollars (\$40.00) per course.~~

Authority G.S. 93A-4; 93A-33; 93A-34(b); 93A-35(b).

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

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

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

~~(c) A school shall provide to the Commission within 30 days of a written request from the Commission a written plan describing the changes the school intends to make in its instructional program to improve the performance of the school's students on the licensing examination in the future following attainment by the school of a licensing examination performance record for first time examination candidates which was below 70 percent passing for the previous annual reporting period.~~

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

**21 NCAC 58C .0219 VIOLATIONS OF THE
AMERICANS WITH DISABILITIES ACT**

~~The Commission may suspend, revoke or deny renewal of a private real estate school license upon finding that any court of competent jurisdiction has found the licensee, or any school official or instructor in the employ of the licensee, to be in violation of any applicable federal or state law or regulation prohibiting discrimination on the basis of disability, requiring places of public accommodation to be in compliance with prescribed accessibility standards, or requiring that courses related to licensing or certification for professional or trade purposes be offered in a place and manner accessible to persons with disabilities.~~

Authority G.S. 93A-3(c); 93A-33.

**21 NCAC 58C .0220 STUDENT EVALUATIONS OF
INSTRUCTOR PERFORMANCE**

~~Schools shall obtain and submit, at the request of the Commission, student evaluations of a course and instructor. The evaluations shall be completed by students on a form prescribed by the Commission and submitted by the school administrator within 15 days after completion of the course.~~

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

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

~~(a) When ownership of a licensed school is transferred to a different legal entity, the school license is not transferable and shall terminate on the effective date of the transfer.~~

~~(b) All courses shall be completed by the effective date of the ownership transfer. The transferring owner shall report course completion to the Commission.~~

~~(c) The entity acquiring ownership shall obtain an original school license for each location where the school will conduct courses as required by G.S. 93A-34 and Rule .0202 of this Subchapter prior to advertising courses, registering students, accepting tuition, conducting courses, or otherwise engaging in any school operations.~~

Authority G.S. 93A-33; 93A-34; 93A-35.

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

21 NCAC 58C .0301 PURPOSE AND APPLICABILITY

~~This Section establishes minimum standards for real estate prelicensing and postlicensing courses prescribed by G.S. 93A-4(a) and G.S. 93A-4(a1). Except where a school is approved under Rule .0103(b) of this Subchapter, these course standards must be satisfied in order for a school to be approved or licensed, as appropriate, to conduct real estate prelicensing or postlicensing courses.~~

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

**21 NCAC 58C .0302 PROGRAM STRUCTURING
AND ADMISSION REQUIREMENTS**

~~(a) The real estate prelicensing education program shall consist of a single course consisting of at least 75 classroom hours of instruction. Schools may establish course admission standards that require students to demonstrate to the satisfaction of the school that they possess the basic reading, writing and mathematics skills necessary to be successful in the prelicensing course, and these standards may include a requirement to complete additional instruction prior to enrollment.~~

~~(b) The real estate postlicensing education program shall consist of three courses, prescribed by the Commission in 21 NCAC 58A .1902, each consisting of at least 30 classroom hours of instruction, which may be taken by students in any sequence.~~

~~(c) The prerequisite for enrollment in a postlicensing course is possession of a current North Carolina broker license on provisional status; however, schools may admit an unlicensed individual to a postlicensing course if the individual demonstrates that he or she needs to complete the course for the purpose of qualifying for reinstatement of an expired, canceled, revoked or surrendered license not on provisional status, or may admit any individual regardless of license status if the individual demonstrates that he or she is required to complete the course pursuant to a disciplinary consent order issued by the Commission. A school shall not knowingly enroll an individual in a postlicensing course while the individual is taking another postlicensing course at the same school or a different school if~~

such enrollment would result in the individual being in class for more than 21 classroom hours in any given seven-day period.

Authority G.S. 93A-4(a1); 93A-33.

21 NCAC 58C .0303 COURSE CONTENT

(a) All courses shall consist of instruction in the subject area and at the competency and instructional levels prescribed in the Commission's course syllabi.

(b) Courses may also include coverage of additional related subject areas not prescribed by the Commission; however, any such course must provide additional class time above the minimum requirement for the coverage of such additional subject areas.

(c) Classroom time and instructional materials may be utilized for instructional purposes only and not for promoting the interests of or recruiting employees or members for any particular real estate broker, real estate brokerage firm or real estate franchise.

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

21 NCAC 58C .0304 COURSE COMPLETION STANDARDS

(a) Academic standards for prelicensing and postlicensing course completion shall reasonably assure that students receiving a passing grade possess knowledge and understanding of the subject areas prescribed for the course adequate to demonstrate a student's competency with due regard to the paramount interests of the public. A student's grade shall be based solely on his or her performance on examinations and on graded homework and classwork assignments.

(b) Prelicensing and postlicensing course completion requirements shall include obtaining a grade of at least 75 percent on a comprehensive final course examination that covers all prescribed subject areas and completing any mandatory graded homework or class work assignments in a way which demonstrates mastery of the subject matter. Take home or open book final course examinations are prohibited. Schools and instructors may utilize other course tests in addition to the final course examination provided that a student's grade on the final course examination accounts for at least 75 percent of the student's grade for the course.

(c) Prelicensing course final examinations may be provided by the Commission for use by approved schools and instructors and, if so provided, schools and instructors may use those examinations. If the Commission does not provide such examinations, or if a school or instructor elects not to use Commission provided examinations, the school or instructor shall use a comprehensive examination which tests student's knowledge and mastery of the course subject matter. The examination shall be subject to review and approval by the Commission in accordance with the standards prescribed in G.S. 93A-4(a) and (d) and Paragraph (a) of this Rule. Schools may, within 90 days of the course ending date, allow a prelicensing course student one opportunity to make up any missed course final examination or to retake any failed course final examination without repeating the course. If examinations provided by the Commission are used, any makeup or repeat examination shall consist of a different form of the examination that the one

previously administered in the student's course. If examinations not provided by the Commission are used, any makeup or repeat examination shall be comparable to the initial examination with regard to the number of questions, subject areas tested and overall difficulty, and at least 75 percent of the questions shall be different from those used on the initial examination.

(d) Postlicensing course final examinations shall be provided by the Commission and shall be used by approved instructors and schools. Schools shall, within 90 days of the course ending date, allow a postlicensing course student one opportunity to make up any missed course final examination or to retake any failed course final examination without repeating the course; however, if a makeup or repeat examination is requested by a student to be taken at the earliest possible opportunity, the school must provide an opportunity for the student to take such examination within seven days of the student's request. Any makeup or repeat examination shall consist of a different form of the examination than the one previously administered in the student's course.

(e) Schools and instructors shall take steps to protect the security and integrity of course examinations at all times. These steps shall include:

- (1) Maintaining examinations and answer keys in a secure place accessible only to the instructor or school officials;
- (2) Prohibiting students from retaining copies of examinations, answer sheets, and closing statement forms or scratch paper containing notes or calculations that jeopardize examination security; and
- (3) Monitoring students at all times when examinations are being administered.

(f) Any student who is found by an instructor or other school official to have cheated in any manner on any course examination shall be dismissed from the course in which enrolled and shall not be awarded a passing grade for the course or any credit for partial completion of the course. The cheating incident shall be reported in writing to the Commission within 10 days of the incident.

(g) The minimum attendance required for satisfactory course completion shall be 80 percent of all scheduled classroom hours for the course.

Authority G.S. 93A-4

21 NCAC 58C .0305 COURSE SCHEDULING

(a) All courses must have fixed beginning and ending dates, and schools may not utilize a scheduling system that allows students to enroll late for a course and then complete their course work in a subsequently scheduled course. Late enrollment is permitted only if the enrolling student can satisfy the minimum attendance requirement set forth in Rule .0304(g) of this Section.

(b) Courses shall not have class meetings that exceed six classroom hours in any given day and 21 classroom hours in any given seven-day period. However, a school that conducts courses with class meetings that do not exceed a total of 15 classroom hours in any seven-day period may conduct individual class meetings of up to 7 1/2 hours in any given day. A school may request approval to conduct postlicensing courses that involve an accelerated schedule of up to 30 classroom hours within a seven-day period and the Commission shall grant such approval if the

school demonstrates to the Commission that the course will be conducted in a manner that will not compromise instructional quality and course standards. When considering such a request, the Commission will take into consideration the proposed class schedule, the school's instructional plan, including a plan for assuring that students have a reasonable opportunity to perform required out of class reading and other assignments, the instructor's experience in teaching prelicensing and postlicensing courses, the license examination performance of the instructor's former prelicensing course students, and similar factors. A school granted approval to conduct postlicensing courses that involve an accelerated schedule that exceeds the basic scheduling restrictions prescribed by this Rule shall assure that such courses are conducted in a manner that complies with all applicable Commission rules and the instructional plan submitted to the Commission.

(c) A classroom hour consists of 50 minutes of classroom instruction and ten minutes of break time. For any class meeting that exceeds 50 minutes in duration, breaks at the rate of ten minutes per hour must be scheduled and taken at reasonable times.

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

21 NCAC 58C .0306 TEXTBOOKS

(a) Each course must utilize a textbook or course materials which are approved by the Commission as well as any additional instructional materials which may be prescribed by the Commission for such course. Instructors shall make appropriate out of class reading assignments in the selected textbook and any additional prescribed instructional materials and shall actively encourage students to perform such reading assignments.

(b) A request for Commission approval of a proposed textbook or similar course materials must be submitted in writing to the Commission and accompanied by two copies of the proposed textbook or course materials. If the request is for approval of a new edition of a previously approved textbook, the request must also include a detailed list of all significant changes to the old edition and such list of changes should be referenced to specific pages in the manuscript for the new edition. Approval of a textbook or other course materials applies only to the edition reviewed by the Commission. Additional approval is required for each subsequent edition. Approval is for an indefinite period; however, such approval may be terminated by the Commission at any time upon determining that the approved edition no longer complies with the criteria for approval. The criteria for approval shall be as follows:

- (1) The textbook or materials must provide accurate, current and complete coverage of the subject matter required by the Commission for the course for which approval of the textbook or materials is sought, including coverage of unique North Carolina real estate related laws, rules and practices that are integrated into the basic coverage.
- (2) The information provided must be logically organized and grammatically correct.
- (3) The nature and depth of subject matter coverage must be consistent with the competency and instructional levels prescribed by the

Commission for the course for which approval is sought.

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

21 NCAC 58C .0307 INSTRUCTORS

(a) Except as indicated in Paragraph (b) of this Rule, all courses must be taught by instructors who have been approved by the Commission in accordance with Section .0600 of this Subchapter. (b) Guest lecturers who do not possess the qualifications stated in Rule .0603 of this Subchapter may be utilized to teach collectively up to one third of any course, provided that no one individual guest lecturer may teach more than one fifth of any course, and provided further that each guest lecturer possesses experience directly related to the particular subject area the guest lecturer is teaching.

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

21 NCAC 58C .0309 COURSE COMPLETION REPORTING

(a) Schools shall provide a course completion certificate to each student who completes a prelicensing or postlicensing course in compliance with Commission rules and the school course completion standards. Each course completion certificate shall be on official school letterhead and identify the course, student and instructor. The certificate shall be signed by the director, dean or other school official responsible for supervising the conduct of the course.

(b) Schools shall prepare and submit to the Commission accurate reports verifying completion of a prelicensing or postlicensing course for each student who completes a prelicensing or postlicensing course in compliance with Commission rules and school course completion standards. Such reports shall include:

- (1) students' names (full legal name for prelicensing course students);
- (2) students' license numbers (for postlicensing course students);
- (3) students' unique identification number (for prelicensing course students);
- (4) course dates;
- (5) school and course code numbers;
- (6) instructor's name and code number (for prelicensing courses); and
- (7) course information.

(c) The report shall be transmitted by uploading the information to the Commission's website at www.ncrec.gov within seven calendar days following the course. Schools shall electronically submit with postlicensing course completion reports the per student fee prescribed by G.S. 93A-4(a2).

Authority G.S. 93A-4(a); 93A-4(a2); 93A-4(d); 93A-33.

21 NCAC 58C .0310 COURSE RECORDS

(a) Schools shall retain on file for three years copies of all enrollment, grade and attendance records and shall make such records available to the Commission upon request.

(b) Schools shall retain on file for two years a master copy of each final course examination that shall indicate the answer key, course

title, course dates and name of instructor. Examination file copies shall be made available to the Commission upon request.

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

21 NCAC 58C .0311 INSTRUCTIONAL DELIVERY METHODS

The principal instructional delivery method utilized in real estate prelicensing and postlicensing courses must provide for the instructor to interact with students either in person in a traditional classroom setting or through an interactive television system or comparable system which permits continuous mutual audio and visual communication between the instructor and all students and which provides for monitoring and technical support at each site where the instructor or students are located. The use of media-based instructional delivery systems such as videotape or digital video disc (DVD), remote non-interactive television, computer-based instructional programs or similar systems not involving continuous mutual audio and visual communication between instructor and students may be employed only to enhance or supplement personal teaching by the instructor. Such delivery systems may not be used to substitute for personal teaching by the instructor. No portion of a course may consist of correspondence instruction.

Authority G.S. 93A-3(c); 93A-4(a); 93A-34.

21 NCAC 58C .0312 EXCEPTION FOR PERSONS WITH DISABILITIES

Schools may deviate from Commission rules concerning student attendance, course scheduling, instructional methods, instructional materials, facilities or similar matters as may be necessary in order for a school to comply with the Americans With Disabilities Act or other laws requiring such schools to accommodate persons with disabilities; provided that no deviations from Commission rules are permitted by this Rule with regard to program structuring, course content, academic course completion standards, or instructors. When considering a request for special accommodation under the Americans With Disabilities Act or other similar laws, a school shall make a reasonable inquiry to determine that the person making the request is a qualified individual with a disability and that the requested accommodation is appropriate for the particular disability. A school providing a special accommodation for a student with a disability that requires the school to deviate from Commission rules shall notify the Commission in writing of the accommodation within ten days of the start of the course in which the student is enrolled or, if the accommodation is requested after the start of the course, within ten days of the date the accommodation is first provided.

Authority G.S. 93A-3(c); 93A-34.

21 NCAC 58C .0313 NOTICE OF SCHEDULED COURSES

(a) Schools shall provide the Commission written notice of all scheduled postlicensing course offerings not later than 10 days prior to a scheduled course beginning date. The notice shall include the name and assigned number for the school and, for each scheduled course, the name and assigned number for the course,

the scheduled beginning and ending dates, the course meeting days and times (including any scheduled lunch breaks), the specific location and the name of the instructor.

(b) Schools shall notify the Commission of any schedule changes or course cancellations at least five days prior to the original scheduled course beginning date. If a last minute change or cancellation is necessary due to some unforeseen circumstance, then notice shall be provided to the Commission as soon as possible.

Authority G.S. 93A-4(a1),(d); 93A-33.

SECTION .0600 –PRELICENSING AND POSTLICENSING INSTRUCTORS

21 NCAC 58C .0601 PURPOSE AND APPLICABILITY

This Section prescribes the criteria and procedures for Commission approval of instructors of real estate prelicensing and postlicensing courses and also prescribes performance standards for approved prelicensing and postlicensing instructors.

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

21 NCAC 58C .0602 NATURE AND SCOPE OF INSTRUCTOR APPROVAL

Approval of real estate prelicensing and postlicensing course instructors shall be accomplished separately from the approval and licensure of schools to conduct real estate prelicensing and postlicensing courses. Approval of an instructor to teach prelicensing and postlicensing courses authorizes the instructor to teach such courses at schools approved or licensed by the Commission to conduct such courses; however, an approved instructor shall not independently conduct a prelicensing or postlicensing course. An instructor must obtain written approval from the Commission prior to teaching a prelicensing or postlicensing course for any school and prior to representing to any school or other party that the instructor is approved or may be approved as a prelicensing or postlicensing course instructor.

Authority G.S. 93A-4; 93A-33; 93A-34.

21 NCAC 58C .0603 APPLICATION AND CRITERIA FOR ORIGINAL APPROVAL

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

(b) An instructor applicant shall demonstrate that he or she possesses good moral character as set out in G.S. 93A-4(b) and the following qualifications or other qualifications found by the Commission to be equivalent to the following qualifications:-

- (1) a current North Carolina real estate broker license that is not on provisional status;
- (2) a current continuing education record;
- (3) three years active full time experience in general real estate brokerage, including

substantial experience in real estate sales and at least one year of general brokerage experience in North Carolina, within the previous seven years; and

- (4) ~~60 semester hours of college-level education at an institution accredited by the Southern Association of Colleges and Schools or any other college-accrediting body recognized by the U.S. Department of Education.~~

For purposes of this Rule, substantial experience is experience which is material, valuable, and worthwhile and not nominal, occasional, or intermittent. The Commission shall consider teaching experience at the secondary or post-secondary level in lieu of a portion of the brokerage experience requirement.

(c) ~~In addition to the qualification requirements stated in Paragraph (b) of this Rule, an applicant shall also demonstrate completion of the Commission's new instructor seminar within three years prior to the date of application and shall submit a one-hour video recording which depicts the applicant teaching a real estate prelicensing or postlicensing course topic and which demonstrates that the applicant possesses the basic teaching skills described in Rule .0604 of this Section. The new instructor seminar requirement shall be waived upon a finding by the Commission that the applicant possesses comparable instructor training, three years full time experience teaching real estate prelicensing courses in another state within the previous five years, or other equivalent qualifications. The video recording shall comply with the requirements specified in Rule .0605(c) of this Section. An applicant who is a Commission-approved continuing education update course instructor under Subchapter E, Section .0200 of this Chapter or who holds the Distinguished Real Estate Instructor (DREI) designation granted by the Real Estate Educators Association or an equivalent real estate instructor certification is exempt from the requirement to demonstrate satisfactory teaching skills by submission of a digital video disc (DVD) or videotape. An applicant who is qualified under Paragraph (b) of this Rule but who has not satisfied these additional requirements at the time of application shall be approved and granted a six-month grace period to complete these requirements. The approval of any instructor who is granted such six-month period to complete the requirements shall automatically expire on the last day of the period if the instructor has failed to satisfy his or her qualification deficiencies and the period has not been extended by the Commission. The Commission shall extend the six-month period for up to three additional months when the Commission requires more than 30 days to review and act on a submitted video recording, when the expiration date of the period occurs during a course being taught by the instructor, or when the Commission determines that such extension is otherwise warranted by exceptional circumstances which are outside the instructor's control or when failure to extend the grace period could result in harm or inconvenience to students, licensees, or other innocent persons. An individual applying for instructor approval who was previously allowed the six-month grace period to satisfy the requirements stated in this Paragraph, but did not satisfy such requirements within the allowed grace period, shall not be allowed the grace period.~~

Authority G.S. 93A-4; 93A-33; 93A-34.

21 NCAC 58C .0604 INSTRUCTOR PERFORMANCE

~~(a) Instructors shall conduct courses in accordance with the Commission's rules and course syllabi. Instructors shall conduct themselves in a professional manner when performing their instructional duties and shall conduct their classes in a manner that demonstrates knowledge of the subject matter being taught as evidenced by the ability to teach the subject matter without mistake or inaccuracy, and mastery of the following basic teaching skills:~~

- ~~(1) The ability to communicate through speech, including the ability to speak clearly at an appropriate rate of speed and with appropriate voice inflection, grammar and vocabulary in a manner that enhances learning.~~
- ~~(2) The ability to present an effective visual image to a class, including appropriate appearance and physical mannerisms.~~
- ~~(3) The ability to present instruction in, an accurate, logical, orderly and understandable manner that enhances learning, to utilize illustrative examples as appropriate, and to respond appropriately to questions from students.~~
- ~~(4) The ability to utilize varied instructional techniques in addition to lecture, such as class discussion, role playing or other techniques in a manner that enhances learning.~~
- ~~(5) The ability to utilize instructional aids, such as an overhead projector, in a manner that enhances learning.~~
- ~~(6) The ability to maintain an appropriate learning environment and effective control of a class.~~
- ~~(7) The ability to interact with adult students in a manner that encourages students to learn, that demonstrates an understanding of student backgrounds, that avoids offending the sensibilities of students, and that avoids personal criticism of any other person, agency or organization.~~

~~(b) Instructors shall utilize course examinations that will assure compliance with the course completion standards prescribed in Rule .0304 of this Section. Instructors shall take appropriate steps to protect the security of course examinations and shall not allow students to retain copies of final course examinations.~~

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

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

21 NCAC 58C .0605 REQUEST FOR EXAMINATIONS AND VIDEO RECORDINGS

~~(a) Upon request of the Commission, an instructor shall submit to the Commission copies of final course examinations, with answer keys, used in prelicensing courses taught by the instructor.~~

~~(b) Upon request of the Commission, an instructor shall submit to the Commission a digital video recording that depicts the instructor teaching portions of a prelicensing or postlicensing~~

course specified in the request by the Commission, and demonstrates that the instructor possesses the basic teaching skills described in Rule .0604 of this Section.

(e) ~~Any video recording submitted to the Commission in connection with an instructor application shall be approximately one hour in length and depict the instructor teaching one continuous block of instruction on a single topic. Any video recording submitted in connection with an instructor application or in response to a request from the Commission shall:~~

- ~~(1) have been made within 12 months of the date of submission;~~
- ~~(2) be recorded either on a digital video disc (DVD), USB drive, or similar medium;~~
- ~~(3) be unedited;~~
- ~~(4) include a label identifying the instructor and dates of the video instruction; and~~
- ~~(5) have visual and sound quality sufficient to allow reviewers to clearly see and hear the instructor.~~

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

21 NCAC 58C .0606 POSTLICENSING COURSE REPORTS

~~The Commission may require an instructor to submit, on a form prescribed by the Commission, periodic reports providing information on student enrollment and course completion for each postlicensing course taught by the instructor.~~

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

21 NCAC 58C .0607 EXPIRATION, RENEWAL, AND REINSTATEMENT OF APPROVAL

(a) ~~Commission approval of prelicensing and postlicensing instructors shall expire on the third December 31 following issuance of approval, except as otherwise provided in Rule .0603(e) of this Section.~~

(b) ~~In order to assure continuous approval, approved instructors must file applications for renewal of approval on a form provided by the Commission on or before December 1 immediately preceding expiration of their approval. To qualify for renewal of approval, instructors must demonstrate that they continue to satisfy the criteria for original approval set forth in Rule .0603(b) of this Section and that they have attended, during the immediately preceding approval period, at least three separate real estate instructor educational programs of at least six hours each. When considering an application for renewal of instructor approval, the Commission shall recognize experience in teaching real estate prelicensing or postlicensing courses, Commission-approved continuing education courses or comparable courses in lieu of the real estate brokerage experience requirement set forth in Rule .0603(b) of this Section.~~

(c) ~~In order to reinstate an expired instructor approval, the former instructor must file an application provided by the Commission, must satisfy the criteria for original approval set forth in Rule .0603(b) of this Section, and must demonstrate that he or she has attended at least three separate real estate instructor educational programs of at least six hours each during the previous three years. If an applicant's prior approval has been expired for more than~~

~~three years, the applicant also must satisfy the criteria for original approval set forth in Rule .0603(e) of this Section. A reinstatement applicant who satisfies the criteria set forth in Rule .0603(b) of this Section but who does not satisfy the criteria set forth in Rule .0603(e) of this Section or who has not attended the aforementioned three real estate instructor educational programs within the previous three years shall be reinstated and granted a six-month grace period to satisfy all remaining requirements. The grace period shall operate in the same manner as the grace period described in Rule .0603(e) of this Section. Any instructor educational programs attended during the grace period to satisfy the reinstatement requirement shall not also be credited toward the instructor educational program attendance requirement described in Paragraph (b) of this Rule when the instructor subsequently applies for renewal of his or her approval.~~

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

21 NCAC 58C .0608 DENIAL OR WITHDRAWAL OF APPROVAL

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

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

students on the licensing examination in the future following attainment by the instructor of a licensing examination performance record for first time examination candidates which was below 70 percent passing for the previous annual reporting period.

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

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

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

SUBCHAPTER 58E - REAL ESTATE CONTINUING EDUCATION

SECTION .0100 - UPDATE COURSE

21 NCAC 58E .0101 PURPOSE AND APPLICABILITY

~~This Section describes the update course component of the continuing education requirement for real estate licensees and prescribes the criteria and procedures for a prospective sponsor to obtain approval to conduct a Commission developed update course.~~

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0102 UPDATE COURSE COMPONENT

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

(b) ~~The Commission shall develop annually a General Update Course and a Broker In Charge Update Course that shall be conducted by sponsors approved by the Commission under this Subchapter. The subject matter of these courses shall be determined by the Commission, and shall include instruction on the duties and responsibilities required of brokers by the License Law and Commission rules as well as current trends, standards, or changes affecting the real estate brokerage practice. The Broker in Charge Update Course shall also include instruction on~~

~~the duties and responsibilities required of brokers in charge by the License Law and Commission rules. The Commission shall produce instructor and student materials for use by course sponsors, and shall prepare completely new courses for each one-year period beginning July 1 and ending the next June 30. Sponsors shall acquire the Commission developed course materials and utilize the materials to conduct the update courses. The courses shall be conducted as prescribed by the rules in this Subchapter and the course materials developed by the Commission. All course materials developed by the Commission for use in an update course and that are subject to the protection of federal copyright laws are the property of the Commission. Violation of the Commission's copyright with regard to these materials shall be grounds for disciplinary action. Sponsors shall provide brokers participating in their classes a copy of the student materials developed by the Commission. With advance approval from the Commission, course sponsors and instructors may make modifications to the update course when the update course is being promoted to and conducted for a group of brokers that specialize in a particular area of real estate brokerage, provided that the modifications relate to the same general subject matter addressed in the prescribed update course and the course as modified achieves the same educational objectives as the unmodified course.~~

(c) ~~Approved sponsors shall conduct update courses using an instructor who has been approved by the Commission as an update course instructor under Section .0200 of this Subchapter. The sponsor may conduct the update course at any location as frequently as is desired during the approval period; however, no courses may be conducted between June 11 and June 30 of any approval period.~~

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

21 NCAC 58E .0103 APPLICATION FOR ORIGINAL APPROVAL

~~An entity seeking original approval to sponsor a Commission developed update course must make application on a form prescribed by the Commission. The applicant must submit a nonrefundable fee of one hundred dollars (\$100.00) which may be in the form of a check payable to the North Carolina Real Estate Commission; provided, however, that no fee is required if the entity making application is a community college, junior college, college or university located in this State and accredited by the Southern Association of Colleges and Schools, or is an agency of federal, state or local government. An applying entity that is not a resident of North Carolina shall also file with the application a consent to service of process and pleadings.~~

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0104 CRITERIA FOR APPROVAL OF UPDATE COURSE SPONSOR

~~Approval to sponsor a Commission developed update course shall be granted to an applicant upon showing to the satisfaction of the Commission that:~~

- (1) ~~The applicant has submitted all information required by the Commission and paid the application fee, if applicable;~~

- ~~(2) The applicant has at least one proposed instructor who has been approved by the Commission as an update course instructor under Section .0200 of this Subchapter;~~
- ~~(3) The applicant satisfies any of the requirements of Section .0400 of this Subchapter relating to qualifications or eligibility of course sponsors; and~~
- ~~(4) The applicant and the continuing education coordinator required by Rule .0405 of this Subchapter must be truthful, honest and of high integrity. In this regard, the Commission may consider the reputation and character of any owner, officer or director of any corporation, association or organization applying for sponsor approval.~~

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0105 STUDENT FEE FOR UPDATE COURSES

~~Sponsors of an update course may establish the amount of the fee to be charged to students taking this course; provided, however, that the established fee must be an all inclusive fee and no separate or additional fee may be charged to students for providing course materials required by the Commission, providing course completion certificates, reporting course completion to the Commission, or for recouping similar routine administrative expenses.~~

Authority G.S. 93A-3(c); 93A-4A.

SECTION .0200 - UPDATE COURSE INSTRUCTORS

21 NCAC 58E .0201 PURPOSE AND APPLICABILITY

~~This Section prescribes the criteria and procedures for a prospective instructor of a Commission developed update course to obtain and maintain approval to teach such course.~~

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0202 NATURE AND SCOPE OF APPROVAL

~~Update course instructors shall be approved by the Commission in a separate process from approval for update course sponsors. Approved update course instructors may teach the General Update Course or Broker In Charge Update Course for any approved update course sponsor for as long as his or her approval is on active status. An approved update course instructor may not independently conduct an update course unless the instructor has also obtained approval as an update course sponsor. An instructor shall obtain written approval from the Commission prior to teaching an update course and prior to representing to any sponsor or other party that he or she is approved or may be approved as an update course instructor.~~

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

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

~~(a) A person seeking initial approval as an update course instructor shall submit an application for original approval on a form provided by the Commission. The application form shall be available on the Commission's website at www.nrec.gov or upon request to the Commission and shall require the applicant to set forth:~~

- ~~(1) the applicant's legal name, occupation, address, and telephone number;~~
- ~~(2) the applicant's professional and occupational licensing history and status;~~
- ~~(3) the applicant's criminal history and history of professional license disciplinary actions;~~
- ~~(4) the applicant's educational background, including special real estate education;~~
- ~~(5) the applicant's experience in the real estate business;~~
- ~~(6) the applicant's real estate teaching experience; and~~
- ~~(7) the applicant's signature.~~

~~An applicant who is not a resident of North Carolina shall also file with the application a consent to service of process and pleadings. No application fee is required. All required information regarding the applicant's qualifications shall be submitted.~~

~~(b) The applicant shall be truthful, honest, and of high integrity.~~
~~(c) The applicant shall be qualified under one of the following standards:~~

- ~~(1) possession of a current North Carolina real estate broker license that is not on provisional status, a current continuing education record, and three years full time experience on active status in general real estate brokerage, including substantial experience in real estate sales and at least one year of general brokerage experience in North Carolina, within the previous seven years. For purposes of this Rule, "substantial experience" is experience that is material, valuable, and worthwhile and not nominal, occasional, or intermittent; or~~
- ~~(2) possession of qualifications found by the Commission to be equivalent to the standard stated in Subparagraph (c)(1) of this Rule.~~

~~(d) The applicant shall possess good teaching skills as demonstrated on a video recording portraying the instructor teaching a live audience. The applicant shall submit the video recording for Commission review on a digital video disc (DVD), USB drive, or similar medium. The video recording shall be 45-60 minutes in length and depict a continuous block of instruction on a single real estate or directly related topic. The video recording shall be unedited, show a portion of the audience, and have visual and sound quality sufficient to enable reviewers to see and hear the instructor. The video recording shall have been recorded within 12 months of the date of submission and include a label identifying the instructor and date of the video instruction. The video recording shall demonstrate that the instructor possesses the teaching skills described in Rule .0509 of this Subchapter.~~

(e) ~~The applicant shall take the Commission's Update Instructor Seminar for the real estate license year in which the applicant's approval would be effective prior to approval being issued. If this seminar is not taken within six months after filing the application for approval, the application shall be deemed cancelled. The Update Instructor Seminar shall be a seven hour course offered by the Commission multiple times each year to demonstrate the General Update Course and Broker in Charge Update Course materials described in Rule .0102(b) of this Subchapter to approved instructors to prepare them to teach those courses. Registration and available dates for the Update Instructor Seminar are available online at the Commission's website, www.ncree.gov.~~

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

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

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

(a) ~~An instructor's initial approval shall be issued on active status and shall remain on active status during the approval period so long as the instructor takes the Commission's annual Update Instructor Seminar, described in Rule .0203(e) of this Section, before September 1 of each year. An instructor may teach the General Update Course or Broker In Charge Update Course while his or her license is on active status. When an instructor fails to complete the Update Instructor Seminar by September 1, the instructor's approval shall be placed on inactive status and shall remain on inactive status until the seminar is taken or until the expiration of the instructor's approval, whichever occurs first. An instructor shall not teach any version of the update course while his or her approval is on inactive status.~~

(b) ~~If an instructor whose approval is on active status is unable to take the Update Instructor Seminar on any of the scheduled seminar dates as shown on the Commission's website at www.ncree.gov before September 1 of any year due to a personal hardship such as a personal or family illness or a business conflict, the instructor may request and obtain from the Commission an extension of time to take the seminar on a seminar date following the September 1 deadline. The instructor shall not complete the course later than December 1 of that year. If an extension of time is granted, the instructor's approval shall remain on active status during the extension period.~~

(c) ~~Commission approval of update course instructors expires on the third December 31 following issuance of approval. Approved instructors shall file applications for renewal of approval on a form provided by the Commission on or before the December 1 immediately preceding expiration of approval. The renewal application form shall be available on the Commission's website at www.ncree.gov or upon request to the Commission and shall require the applicant to set forth:~~

- (1) ~~the applicant's legal name, occupation, address, and telephone number;~~

- (2) ~~the applicant's Update Course Instructor Number;~~
- (3) ~~the applicant's professional and occupational licensing history and status;~~
- (4) ~~the applicant's criminal history and history of professional license disciplinary actions;~~
- (5) ~~information regarding the applicant's experience as a real estate instructor;~~
- (6) ~~information regarding real estate education and instructor training received by the applicant;~~
- (7) ~~the applicant's real estate related employment; and~~
- (8) ~~the applicant's signature.~~

~~In order to renew their approval, applicants shall satisfy the criteria for original approval, with the exception of the requirement in Rule .0203(d) of this Section, and their approval shall be on active status as described in Paragraph (a) of this Rule. Applicants for renewal of approval whose approval is on inactive status shall also take the Commission's annual Update Instructor Seminar for the real estate license year in which the applicant's renewal of approval would be effective.~~

(d) ~~In order to reinstate an expired instructor approval, the former instructor shall file an application for original approval on a form provided by the Commission and described in Rule .0203(a) of this Section, satisfy the criteria for original approval set forth in Rule .0203(b) and (c) of this Section, and demonstrate that he or she has attended at least three separate real estate instructor educational programs of at least six hours each during the previous three years. If the applicant's prior instructor approval was on inactive status at the time the approval expired, the applicant shall additionally take the Commission's annual Update Instructor Seminar for the real estate license year in which the applicant's reinstated approval would be effective. If the applicant's prior instructor approval has been expired for more than one year, the applicant shall also satisfy the criteria for original approval set forth in Rule .0203(d) of this Section.~~

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

21 NCAC 58E .0205 DENIAL OR WITHDRAWAL OF APPROVAL

(a) ~~The Commission may deny or withdraw approval of any update course instructor upon finding that:~~

- (1) ~~The instructor has made any false statements or presented any false, incomplete, or incorrect information in connection with an application for approval or renewal of approval;~~
- (2) ~~The instructor has failed to meet the criteria for approval described in Rule .0203 of this Section at the time of application or at any time during an approval period or has refused or failed to comply with any other provisions of this Subchapter;~~
- (3) ~~The instructor has failed to demonstrate, during the teaching of update courses, those effective teaching skills described in Rule .0509 of this Subchapter;~~
- (4) ~~The instructor has provided false, incomplete, or incorrect information in connection with any~~

reports a course sponsor is required to submit to the Commission; or

- (5) ~~The instructor has been disciplined by the Commission or any other occupational licensing agency in North Carolina or another jurisdiction.~~

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

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0206 REQUEST FOR A VIDEO RECORDING

~~Upon the written request of the Commission, an approved update course instructor must submit to the Commission, a video recording depicting the instructor teaching the update course. The video recording must have been recorded within 12 months of the date of submission, must be recorded either on a digital video disc (DVD) or on a VHS formatted videocassette, must include a label which clearly identifies the instructor and the date of the video recorded presentation, and must conform to technical specifications set forth in Rule .0203(d) of this Section.~~

Authority G.S. 93A-3(c); 93A-4A.

SECTION .0300 - ELECTIVE COURSES

21 NCAC 58E .0301 PURPOSE AND APPLICABILITY

~~This Section describes the elective course component of the continuing education requirement for real estate licensees and prescribes the criteria and procedures for the approval of continuing education elective courses, sponsors and instructors.~~

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0302 ELECTIVE COURSE COMPONENT

(a) ~~To renew a license on active status, a real estate broker must complete, within one year preceding license expiration and in addition to satisfying the continuing education mandatory update course requirement described in Rule .0102 of this Subchapter, four classroom hours of instruction in one or more Commission-approved elective courses.~~

(b) ~~Approval of an elective course includes approval of the sponsor and instructor(s) as well as the course itself. Such approval authorizes the sponsor to conduct the approved course using the instructor(s) who have been found by the Commission to satisfy the instructor requirements set forth in Rule .0306 of this Section. The sponsor may conduct the course at any location as frequently as is desired during the approval period, provided, however, the sponsor may not conduct any session of an approved course for real estate continuing education purposes between June 11 and June 30, inclusive, of any approval period.~~

(c) ~~The sponsor of an approved "distance education" elective course, as defined in Rule .0310 of this Subchapter, shall not permit students to register for any such course between June 11~~

~~and June 30, inclusive, of any approval period. The sponsor of any such distance education course shall require students registering for any such course to complete the course within 30 days of the date of registration for the course or the date the student is provided the course materials and permitted to begin work, whichever is the later date, provided that the deadline for course completion in any approval period shall not be later than June 10 of that approval period. The sponsor shall advise all students registering for a distance education course, prior to accepting payment of any course fees, of the deadlines for course completion.~~

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

21 NCAC 58E .0303 APPLICATION FOR ORIGINAL APPROVAL

(a) ~~A person or entity seeking original approval of a proposed elective course shall complete an application on a form prescribed by the Commission. The form shall be available on the Commission's website at www.ncrec.gov or upon request to the Commission and shall require the applicant to set forth:~~

- ~~(1) the title of the proposed elective course;~~
- ~~(2) the applicant's legal name, address, and telephone number;~~
- ~~(3) the identification of the continuing education coordinator;~~
- ~~(4) the applicant's sponsor code, if previously approved;~~
- ~~(5) the amount of the application fee enclosed;~~
- ~~(6) the credit/classroom hours awarded for completing the course;~~
- ~~(7) the subject matter of the course;~~
- ~~(8) the identification of the course owner;~~
- ~~(9) the information regarding the instructor guide and student manual;~~
- ~~(10) the identification of prospective instructors; and~~
- ~~(11) the applicant's signature.~~

(b) ~~The applicant shall submit a nonrefundable fee of one hundred dollars (\$100.00) per course payable to the North Carolina Real Estate Commission; provided, however, that no fee is required if the applicant is a community college, junior college, college or university located in this State and accredited by the Southern Association of Colleges and Schools, or is an agency of federal, state, or local government.~~

(c) ~~The application shall be accompanied by a copy of the course objectives, timed outline, instructor's guide, and materials that will be provided to students.~~

(d) ~~An applicant who is not a resident of North Carolina shall also file with the application a consent to service of process and pleadings.~~

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

21 NCAC 58E .0304 CRITERIA FOR ELECTIVE COURSE APPROVAL

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

- ~~(1) The applicant shall submit the application form and pay the application fee, both of which are~~

- required in Rule .0303 of this Section, including any additional application fee set forth in Subparagraph (a)(12) of this Rule if applicable;
- (2) The applicant shall satisfy the requirements of Section .0400 of this Subchapter relating to the qualifications or eligibility of course sponsors;
 - (3) The subject matter of the course shall satisfy the elective course subject matter requirements set forth in Rule .0305 of this Section and all information to be presented in the course shall be current and accurate;
 - (4) The course shall involve a minimum of four classroom hours of instruction on acceptable subject matter, as defined in Rule .0305 of this Section. A classroom hour consists of 50 minutes of instruction and 10 minutes of break time;
 - (5) The applicant and the continuing education coordinator required by Rule .0405 of this Subchapter shall be truthful, honest and of high integrity. To do this, the Commission may consider the reputation and character of any owner, officer and director of any corporation, association or organization applying for sponsor approval;
 - (6) The proposed instructor(s) for the course shall possess the qualifications described in Rule .0306 of this Section;
 - (7) The instructional delivery methods to be utilized in the course shall either involve live instruction in a traditional classroom setting or comply with the requirements described in Rule .0310 of this Section;
 - (8) The applicant shall submit an instructor guide that includes:
 - (A) a course outline describing the subject matter and topics to be taught in sufficient detail to permit an evaluation by the Commission of the depth and accuracy of the subject matter and topics to be covered;
 - (B) the amount of time to be devoted to each major topic and to breaks;
 - (C) the learning objective(s) for each major topic; and
 - (D) the instructional methods and instructional aids that will be utilized in the course.
 - (9) The proposed time allotments shown in the instructor guide shall be appropriate for the proposed subject matter to be taught. Unless the applicant can demonstrate that straight lecture is the most effective instructional method for the course, the instructor guide must provide for the use of a variety of instructional methods and instructional aids intended to enhance student participation, attentiveness, and learning. Examples of instructional methods that may be appropriate include, but are not limited to, instructor led class discussion, role playing, and in-class individual or group work assignments. Examples of instructional aids that may be appropriate include, but are not limited to, PowerPoint slides, overhead transparencies, video recordings, and information from the Internet displayed on a large screen;
 - (10) The course shall include handout materials for students that provide, in narrative or text form, all the information to be presented in the course. This requirement shall not be satisfied by using only copies of PowerPoint slides or a detailed course outline. All information included in the student materials shall be up to date, without error, explanatory of topics covered, consistent with course learning objectives, grammatically correct, and organized. The scope and depth of information presented shall be appropriate in view of course learning objectives and subject matter time allotments, and the information presented must, except for instruction on changes in laws, rules, or practices, include coverage of subject matter at a cognitive level higher than that expected of entry level real estate brokers. The quality of reproduced student materials shall be generally comparable to that commonly seen in education materials produced by professional publishers. These standards for student materials also apply, to the extent they are relevant, to student materials other than paper materials such as material to be viewed by computer that are provided for use by students in distance education courses;
 - (11) If an applicant proposes to use copyrighted materials in the course, such materials shall be used in a form approved by the copyright holder. If any copyrighted material is to be duplicated by the applicant for use in the course, the sponsor must have the specific permission of the copyright holder; and
 - (12) When an applicant resubmits an elective course approval application after a previous application for the same course has been twice reviewed and found unsatisfactory by the Commission, the resubmitted application shall be treated as an original application for approval and shall be subject to the application fee prescribed in Rule .0303 of this Section.
- (b) An application for elective course approval shall be found unsatisfactory if the applicant fails to fulfill one or more of the requirements set forth in this Rule.
 - (c) Applicants requesting approval of distance education courses shall also comply with the requirements described in Rule .0310 of this Section.

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

21 NCAC 58E .0305 ELECTIVE COURSE SUBJECT MATTER

~~(a) Elective courses must cover a real estate topic and must directly contribute to accomplishment of the primary purpose of mandatory continuing education, which is to help assure that real estate licensees possess the knowledge, skills and competence necessary to function in the real estate business in a manner that protects and serves the public interest. The knowledge or skills taught in an elective course must enable licensees to better serve real estate consumers and the subject matter must be directly related to real estate practice. Examples of acceptable subject matter include, but are not limited to: Real property law; agency law; real estate contracts; land use controls; environmental protection laws; real estate economics and markets; real estate finance, investment or appraisal; property management; real estate construction or development; commercial real estate brokerage; taxation of real estate investments; the Real Estate License Law and Commission rules; and other similar topics. Examples of subject matter that is not acceptable include, but are not limited to: Real estate sales training; real estate brokerage management; business administration or management; general office and computer skills; success training; motivational training; personal development; time management; and other similar topics.~~

~~(b) If there are unique North Carolina laws, rules or customary practices that are relevant to a topic being addressed in an elective course, and if the course is to be conducted in North Carolina or primarily for the benefit of North Carolina licensees, then the course must accurately and completely address such North Carolina laws, rules or practices.~~

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0306 ELECTIVE COURSE INSTRUCTORS

~~(a) The instructor of an elective course must be truthful, honest and of high integrity and must be qualified under one of the following standards:~~

- ~~(1) Possession of a baccalaureate or higher degree in a field directly related to the subject matter of the course;~~
- ~~(2) Three years' full time work experience within the previous ten years that is directly related to the subject matter of the course;~~
- ~~(3) Three years' full time experience within the previous ten years teaching the subject matter of the course; or~~
- ~~(4) Education or experience or both found by the Commission to be equivalent to one or more of the above standards.~~

~~(b) If the subject matter of the course deals directly with real estate brokerage practices, then the instructor must also possess a current real estate license.~~

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0307 ELECTIVE COURSE CREDIT HOURS

~~The elective course approval issued to a course sponsor shall include the number of hours of continuing education credit that may be awarded for the course. The maximum number of credit hours that may be awarded for an elective course is four hours.~~

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0308 REQUEST FOR A VIDEO RECORDING

~~Upon the written request of the Commission, the sponsor of an approved elective course shall submit to the Commission a digital video recording depicting the course being taught by a particular instructor designated by the Commission. The digital video recording of the instructor's course presentation shall conform to technical specifications set forth in Rule .0203(d) of this Subchapter.~~

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

21 NCAC 58E .0309 STUDENT FEES FOR ELECTIVE COURSES

~~A sponsor of an elective course may establish the amount of the fee(s) to be charged to students taking the course; provided, however, that the total amount of any fees to be charged must be included in any advertising or promotional materials for the course.~~

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0310 DISTANCE EDUCATION COURSES

~~(a) As used in this Chapter, the term "distance education" means educational programs in which instruction is accomplished through the use of media whereby teacher and student are separated by distance and sometimes by time. An entity requesting approval of a distance education course must, in addition to satisfying all other requirements for elective course approval specified in this Section, demonstrate that the proposed distance education course satisfies the following criteria:~~

- ~~(1) The course shall be designed to assure that students actively participate in the instructional process while completing the course by utilizing techniques that require student interaction with the instructor, other students or a computer program at frequent intervals throughout each class period. The course design must not permit students to merely sit passively and observe instruction or read instructional materials. If the nature of the subject matter is such that the learning objectives for the course cannot be reasonably accomplished without some direct interaction between the instructor and students, then the course design must provide for such interaction.~~
- ~~(2) A course that does not provide the opportunity for continuous audio and visual communication between the instructor and all students during~~

~~the course presentation shall utilize testing and remedial processes appropriate to assure student mastery of the subject material.~~

- ~~(3) A course that involves students completing the course on a self-paced study basis shall be designed so that the time required for a student of average ability to complete the course will be at least four hours, and the sponsor shall utilize a system that assures that students have actually performed all tasks designed to assure student participation and mastery of the subject material. The number of equivalent classroom hours assigned by the course sponsor or developer to the course must be supported by studies or field tests, and the applicant must submit a description of such studies or field tests with the course application.~~
- ~~(4) The proposed instructional delivery methods shall be appropriate to enable effective accomplishment of the proposed learning objectives and the scope and depth of the instructional materials must also be consistent with the proposed learning objectives.~~
- ~~(5) The sponsor shall provide appropriate technical support to enable students to satisfactorily complete the course.~~
- ~~(6) An instructor shall be available to respond to student questions about the subject matter of the course and to direct students to additional sources of information. Instructors shall have training in the proper use of the instructional delivery method utilized in the course, including the use of computer hardware and software or other equipment and systems.~~
- ~~(7) The sponsor shall provide students an orientation or information package which contains all information required by the Commission to be provided to students and all necessary information about the course, including information about course fees and refund policies, course subject matter and learning objectives, procedures and requirements for satisfactory course completion, any requirements with regard to computer hardware and software or other equipment, and instructor and technical support.~~

~~(b) An entity seeking approval of a computer-based distance education course must submit a complete copy of the course on the medium that is to be utilized and, if requested, must make available, at a date and time satisfactory to the Commission and at the sponsor's expense, all hardware and software necessary for the Commission to review the submitted course. In the case of an internet-based course, the Commission must be provided access to the course via the internet at a date and time satisfactory to the Commission and shall not be charged any fee for such access.~~

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

SECTION .0400 - GENERAL SPONSOR REQUIREMENTS

21 NCAC 58E .0401 PURPOSE AND APPLICABILITY

~~This Section contains miscellaneous general provisions relating to the approval of sponsors to conduct either the update course or elective courses and to the responsibilities of approved sponsors. Matters addressed include: Sponsor names and eligibility; designation of a continuing education coordinator; renewal of course and sponsor approval; records and reports; grounds for denial or withdrawal of approval, and other related matters.~~

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0402 SPONSOR ELIGIBILITY

~~Any legal entity is eligible to seek approval as a sponsor of continuing education courses, provided that the entity seeking approval of a course as a continuing education elective course is either the owner of the proprietary rights to the course or has lawfully acquired from the course owner the right to seek course approval from the Commission and to conduct such course.~~

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0403 SPONSOR NAME

~~(a) The official name to be used by any course sponsor in connection with the offering of an approved continuing education course must clearly distinguish the sponsor from any other previously approved continuing education course sponsor. Unless the sponsor is a licensed private real estate school proposing to operate continuing education courses in its own name, the official name also must clearly distinguish the sponsor from any licensed private real estate school. Sponsor applicants proposing to use a sponsor name which does not comply with this standard may be required to adopt a different name as a condition of approval.~~

~~(b) Any advertisement or promotional material utilized by an approved course sponsor must include the course sponsor's official name and shall not include any other name for the sponsor.~~

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0404 ADVANCE APPROVAL REQUIRED

~~Prospective sponsors of an update course or elective course must obtain written approval from the Commission to conduct such course prior to conducting the course and prior to advertising or otherwise representing that the course is or may be approved for continuing education credit in North Carolina. No retroactive approval to conduct an update course will be granted for any reason. Retroactive approval of an elective course may be granted by the Commission if the course sponsor can provide evidence satisfactory to the Commission that the course was not offered for purposes of satisfying the real estate continuing education requirement and that the sponsor could not reasonably have been expected to anticipate in advance that students would want to receive continuing education elective credit for the course.~~

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0405 CONTINUING EDUCATION COORDINATOR

~~A sponsor of an update course or elective course must designate one person to serve as the continuing education coordinator for all Commission approved continuing education courses offered by the sponsor. The designated coordinator shall serve as the official contact person for the sponsor and shall be responsible for the following:~~

- ~~(1) Supervising the conduct of all the sponsor's Commission approved continuing education courses;~~
- ~~(2) Signing the course completion certificates provided by the sponsor to licensees completing courses; and~~
- ~~(3) Submitting to the Commission all required fees, rosters, reports and other information.~~

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0406 COURSE COMPLETION REPORTING

~~(a) Course sponsors must prepare and submit to the Commission, along with the per student fee required by G.S. 93A-4.1(d), reports verifying completion of a continuing education course for each licensee who satisfactorily completes the course according to the criteria in 21 NCAC 58A .1705 and who desires continuing education credit for the course. Such reports shall include students' names, students' license numbers, course date, sponsor and course codes and course information presented in the format prescribed by the Commission, and sponsors shall be held accountable for the completeness and accuracy of all information in such reports. Such reports shall be transmitted electronically via the Internet. Sponsors must submit these reports to the Commission in a manner that will assure receipt by the Commission within seven calendar days following the course, but in no case later than June 15 of any approval period for courses conducted during that approval period.~~

~~(b) At the request of the Commission, course sponsors must provide licensees enrolled in each continuing education course an opportunity to complete an evaluation of each approved continuing education course on a form provided by the Commission. Sponsors must submit the completed evaluation forms to the Commission with the reports verifying completion of a continuing education course.~~

~~(c) Course sponsors shall provide each licensee who satisfactorily completes an approved continuing education course according to the criteria in 21 NCAC 58A .1705 a course completion certificate on a form provided by the Commission. Sponsors must provide the certificates to licensees within fifteen calendar days following the course, but in no case later than June 15 for any course completed prior to that date. The certificate shall be retained by the licensee as his or her proof of having completed the course.~~

~~(d) When a licensee in attendance at a continuing education course does not comply with the student participation standards, the course sponsor shall advise the Commission of this matter in writing at the time reports verifying completion of continuing education for the course are submitted. A sponsor who determines that a licensee failed to comply with either the~~

~~Commission's attendance or student participation standards shall not provide the licensee with a course completion certificate nor shall the sponsor include the licensee's name on the reports verifying completion of continuing education.~~

~~(e) Notwithstanding the provisions of Paragraphs (a) and (c) of this Rule, approved course sponsors who are national professional trade organizations and who conduct Commission approved continuing education elective courses out of state shall not be obligated to submit reports verifying completion of continuing education courses by electronic means, provided that such sponsors submit to the Commission a roster which includes the names and license numbers of North Carolina licensees who completed the course in compliance with the criteria in 21 NCAC 58A .1705 and who desire continuing education credit for the course. A separate roster must be submitted for each class session and must be accompanied by a per student fee required by G.S. 93A-4.1(d), payable to the North Carolina Real Estate Commission. Rosters must be submitted in a manner which assures receipt by the Commission within 15 calendar days following the course, but not later than the last course reporting dates for an approval period specified in Paragraph (a) of this Rule. Such sponsors may also provide each licensee who completes an approved course in compliance with the criteria in 21 NCAC 58A .1705 a sponsor developed course completion certificate in place of a certificate on a form provided by the Commission. Sponsors must provide the certificates to licensees within fifteen calendar days following the course.~~

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

21 NCAC 58E .0408 CHANGE IN SPONSOR OWNERSHIP

~~If, at any time after the original approval of a course sponsor, an aggregate of fifty percent or more of the ownership interest is transferred to natural persons or entities other than those having an ownership interest at the time of the original application, the course sponsor approval shall terminate. Termination shall be effective on the date of the transaction resulting in the aggregate transfer of fifty percent or more of the original ownership. The course sponsor, the transferring owners, and the new owners shall not conduct any course after the termination of sponsor approval. The natural persons or entities holding an ownership interest after the transfer shall obtain an original course sponsor approval as required by G.S. 93A-4.1 and Rules .0104, .0303 and .0402 of this Subchapter prior to advertising courses, registering students, accepting tuition, conducting courses, or otherwise engaging in any sponsor activity.~~

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

21 NCAC 58E .0409 CHANGES DURING APPROVAL PERIOD

~~(a) Course sponsors shall notify the Commission in writing prior to any change in business name, ownership interest, continuing education coordinator, address, or business telephone number.~~

~~(b) Course sponsors shall obtain advance approval from the Commission for any changes to be made in the content or number of hours for elective courses. However, changes in course content that are solely for the purpose of assuring that information~~

provided in a course is current and accurate do not require approval during the approval period, but shall be reported at the time the sponsor requests renewal of course approval. Requests for approval of changes shall be in writing.

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

21 NCAC 58E .0410 COURSE RECORDS

All course sponsors must retain on file for two years records of student registration and attendance for each session of a continuing education course that is conducted and must make such records available to the Commission upon request.

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0411 RENEWAL OF COURSE AND SPONSOR APPROVAL

(a) Commission approval of all continuing education elective courses and update course sponsors expires on the next June 30 following the date of issuance. In order to assure continuous approval, applications for renewal of Commission approval, accompanied by the prescribed renewal fee, must be filed on a form prescribed by the Commission annually on or before April 30. Any incomplete application for renewal of continuing education course and sponsor approval received on or before April 30 which is not completed within 10 days of notice of the deficiency, as well as any renewal application received after April 30, shall not be accepted and the sponsor will have to file an application for original approval on or after July 1 in order to be reapproved. Applicants for renewal of approval must satisfy the criteria for original approval in order to renew their approval. When the Commission issues original course or sponsor approval with an effective date of approval between April 1 and June 10, the deadline for submission of applications for renewal of such newly approved sponsor or course shall be June 10 of the year in which the original approval is issued.

(b) The fee for renewal of Commission approval shall be fifty dollars (\$50.00) for each update course sponsor and for each elective course, provided that no fee is required for course sponsors that are exempted from original application fees. The fee shall be paid by check payable to the North Carolina Real Estate Commission and is nonrefundable.

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0412 DENIAL OR WITHDRAWAL OF APPROVAL

(a) The Commission may deny or withdraw approval of any course or course sponsor upon finding that:

- (1) the course sponsor made any false statements or presented any false, incomplete, or incorrect information in connection with an application for course or sponsor approval or renewal of such approval;
- (2) the course sponsor or any official or instructor in the employ of the course sponsor refused or failed to comply with any of the provisions of this Subchapter;

- (3) the course sponsor or any official or instructor in the employ of the course sponsor provided false, incomplete, or incorrect information in connection with any reports the course sponsor is required to submit to the Commission;
- (4) the course sponsor engaged in a pattern of canceling scheduled courses;
- (5) the course sponsor provided to the Commission in payment for required fees a check that was dishonored by a bank;
- (6) an instructor in the employ of the course sponsor fails to conduct approved courses in a manner that demonstrates possession of the teaching skills described in Rule .0509 of this Subchapter;
- (7) the course sponsor or any official or instructor in the employ of the course sponsor has been found by a court of competent jurisdiction to have violated, in connection with the offering of continuing education courses, any applicable federal or state law or regulation:
 - (A) prohibiting discrimination on the basis of disability;
 - (B) requiring places of public accommodation to be in compliance with prescribed accessibility standards; or
 - (C) requiring that courses related to licensing or certification for professional or trade purposes be offered in a place and manner accessible to persons with disabilities;
- (8) the course sponsor or any official or instructor in the employ of the course sponsor has been disciplined by the Commission or any other occupational licensing agency in North Carolina or another jurisdiction;
- (9) the course sponsor or any official or instructor in the employ of the course sponsor collected money from brokers for a continuing education course, but refuses or fails to provide the promised instruction;
- (10) the course sponsor or any person associated with the sponsor provided to a broker any false, incomplete, or misleading information relating to real estate licensing or education matters or the broker's education needs or license status;
- (11) the course sponsor fails to submit to the Commission class rosters as required by Rule .0406 of this Section; or
- (12) the course sponsor fails to submit the per student fee as required by G.S. 93A-4.1(d) and Rule .0406 of this Section.

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

Authority G.S. 93A-3(c); 93A-4.1; 93A-6(a)(15).

SECTION .0500 - COURSE OPERATIONAL REQUIREMENTS

21 NCAC 58E .0501 PURPOSE AND APPLICABILITY

This Section prescribes various operational requirements for both approved elective courses and update courses. Sponsors are fully responsible for assuring compliance with these course operational requirements as well as continued compliance with the criteria for original approval of courses and sponsors.

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0502 SCHEDULING

Courses must be scheduled and conducted in a manner that limits class sessions to a maximum of eight classroom hours in any given day, including appropriate breaks for each class session. The maximum permissible class session without a break is 90 minutes. Courses scheduled for more than four hours in any given day must include a meal break of at least one hour.

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0503 MINIMUM CLASS SIZE

The minimum class size for any session of an approved continuing education course shall be five students, as determined by the sponsor's preregistration records. The minimum class size requirement shall not apply to class sessions when the sponsor notifies the Commission in writing of the scheduled class session as provided in Rule .0504 of this Section and advertises in advance the scheduled class session in the general real estate community where the class session is to be held. A sponsor who conducts a class session for fewer than five students shall submit with the reports verifying completion of the course a copy of the advertisement for the class session plus a statement or other documentation indicating the date of the advertisement and the advertising method.

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0504 NOTICE OF SCHEDULED COURSES

(a) Sponsors must provide the Commission written notice of all scheduled course offerings not later than 10 days prior to a scheduled course date. The notice shall include the name and assigned number for the sponsor and, for each scheduled course, the name and assigned number for the course, the scheduled date and time, specific location, and name of the instructor.

(b) Sponsors must notify the Commission of any schedule changes or course cancellations at least five days prior to the original scheduled course date. If a last minute change or cancellation is necessary due to some unforeseen circumstance, then notice shall be provided to the Commission as soon as possible.

(c) Sponsors must notify the Commission as soon as possible when it becomes apparent that enrollment in a planned class session will exceed 100 students.

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0505 ADVERTISING; PROVIDING COURSE INFORMATION

(a) Course sponsors shall not utilize advertising of any type that is false or misleading. If the number of continuing education credit hours awarded by the Commission for an approved elective course is less than the number of scheduled hours for the course, any course advertisement or promotional materials that indicate that the course is approved for real estate continuing education credit in North Carolina shall specify the number of continuing education credit hours awarded by the Commission for the course.

(b) Any flyers, brochures, or similar materials utilized to promote a continuing education course shall describe the fee to be charged and the sponsor's cancellation and fee refund policies. Course sponsors shall provide prospective students with a full description of the sponsor's cancellation and fee refund policies prior to accepting payment for any course(s).

(c) Course sponsors of any elective course shall, upon request, provide any prospective student a description of the course content sufficient to give the prospective student a general understanding of the instruction to be provided in the course.

(d) Course sponsors shall not use endorsements or recommendations of any person or organization, in advertising or otherwise, unless the person or organization has consented in writing to the use of the endorsement or recommendation and is not compensated for such use.

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

21 NCAC 58E .0506 CLASSES OPEN TO ALL LICENSEES

All class sessions of approved continuing education courses must be open to all licensees on a first come/first served basis; provided that the sponsor of a course which has a bona fide education or experience prerequisite, such as an advanced course leading to a special real estate designation, may refuse admission to a licensee not satisfying such prerequisite. An approved sponsor may contract with an organization such as a real estate firm, franchise or trade organization to conduct approved continuing education courses for licensees affiliated with such organization, but the sponsor must allow licensees not affiliated with the organization to enroll in any class session on a first come/first served basis.

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0507 CLASSROOM FACILITIES

Courses must be conducted in a fixed building. No bus, van, tractor trailer or other motor vehicle shall be used as a classroom facility. The classroom must:

- (1) be of sufficient size to accommodate comfortably all enrolled students;
- (2) be equipped with student desks, worktables with chairs, or other seating having a writing surface sufficient to provide every student a personal workspace;

- (3) ~~have sufficient light, heat, cooling, and ventilation to provide a comfortable environment, and public address equipment;~~
- (4) ~~have the capability for instructors to make electronic presentations; and~~
- (5) ~~be free of distractions that would disrupt class sessions.~~

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

21 NCAC 58E .0508 STUDENT CHECK-IN

~~Upon initially checking in for a class session, sponsors and instructors shall require each licensee to provide their license number and shall provide each student with a copy of the continuing education student information sheet provided to sponsors by the Commission.~~

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0509 INSTRUCTOR CONDUCT AND PERFORMANCE

~~(a) Instructors must assure that class sessions are commenced in a timely manner and are conducted for the full amount of time that is scheduled. Instructors must also assure that each update course is taught according to the instructor guide provided by the Commission and that each elective course is taught according to the course plan and instructor guide that was approved by the Commission, including the furnishing to students of appropriate student materials.~~

~~(b) Instructors must conduct themselves in a professional and courteous manner when performing their instructional duties and must conduct classes in a manner that demonstrates a mastery of the following basic teaching skills:~~

- (1) ~~The ability to communicate effectively through speech, including the ability to speak clearly at an appropriate rate of speed and with appropriate voice inflection, grammar and vocabulary.~~
- (2) ~~The ability to present an effective visual image to a class, including appropriate appearance and physical mannerisms.~~
- (3) ~~The ability to present instruction in a thorough, accurate, logical, orderly and understandable manner, to utilize illustrative examples as appropriate, and to respond appropriately to questions from students.~~
- (4) ~~The ability to effectively utilize varied instructional techniques in addition to straight lecture, such as class discussion, role playing or other techniques.~~
- (5) ~~The ability to effectively utilize instructional aids, such as the overhead projector, to enhance learning.~~
- (6) ~~The ability to maintain an appropriate learning environment and effective control of a class.~~
- (7) ~~The ability to interact with adult students in a positive manner that encourages students to learn, that demonstrates an understanding of varied student backgrounds, that avoids~~

~~offending the sensibilities of students, and that avoids personal criticism of any other person, agency or organization.~~

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0510 MONITORING ATTENDANCE

~~(a) Sponsors and instructors must monitor attendance for the duration of each class session to assure that all students reported as satisfactorily completing a course according to the criteria in 21 NCAC 58A .1705 have attended at least 90 percent of the scheduled classroom hours. Students shall not be admitted to a class session after 10 percent of the scheduled classroom hours have been conducted. The 10 percent absence allowance is generally permitted for any reason at any time during the course; however sponsors and instructors shall not permit students to use the 10 percent absence allowance to avoid the last 10 percent of the course or to leave the course early unless the absence is for circumstances beyond the student's control that could not have been reasonably foreseen by the student and is approved by the instructor. With regard to the Commission's 12 hour Broker In-Charge Course that is taught over two days, students must attend at least 90 percent of the scheduled classroom hours on each day of the course to receive any credit for the course, and the 10 percent absence allowance restrictions cited above shall apply to each day of the course. Students shall not be allowed to sign a course completion card, shall not be issued a course completion certificate, and shall not be reported to the Commission as having completed a course unless the student satisfies the attendance requirement. Sponsors and instructors may not make any exceptions to the attendance requirement for any reason.~~

~~(b) Sponsors must assure that adequate, personnel are present during all class sessions to assist the instructor in monitoring attendance and performing the necessary administrative tasks associated with conducting a course. A minimum of one person, including the instructor, for every 50 students registered for a class session shall be utilized for this purpose. Only one person, including the instructor, is necessary for this purpose when the class size is 50 or fewer persons.~~

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0511 STUDENT PARTICIPATION STANDARDS

~~(a) In addition to requiring student compliance with the attendance requirement, sponsors and instructors shall require that students comply with the following student participation standards:~~

- (1) ~~A student shall direct his or her undivided attention to the instruction being provided and refrain from engaging in activities unrelated to the instruction.~~
- (2) ~~A student shall refrain from engaging in any activities which are distracting to other students or the instructor, or which otherwise disrupt the orderly conduct of a class.~~
- (3) ~~A student shall comply with all instructions provided by the sponsor or instructor related to~~

~~providing information needed to properly report completion of a course by the student.~~

- ~~(4) A student taking a distance education course shall personally perform all work required to complete the course.~~

~~(b) Instructors and sponsors have the authority to dismiss from a class session any student who fails to comply with the student participation standards prescribed in Paragraph (a) of this Rule.~~

~~(c) Sponsors shall not issue a course completion certificate to any student who fails to comply with the student participation standards set forth in Paragraph (a) of this Rule, nor shall sponsors include the name of such student on their reports verifying completion of a continuing education course. Sponsors shall submit to the Commission with their course completion reports a written statement which includes the name and license number of the student for whom the sponsor does not report course credit, details concerning the student's failure to comply with the student participation standards, and names of other persons who can attest to the student's conduct.~~

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0512 SOLICITATION OF STUDENTS

~~Sponsors and instructors may make available for purchase by continuing education students materials that belong to the sponsor, instructor, or some other party; however, class time may not be used to promote or sell any materials or to solicit affiliation or membership in any business or organization.~~

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0513 CANCELLATION AND REFUND POLICIES

~~Course sponsors must administer course cancellation and fee refund policies in a non-discriminatory manner. In the event a scheduled course is canceled, reasonable efforts must be made to notify preregistered students of the cancellation and all prepaid fees received from such preregistered students must be refunded within 30 days of the date of cancellation or, with the student's permission, applied toward the fees for another course.~~

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0514 COURSE INSPECTIONS BY COMMISSION REPRESENTATIVE

~~Course sponsors shall admit the Commission's authorized representative to monitor any continuing education class without prior notice. Such representatives shall not be required to register or pay any fee and shall not be reported as having completed the course.~~

Authority G.S. 93A-3(c); 93A-4A.

21 NCAC 58E .0515 ACCOMMODATIONS FOR PERSONS WITH DISABILITIES

~~Course sponsors may deviate from Commission rules concerning the conduct of continuing education courses, such as rules addressing classroom facilities, minimum class size and instructional methods, as may be necessary in order for the~~

~~sponsor to comply with the Americans with Disabilities Act or other laws requiring such sponsors to accommodate persons with disabilities. When considering a request for special accommodation under the Americans With Disabilities Act or other similar laws, a sponsor shall make a reasonable inquiry to determine that the person making the request is a qualified individual with a disability and that the requested accommodation is appropriate for the particular disability. A sponsor providing a special accommodation for a licensee with a disability that requires the sponsor to deviate from Commission rules shall notify the Commission in writing of the accommodation at the time reports are submitted for the class session attended by the licensee.~~

Authority G.S. 93A-3(c); 93A-4A.

SUBCHAPTER 58G - NORTH CAROLINA REAL ESTATE COMMISSION

SECTION .0100 - GENERAL

21 NCAC 58G .0102 LOCATION

(a) The office of the North Carolina Real Estate Commission is located at 1313 Navaho Drive, Raleigh, North Carolina. The mailing address is Post Office Box 17100, Raleigh, North Carolina 27619-7100.

(b) Forms and information about the office may be obtained from the Commission's website at www.ncrec.gov.

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

21 NCAC 58G .0103 DEFINITIONS

The following definitions apply throughout this Chapter and to all forms prescribed pursuant to this Chapter:

- (1) "Commission" means the North Carolina Real Estate Commission.
- (2) "Commission's website" means www.ncrec.gov.
- (3) "Day" means calendar day unless the rule expressly states otherwise. The first day counted is the day following the act, event, or transaction that triggered the tolling of the designated time period.
- (4) "Fee" means a payment made to the Commission by a bank check, certified check, money order, debit card, credit card, or other electronic means and is nonrefundable once the payment has been processed.
- (5) "Form" means an original form template provided by the Commission and completed by the submitting party.

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

SUBCHAPTER 58H – REAL ESTATE EDUCATION

SECTION .0100 - GENERAL

21 NCAC 58H .0101 DEFINITIONS

The following definitions apply throughout this Subchapter and to all forms prescribed pursuant to this Chapter:

- (1) "Instructional hour" means 50 minutes of instruction and 10 minutes of break time.
- (2) "Distance education" means a method of instruction accomplished through the use of media whereby teacher and student are separated by distance or time.
- (3) "End-of-course evaluation" means a student evaluation of the course and the instructor's performance that shall be administered during the class period before administration of the end-of-course examination.
- (4) "End-of-course examination" means an examination administered at the conclusion of a course that tests students' knowledge and mastery of all course subjects mandated by the Commission-approved course syllabus.
- (5) "Mid-course evaluation" means a student evaluation of the course and the instructor's performance given at the midpoint of the course.
- (6) "Instructor development program" means courses of instruction designed to assist real estate instructors in the performance of Prelicensing, Postlicensing, or Continuing Education instructor duties or in the development of teaching skills.
- (7) "License Examination Performance Record" means the percentage of an instructor's or school's students who, within 180 days of completing a Prelicensing course pursuant to Rule .0210(a) of this Subchapter, take and pass the license examination, as defined in 21 NCAC 58A .0402, on their first attempt.
- (8) "Postlicensing course" means any one of the courses comprising the 90 hour Postlicensing education program pursuant to G.S. 93A-4(a1) and 21 NCAC 58A .1902.
- (9) "Prelicensing course" means a single course consisting of at least 75 hours of instruction on subjects prescribed by the Commission pursuant to G.S. 93A-4(a).
- (10) "Private real estate school" means any real estate educational entity that is privately owned and operated by an individual, partnership, corporation, limited liability company, or association, and that conducts, for a profit or tuition charge, Prelicensing or Postlicensing courses.
- (11) "Public real estate school" means any proprietary business or trade school licensed by the State Board of Community Colleges under G.S. 115D-90 or approved by the Board of Governors of the University of North Carolina that conducts Prelicensing or Postlicensing courses.

- (12) "Schools" mean licensed private and approved public real estate schools.
- (13) "Update Courses" mean the General Update Course and the Broker-in-Charge Update Course.

Authority G.S. 93A-4; 93A-4.1; 93A-32; 93A-33.

SECTION .0200 – REAL ESTATE SCHOOLS

21 NCAC 58H .0201 APPLICABILITY

This Section applies to all real estate schools offering approved Prelicensing and Postlicensing courses. Public real estate schools offering approved Prelicensing and Postlicensing courses are exempt from rules in this Section unless a Rule specifically requires compliance.

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

21 NCAC 58H .0202 APPLICATION FOR ORIGINAL APPROVAL OF A PUBLIC REAL ESTATE SCHOOL

(a) Any entity seeking original approval as a public real estate school to conduct Prelicensing or Postlicensing courses shall apply to the Commission on a form available on the Commission's website and shall set forth the:

- (1) school name;
- (2) school director name and contact information;
- (3) school address;
- (4) school telephone number;
- (5) school website address;
- (6) type of public institution;
- (7) Prelicensing or Postlicensing courses to be offered by the school;
- (8) Update courses to be offered by the school; and
- (9) a signed certification by the school director that courses shall be conducted in compliance with the rules of this Subchapter.

(b) Schools approved to offer Prelicensing or Postlicensing courses shall be eligible to offer Update courses and continuing education courses.

(c) Approval extends only to the courses included in the application for school approval.

Authority G.S. 93A-4.

21 NCAC 58H .0203 APPLICATION FOR ORIGINAL LICENSURE OF A PRIVATE REAL ESTATE SCHOOL

(a) Any entity seeking original licensure as a private real estate school to conduct Prelicensing or Postlicensing courses shall apply to the Commission on a form available on the Commission's website and shall set forth the following criteria in addition to the requirements in G.S. 93A-34(b):

- (1) the physical, website, and email addresses and telephone number of the principal office of the school;
- (2) the proposed school director's legal name, real estate license number, if any, email and mailing address, and telephone number;

- (3) the type of school ownership entity and the name, title, real estate license number, if any, mailing address, and ownership percentage of each individual or entity holding at least 10% ownership in the entity;
- (4) the North Carolina Secretary of State Identification Number;
- (5) the criminal history and history of occupational license disciplinary actions of individual school owner(s);
- (6) the physical address of each proposed school location;
- (7) the source of real estate examinations to be used for each course offered;
- (8) a copy of a current fire inspection report;
- (9) a copy of a criminal background check for the previous seven years on the proposed school director;
- (10) a signed Consent to Service of Process and Pleadings form available on the Commission's website, if a foreign entity;
- (11) the Prelicensing or Postlicensing courses to be offered by the school;
- (12) the Update courses to be offered by the school;
- (13) the signature and certification of the school owner(s).

(b) Private real estate school names shall contain the words "Real Estate" and other words identifying the entity as a school, such as "school," "academy," or "institute" that are distinguishable from other licensed private real estate schools and from continuing education course sponsors approved by the Commission.

(c) The school name shall be used in all school publications and advertising.

(d) Each school shall certify that its facilities and equipment are in compliance with all applicable local, state and federal laws and regulations regarding health, safety, and welfare, including the Americans with Disabilities Act.

(e) The original license application fee shall be two hundred dollars (\$200.00) for each proposed school location.

(f) The initial fee for a school to offer a Prelicensing or Postlicensing course at any of its locations during the licensing period is forty dollars (\$40.00) per Prelicensing or Postlicensing course.

(g) Schools approved to offer Prelicensing or Postlicensing courses shall be eligible to offer Update courses and continuing education courses.

(h) If a school relocates any location during any licensing period, the school owner shall submit an original application for licensure of that location pursuant to this Rule.

Authority G.S. 93A-4; 93A-33; 93A-34(b).

21 NCAC 58H .0204 SCHOOL DIRECTOR

- (a) All schools shall designate a school director, who shall
- (1) supervise all school operations related to the conduct of Prelicensing and Postlicensing courses;

- (2) ensure compliance with all statutory and rule requirements governing the licensing and operation of the school; and

- (3) act as the school's liaison to the Commission.

(b) Public real estate schools shall designate one permanent, professional-level employee to serve as the school director.

(c) The school director for a private real estate school shall satisfy to the Commission that he or she possesses good character and reputation and shall satisfy one of the following qualification standards:

- (1) hold a baccalaureate or higher degree in the field of education;

- (2) have at least two years full-time experience within the past 10 years as an instructor or school administrator; or

- (3) possess qualifications that the Commission finds to be equivalent to those described in Subparagraph (1) or (2) of this Rule, such as:

- (A) a transcript demonstrating completion of 120 semester hours of education at an institution accredited by any college accrediting body recognized by the U. S. Department of Education;

- (B) currently holding or having held within the past 15 years a military pay grade of an E-8 level, O-1 level, or higher; or

- (C) a current Distinguished Real Estate Instructor (DREI) designation granted by the Real Estate Educators' Association.

(d) The school director shall approve a guest lecturer prior to the guest lecturer teaching a course session. School directors shall ensure that all guest lecturers possess experience related to the particular subject area the guest lecturer is teaching. Guest lecturers may be utilized to teach collectively up to one-fourth of any Prelicensing or Postlicensing course.

(e) The school director shall ensure that each instructor meets the requirements of Rule .0302 of this Subchapter.

(f) The school director shall ensure each course utilizes a textbook currently approved by the Commission pursuant to Rule .0206 of this Section.

(g) Schools shall notify the Commission within 10 days of any change in school director during the licensing period.

Authority G.S. 93A-4; 93A-33; 93A-34.

21 NCAC 58H .0205 PRIVATE REAL ESTATE SCHOOL BULLETIN

(a) A private real estate school shall publish a single bulletin addressing Prelicensing and Postlicensing courses offered. The same bulletin shall be used by all locations of a private real estate school.

(b) In addition to the information required by G.S. 93A-34(c)(5), a school's bulletin shall:

- (1) describe the purpose of Prelicensing and Postlicensing courses;

- (2) describe the school's policies and procedures on all other matters affecting students;

- (3) include the name and address of the Commission, along with a statement that any complaints concerning the school or its instructors should be directed to the Commission;
- (4) include a statement that the school shall not discriminate in its admissions policy or practice against any person on the basis of age, sex, race, color, national origin, familial status, handicap status, or religion;
- (5) contain the following prescribed text: "NOTICE: Pursuant to North Carolina Real Estate Commission Rule 21 NCAC 58A .1904, the Commission may deny or withdraw credit for a Postlicensing course that a provisional broker begins taking while already enrolled in another Postlicensing course at the same school or a different school if participating in the two courses concurrently results in the provisional broker attending Postlicensing course sessions that total more than 30 instructional hours in any given seven-day period;" and
- (6) include a signed certification that a student received a copy of the bulletin prior to payment of any portion of tuition or registration fee without the right to a full refund.

(c) A private real estate school may provide in its bulletin information about courses that are not approved by the Commission and shall state that such courses are not approved or sanctioned by the Commission.

(d) A private real estate school may not include in its bulletin any promotional information for a particular real estate broker, firm, franchise, or association, even if the entity being promoted owns the school.

(e) A private real estate school shall retain the signed certification required by Subparagraph (b)(6) of this Rule pursuant to Rule .0212 of this Section. The certification shall include:

- (1) the student's name;
- (2) the date;
- (3) the title of the course(s) for which the student is enrolling;
- (4) the course schedule, including the beginning and end date, and meeting days and times;
- (5) the amount of tuition and other required fees being paid by the particular student;
- (6) a provision whereby the school certifies that the school's bulletin has been provided to the student and that the student acknowledges receipt of the bulletin;
- (7) any provisions needed to address special accommodations or arrangements applicable to a particular student; and
- (8) the signatures of both the student and a school official.

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

21 NCAC 58H .0206 APPROVAL OF TEXTBOOKS

(a) A request for approval of a proposed textbook shall be submitted in writing to the Commission along with two copies of the proposed textbook. The criteria for approval shall be:

- (1) the textbook shall cover current North Carolina real estate related laws, rules, and practices;
- (2) the text shall be grammatically correct; and
- (3) the nature and depth of subject matter coverage shall be consistent with the competency and instructional levels prescribed by the Commission for the course for which approval is sought.

(b) Approval of a textbook shall only apply to the edition reviewed by the Commission. An application for approval of a new or updated edition of a previously approved textbook shall be submitted in writing to the Commission, along with two copies of the proposed textbook, and shall include a list with specific page references of all significant changes from the previously approved edition.

(c) Approval of a textbook shall terminate four years after the initial approval or upon the approval of a new edition of a previously approved textbook.

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

21 NCAC 58H .0207 SCHOOL ADVERTISING AND RECRUITMENT ACTIVITIES

(a) Any school utilizing its license examination performance record for advertising or promotional purposes shall only use data that:

- (1) are limited to the annual examination performance data for the particular school and for all examination candidates in the State;
- (2) include the time period covered, the number of first-time candidates examined, and either the number or percentage of first-time candidates passing the examination; and
- (3) are presented in a manner that is not misleading or false.

(b) Schools shall not make or publish, by way of advertising or otherwise, any false or misleading statement regarding employment opportunities that may be available as a result of completion of a course offered by that school or acquisition of a real estate license.

(c) Schools shall not use endorsements or recommendations of any person or organization of advertising or otherwise unless such person or organization has consented in writing to the use of the endorsement or recommendation. In no case shall any person or organization be compensated for an endorsement or recommendation.

(d) Schools may offer and advertise courses in addition to those approved by the Commission pursuant to this Subchapter provided that references to such courses are not made or published in a manner that implies approval by the Commission.

(e) Instructional time and materials may be utilized for instructional purposes only.

(f) Schools shall not offer Postlicensing courses only for brokers affiliated with a particular real estate broker, firm, franchise, or

association, even if the entity whose affiliated brokers would benefit from the closed course is the school owner.

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

21 NCAC 58H .0208 PRELICENSING AND POSTLICENSING COURSE SCHEDULING AND NOTIFICATION

(a) All Prelicensing and Postlicensing courses shall have fixed beginning and ending dates. Schools shall not utilize a scheduling system that allows students to enroll late for a course and then complete their course work in a subsequently scheduled course. Late enrollment shall be permitted only if the enrolling student can satisfy the minimum attendance requirement set forth in Rule .0210 of this Section.

(b) Schools shall notify the Commission of all scheduled Prelicensing and Postlicensing course offerings not later than 10 days prior to a scheduled course beginning date.

(c) The notice required by Paragraph (b) of this Rule shall include:

- (1) the school name;
- (2) the school code number; and
- (3) for each scheduled course:
 - (A) the name and course code number;
 - (B) the scheduled beginning and ending dates;
 - (C) the course meeting days and times, including any scheduled lunch breaks; and
 - (D) the name of the instructor and instructor number.

(d) If there is a change or cancellation within five days of the scheduled course date, then the school director shall provide notice to the Commission within 24 hours of the change or cancellation.

(e) Class meetings shall not exceed seven and a half instructional hours per day and shall not exceed 30 instructional hours over any seven day period.

Authority G.S. 93A-4.

21 NCAC 58H .0209 PRELICENSING AND POSTLICENSING COURSE ENROLLMENT

(a) A school shall not enroll an individual in a Postlicensing course if the first day of the Postlicensing course occurs while the individual is enrolled in a Prelicensing course or if that individual has not passed the license examination.

(b) A school shall not enroll an individual in a Postlicensing course if the first day of the Postlicensing course occurs while the individual is taking another Postlicensing course at the same school or a different school if such enrollment results in the individual being in class for more than 30 instructional hours in any given seven day period.

Authority G.S. 93A-4(a1); 93A-33.

21 NCAC 58H .0210 PRELICENSING AND POSTLICENSING COURSE COMPLETION STANDARDS

(a) To complete a Prelicensing course, a student shall, at a minimum:

- (1) attend at least 80 percent of all scheduled credit hours for the course; and
- (2) obtain a grade of at least 75 percent on the end-of-course examination.

(b) To complete a Postlicensing course, a student shall, at a minimum:

- (1) attend at least 90 percent of all scheduled credit hours for the course; and
- (2) obtain a grade of at least 75 percent on the end-of-course examination.

(c) The end-of-course examination shall be completed in the classroom and proctored by the instructor or another school staff member. Students shall not use textbooks or notes on the end-of-course examination.

(d) Prelicensing end-of-course examinations may be provided by the Commission for use by a licensed or approved school. If the Commission does not provide such end-of-course examination, or if a school elects not to use a Commission-provided examination, the school shall use an examination that tests students' knowledge and mastery of the course subject matter. Upon the request of the Commission during an application or investigation, the school shall provide a copy of its end-of-course examination.

(e) Postlicensing end-of-course examinations shall be provided by the Commission for use by a licensed or approved school.

(f) A school may, within 30 days of the course ending date, allow a Prelicensing or Postlicensing course student opportunities to make-up a missed end-of-course examination or to retake a failed end-of-course examination without repeating the course. Postlicensing students shall be allowed at least one retake examination opportunity. Any make-up or repeat end-of-course examination shall consist of a different form of the examination than any previously administered in the student's course. If the examination used is not provided by the Commission, at least seventy-five percent of the questions shall be different from those previously included on any end-of-course examination used earlier in the student's course.

(g) Schools, school directors, and instructors shall take steps to protect the security and integrity of course examinations at all times. These steps shall include:

- (1) maintaining examinations and answer keys in a secure place accessible only to the instructor or school officials;
- (2) prohibiting students from retaining copies of examinations, answer sheets, and scratch paper containing notes or calculations, or any material that may jeopardize examination security;
- (3) monitoring students at all times when examinations are being administered; and
- (4) prohibiting students from reviewing examinations, answer sheets, scratch paper, or any material used during the examination after students have completed the examination.

(h) Any student who is found to have cheated in any manner on any course examination shall be dismissed from the course and

shall not be awarded a passing grade for the course or any credit for partial completion of the course. The school shall report the cheating incident in writing to the Commission within 10 days.

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

21 NCAC 58H .0211 PRELICENSING AND POSTLICENSING ROSTER REPORTING

(a) A school shall provide a course completion certificate to each student who completes a Prelicensing or Postlicensing course under Rule .0210 of this Section. Each course completion certificate shall identify the course, date of completion, student, and instructor. The certificate shall be signed by the school director.

(b) For each Prelicensing or Postlicensing course taught, a school shall submit an accurate Roster Report electronically within 30 days following the course. Schools shall electronically submit with the Postlicensing Roster Reports the per student fee prescribed by G.S 93A-4(a2).

- (1) The Prelicensing Roster Report shall include:
 - (A) each student's legal name;
 - (B) each student's email address and telephone number;
 - (C) each student's unique identification number;
 - (D) the course completion date pursuant to Rule .0210 of this Section;
 - (E) the school's name and number;
 - (F) the course's number; and
 - (G) the instructor's name and number;
- (2) The Postlicensing Roster Report shall include:
 - (A) each student's legal name;
 - (B) each broker's license number;
 - (C) the course completion date;
 - (D) the school's name and number;
 - (E) the course's name and number; and
 - (F) the instructor's name and number.

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

21 NCAC 58H .0212 SCHOOL RECORDS

All school records shall be retained for three years by the school and be made available to the Commission during an investigation or application process. School records shall include:

- (1) enrollment and attendance records;
- (2) each student's end-of-course examination with grade and graded answer sheet;
- (3) a master copy of each end-of-course course examination with its answer key, course title, course dates, and name of the instructor;
- (4) all student evaluations pursuant to Rule .0213(a) of this Section;
- (5) all instructor evaluations pursuant to Rule .0213(c) of this Section;
- (6) class schedules;
- (7) advertisements;
- (8) bulletins, catalogues, and other official publications; and

- (9) statements of consent required by Rule .0207(c) of this Subchapter.

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

21 NCAC 58H .0213 EVALUATIONS OF INSTRUCTOR PERFORMANCE

(a) A school shall provide each student an opportunity to complete a mid-course evaluation and an end-of-course evaluation of the instructor in each Prelicensing and Postlicensing course. Each student's evaluation shall be on a form provided by the Commission, include a section for the student's comments, and shall evaluate the instructor's:

- (1) knowledge of the subject matter;
- (2) teaching skills; and
- (3) classroom management.

(b) The school director shall submit a Summary Report electronically within 30 days after course completion pursuant to Rule .0210 of this Section. The Summary Report form shall require the school director to set forth:

- (1) the full name of the instructor being evaluated;
- (2) title of course;
- (3) the number of students who initially enrolled in the course;
- (4) the number of students who met all course requirements pursuant to Rule .0210 of this Section;
- (5) the number of students who met all course requirements except Rule .0210(a)(2) and (b)(2) of this Section;

(c) In addition to the student evaluations in Paragraph (a) of this Rule, school directors shall also ensure all school-affiliated instructors are observed at least once annually for a minimum of one hour of live uninterrupted instruction by either the school director or a Commission-approved Prelicensing or Postlicensing instructor present in the classroom. School directors shall evaluate the instructor's teaching abilities pursuant to Rule .0304 of this Subchapter. The instructor shall receive the written evaluation of his or her instructional performance within 30 days of observation.

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

21 NCAC 58H .0214 EXPIRATION AND RENEWAL OF A SCHOOL APPROVAL OR LICENSE

(a) All Commission approvals and licenses issued to real estate schools shall expire annually on June 30 following issuance of approval or licensure.

(b) A school shall file an electronic application for renewal of its approval or license within 45 days immediately preceding expiration of approval or licensure on a form available on the Commission's website. The school renewal application form shall include:

- (1) the school name;
- (2) the school number;
- (3) the school director's name;
- (4) the school's mailing address, telephone number, and web address, if applicable;

- (5) all Commission approved courses offered by the school;
- (6) any change in the school's business entity;
- (7) court records of any conviction, guilty plea, or plea of no contest to, a misdemeanor or felony violation of state or federal law by a court of competent jurisdiction against the school owner(s) and school director since the last renewal;
- (8) records pertaining to any disciplinary action taken against the school owner(s) and school director by an occupational licensing board since the last renewal;
- (9) a copy of the current bulletin;
- (10) proof of bond as required in G.S. 93A-36;
- (11) proof of a current fire inspection; and
- (12) the school director's signature.

(c) The private school license renewal fee shall be one hundred dollars (\$100.00) for each school location.

(d) The renewal fee for a private real estate school to offer a Prelicensing or Postlicensing course at any of its locations during the licensed period is twenty-five dollars (\$25.00) per Prelicensing or Postlicensing course.

(e) If a school approval or license has expired, the school shall submit an application for original approval or licensure.

Authority G.S. 93A-4; 93A-33; 93A-34(b); 93A-35(b); 93A-36.

21 NCAC 58H .0215 DENIAL, WITHDRAWAL, OR TERMINATION OF SCHOOL APPROVAL OR LICENSE

(a) The Commission may deny or withdraw approval of any public real estate school or suspend, revoke, or deny renewal of the license of any private real estate school upon finding that:

- (1) any school official employed by the school has been convicted of, pleaded guilty to, or pleaded no contest to, a misdemeanor or felony violation of state or federal law by a court of competent jurisdiction;
- (2) any school official found by a court or government agency of competent jurisdiction to have violated any state or federal regulation prohibiting discrimination;
- (3) a school made any false statements or presented any false, incomplete, or incorrect information in connection with an application;
- (4) a school provided false, incomplete, or incorrect information in connection with any report the school is required to submit to the Commission;
- (5) a school presented to its students or prospective students false or misleading information relating to its instructional program, to the instructional programs of other institutions, or related to employment opportunities;
- (6) a school refused at any time to permit authorized representatives of the Commission to inspect the school or audit its courses;

- (7) a school director violated the rules of this Subchapter or was disciplined by the Commission under G.S. 93A-6;
- (8) a school obtained or used, or attempted to obtain or use, in any manner or form, North Carolina real estate license examination questions;
- (9) a school compiled a license examination performance record for first-time examination candidates that is below 60 percent passing for two or more of the previous five annual reporting periods;
- (10) a school failed to provide to the Commission a written plan describing the changes the school made or intends to make in its instructional program including instructors, course materials, methods of student evaluation, and completion standards to improve the performance of the school's students on the license examination within 30 days of the Commission's request during an investigation, application process, or following a school's attainment of a licensing examination record for first-time examination candidates that is below sixty percent passing for the previous annual reporting period;
- (11) a school provided the Commission a fee that was dishonored by a bank or returned for insufficient funds; or
- (12) a school refused or failed to comply with the provisions of this Subchapter.

(b) If, at any time after the original licensing of a private real estate school, an aggregate of 50 percent or more of the ownership interest is transferred to natural persons or entities other than those having an ownership interest at the time of the original application for licensure, the school's license shall terminate. Termination shall be effective on the date of the transaction resulting in the aggregate transfer of 50 percent or more of the original entity's ownership. The transferring owner shall report course completion to the Commission. The school and the transferring owners shall not conduct any course after the termination of the school licensure as set forth in this Rule. The natural persons or entities holding an ownership interest after the transfer shall obtain preapproval from the Commission prior to advertising courses, registering students, or accepting tuition, and shall obtain an original school license for each location where the school will conduct courses prior to conducting courses.

Authority G.S. 93A-4(d); 93A-34(c); 93A-35(c); 93A-38.

SECTION .0300 – APPROVED INSTRUCTORS

21 NCAC 58H .0301 PRELICENSING, POSTLICENSING, AND UPDATE COURSE INSTRUCTOR APPROVAL

(a) Approval of an instructor to teach Prelicensing and Postlicensing courses shall authorize the instructor to teach courses only in conjunction with and at schools approved or licensed by the Commission to conduct such courses.

(b) An instructor approved to teach Prelicensing and Postlicensing courses may elect to also teach Update courses upon initial approval, renewal, or any time while holding such approval.

(c) Approved instructors may teach Update courses for any approved Update course sponsor. An approved instructor may not independently conduct an Update course unless the instructor has also obtained approval as an Update course sponsor.

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

21 NCAC 58H .0302 APPLICATION AND CRITERIA FOR ORIGINAL PRELICENSING, POSTLICENSING, OR UPDATE COURSE INSTRUCTOR APPROVAL

(a) An individual seeking original instructor approval shall submit an application on a form available on the Commission's website that shall require the instructor applicant to indicate the course(s) for which he or she is seeking approval and set forth the instructor applicant's:

- (1) legal name, address, email address, and telephone number;
- (2) real estate license number and instructor number, if any, assigned by Commission;
- (3) criminal and occupational licensing history, including any disciplinary actions;
- (4) education background, including specific real estate education;
- (5) experience in the real estate business;
- (6) real estate teaching experience, if any;
- (7) a signed Consent to Service of Process and Pleadings form, if applicable; and
- (8) signature.

(b) An instructor applicant shall demonstrate that he or she possesses good reputation and character pursuant to G.S. 93A-34(c)(9) and has:

- (1) a North Carolina real estate broker license that is not on provisional status;
- (2) completed continuing education sufficient to activate a license under 21 NCAC 58A .1702;
- (3) completed 60 semester hours of college-level education at an institution accredited by any college accrediting body recognized by the U.S. Department of Education; and
- (4) within the previous seven years has either:
 - (A) three years full-time experience in real estate brokerage with at least one year in real estate sales and one year in North Carolina;
 - (B) three years of instructor experience at a secondary or post-secondary level;
 - (C) real estate Prelicensing or Postlicensing instructor approval in another jurisdiction; or
 - (D) qualifications found to be equivalent by the Commission, including a current North Carolina law license and three years' full time experience in commercial or residential real estate transactions or representation of real estate brokers or firms.

(c) Along with their application, an instructor applicant shall submit a digital video recording of themselves teaching a 60 minute block of a single topic in a Prelicensing, Postlicensing, or Update course that demonstrates the ability to teach the subject in a manner consistent with the course materials. The digital video recording shall comply with Rule .0305(c) of this Section.

(d) The digital video recording requirement described in Paragraph (c) of this Rule may be waived by the Commission if the instructor applicant has a current:

- (1) approval as either a General Update Course, Prelicensing, or Postlicensing instructor; or
- (2) Distinguished Real Estate Instructor (DREI) designation that has been awarded to the instructor by the Real Estate Educators Association or an equivalent instructor certification.

(e) Prior to teaching any Prelicensing or Postlicensing course, an approved instructor shall take the Commission's New Pre/Postlicensing Instructor Seminar.

(f) Prior to teaching any Update course, an approved instructor shall take the Commission's Update Instructor Seminar.

Authority G.S. 93A-3(f); 93A-4; 93A-10; 93A-33; 93A-34.

21 NCAC 58H .0303 DENIAL OR WITHDRAWAL OF INSTRUCTOR APPROVAL

(a) The Commission may deny or withdraw approval of any instructor applicant or approved instructor upon finding that the instructor or instructor applicant:

- (1) has failed to meet the criteria for approval described in Rule .0302 of this Section or the criteria for renewal of approval described in Rule .0306 of this Section at the time of application or at any time during an approval period;
- (2) made any false statements or presented any false, incomplete, or incorrect information in connection with an application for approval or renewal of approval or any report that is required to be submitted to the Commission;
- (3) has failed to submit to the Commission any report, course examination, or video recording required by these Rules;
- (4) has failed to demonstrate the ability to teach a Prelicensing, Postlicensing, or Update course in a manner consistent with the course materials;
- (5) taught Prelicensing and compiled a license examination performance record for first-time examination candidates that is below 60 percent passing for two or more of the previous five annual reporting periods;
- (6) taught Prelicensing and failed to provide to the Commission a written plan describing the changes the instructor has made or intends to make in his or her instructional program to improve the performance of the instructor's students on the license examination within 30 days of the Commission's request during an investigation, application process, or following

- an instructor's attainment of a licensing examination record for first-time examination candidates that is below sixty percent passing for the previous annual reporting period;
- (7) has been convicted of, pleaded guilty to, or pleaded no contest to, a misdemeanor or felony violation of state or federal law by a court of competent jurisdiction;
 - (8) has been found by a court or government agency of competent jurisdiction to have violated any state or federal regulation prohibiting discrimination;
 - (9) has obtained, used, or attempted to obtain or use, in any manner or form, North Carolina real estate license examination questions;
 - (10) has failed to take appropriate steps to protect the security of end-of-course examinations pursuant to Rule .0210(g) of this Subchapter;
 - (11) failed to take any corrective action set out in the plan described in Paragraph (a)(5) of this Rule or as otherwise requested by the Commission;
 - (12) engaged in any other improper, fraudulent, or dishonest conduct; or
 - (13) failed to comply with any other provisions of this Subchapter.

Authority G.S. 93A-4; 93A-33; 93A-34.

21 NCAC 58H .0304 INSTRUCTOR CONDUCT AND PERFORMANCE

(a) All instructors shall ensure that class sessions are conducted at the scheduled time and for the full amount of time that is scheduled or required. Instructors shall conduct courses in accordance with the Commission's rules, and any applicable course syllabi, instructor guide, or course plan. Instructors shall conduct classes demonstrating the ability to:

- (1) state student learning objectives at the beginning of the course and present accurate and relevant information;
- (2) communicate correct grammar and vocabulary;
- (3) utilize a variety of instructional techniques that require students to analyze and apply course content, including teacher-centered approaches, such as lecture and demonstration, and student-centered approaches, such as lecture discussion, reading, group problem solving, case studies, and scenarios;
- (4) utilize instructional aids, such as:
 - (A) whiteboards;
 - (B) sample forms and contracts;
 - (C) pictures;
 - (D) charts; and
 - (E) videos.
- (5) utilize assessment tools, such as:
 - (A) in-class or homework assignments, and
 - (B) quizzes and midterm examinations for Prelicensing and Postlicensing courses.

- (6) avoid criticism of any other person, agency, or organization;
- (7) identify key concepts and correct student misconceptions; and
- (8) maintain control of the class.

(b) Instructors teaching Prelicensing, Postlicensing, or Update courses shall interact with students either in person in a classroom setting or through an interactive telecommunication system, or comparable system, that permits continuous mutual audio and visual communication between the instructor and students. The school shall provide monitoring and technical support for the instructors or students.

(c) Instructors teaching Prelicensing or Postlicensing courses shall:

- (1) safeguard and protect the security of course examinations;
- (2) not allow students to review or retain copies of end-of-course examinations and any materials used during the examination; and
- (3) only use guest lecturers that have been approved by the school director pursuant to Rule .0204(d) of this Section.

(d) Instructors shall not obtain, use, or attempt to obtain or use, in any manner or form, North Carolina real estate license examination questions.

Authority G.S. 93A-4; 93A-33; 93A-34.

21 NCAC 58H .0305 DIGITAL VIDEO RECORDINGS

(a) Upon request of the Commission during an investigation, an approved instructor shall submit a digital video recording of the instructor teaching specified topics of a course, as identified by the Commission which the instructor is approved to teach.

(b) Upon the request of the Commission during an investigation, a continuing education sponsor shall submit a digital video recording depicting a particular Update Course instructor, as designated by the Commission, teaching the Update course.

(c) Any digital video recording submitted to the Commission shall:

- (1) have been made within 12 months of the date of submission;
- (2) be recorded either on a digital video disc (DVD), USB drive, or similar medium;
- (3) be unedited;
- (4) display a visible date and time stamp during the entire video recording;
- (5) include a label identifying the instructor, the course title, subject being taught, student materials used, and dates of the video instruction;
- (6) have visual and sound quality to allow reviewers to see and hear the instructor; and
- (7) show at least a portion of the students present in a live audience.

(d) The deadline for any digital video recording requested during an investigation shall be 30 days after the date of the next scheduled course, but no later than 120 days after the Commission's request.

Authority G.S. 93A-4; 93A-33; 93A-34.

21 NCAC 58H .0306 RENEWAL AND EXPIRATION OF INSTRUCTOR APPROVAL

(a) Commission approval of instructors shall expire annually on June 30 following issuance of approval.

(b) Any approved instructor shall file an electronic application for renewal of approval within the 45 days immediately preceding expiration of approval. The instructor renewal application shall set forth the instructor's:

- (1) legal name, address, email address, and telephone number;
- (2) real estate license number and instructor number assigned by Commission;
- (3) any criminal convictions and occupational license disciplinary actions within the past year;
- (4) proof of attendance since approval or last renewal of a real estate instructor educational program of at least six hours, such as the:
 - (A) Commission's Spring Educators Conference or New Instructor Seminar;
 - (B) NC Real Estate Educators Association's conference or instructor development workshop;
 - (C) Real Estate Educators Association's conference or instructor development workshop; or
 - (D) Commission's Update Instructor Seminar.
- (5) courses for which he or she is seeking approval as an instructor; and
- (6) signature.

(c) In order to reinstate an instructor approval that has been expired for less than six months, the former instructor shall meet the requirements set forth in Paragraph (b) of this Rule.

(d) If an instructor approval has been expired for more than six months, the former instructor shall file an application for original approval pursuant to Rule .0302 of this Section.

Authority G.S. 93A-4; 93A-33; 93A-34.

SECTION .0400 – CONTINUING EDUCATION

21 NCAC 58H .0401 APPLICABILITY

This Section applies to the application, renewal, and conduct of continuing education sponsors, continuing education elective courses, and Update Courses.

Authority G.S. 93A-4; 93A-33; 93A-34.

21 NCAC 58H .0402 APPLICATION FOR ORIGINAL APPROVAL OF CONTINUING EDUCATION SPONSOR

(a) Only continuing education sponsors approved by the Commission are eligible to offer continuing education courses, including elective courses and Update Courses.

(b) Any entity seeking original approval to be a continuing education sponsor shall make application on a form available on the Commission's website that requires the applicant to set forth:

- (1) the legal name of applicant and any assumed business name;
- (2) the applicant's mailing address, telephone number, and email address;
- (3) the legal name of the individual who will serve as the applicant's continuing education coordinator as defined in Rule .0403 of this Section;
- (4) the applicant's form of business entity;
- (5) the SOSID issued by the NC Secretary of State, if applicable;
- (6) the legal name(s) of the sponsor's owner(s);
- (7) a record of any criminal convictions for all individuals listed as owner(s), manager(s), or partner(s);
- (8) a record of any discipline related to a professional license for all individuals listed as owner(s), manager(s), or partner(s); and
- (9) the signature of the applicant.

(c) Any foreign or out-of-state entity or person applying for original approval shall submit a signed Consent to Service of Process and Pleadings form as required by G.S. 93A-10.

(d) The name of any course sponsor shall not be identical to the name of any other currently approved continuing education course sponsor or licensed private real estate school.

(e) Continuing education sponsors shall notify the Commission in writing within 10 days of any change in business name, ownership interest, continuing education coordinator, address, business telephone number, or email address.

Authority G.S. 93A-3(c); 93A-4.1; 93A-10; 93A-34.

21 NCAC 58H .0403 CONTINUING EDUCATION COORDINATOR

(a) Continuing education sponsors shall designate in writing to the Commission one person to serve as the continuing education coordinator. The continuing education coordinator shall serve as the official contact person for the sponsor and shall be responsible for:

- (1) supervising the conduct of all sponsor's continuing education courses;
- (2) ensuring continuing education elective courses are taught by instructors complying with Rule .0407 of this Section;
- (3) ensuring elective courses are taught according to the course materials approved by the Commission;
- (4) ensuring only approved instructors who have taken the Update Course Seminar teach Update Courses;
- (5) ensuring students are furnished with the approved student materials;
- (6) signing course completion certificates;
- (7) submitting to the Commission all required fees, rosters, reports, and other information; and
- (8) submitting to the Commission the name and the instructor number of each elective course instructor within 10 days of employment.

(b) Each continuing education coordinator shall view the Commission's Continuing Education Coordinator video electronically within 30 days of initial designation and annually within 45 days immediately preceding expiration of sponsor approval.

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

21 NCAC 58H .0404 RENEWAL OF SPONSOR APPROVAL

(a) Commission approval of all continuing education sponsors shall expire annually on June 30 following issuance of approval.

(b) In order to ensure continuous sponsor approval, an approved sponsor shall file an electronic application for renewal of approval within the 45 days immediately preceding expiration of approval. The sponsor approval renewal application shall require the sponsor to set forth:

- (1) the legal name of sponsor and any assumed business name;
- (2) the sponsor number assigned by the Commission;
- (3) the sponsor's mailing address, telephone number, and email address;
- (4) the continuing education coordinator's legal name;
- (6) any criminal convictions or occupational licensure disciplinary action taken against any individual listed as owner(s) of the sponsor since last approval;
- (7) the name and course number of each continuing education elective course approved pursuant to Rule .0406 of this Section the applicant wishes to renew; and
- (8) a certification that the continuing education coordinator has completed the Commission's video training pursuant to Rule .0403(c) of this Section;
- (9) a certification that its facilities and equipment are in compliance with all applicable local, state, and federal laws and regulations regarding health, safety, and welfare, including the Americans with Disabilities Act; and
- (10) the signature of the sponsor.

(c) A continuing education sponsor also licensed or approved as a school may renew its continuing education sponsor approval on its school renewal form pursuant to Rule .0214 of this Subchapter.

(d) Continuing education sponsors shall submit a fifty dollar (\$50.00) fee for each continuing education elective course the sponsor wishes to renew. No fee is required if the entity making application is a public school or is an agency of federal, state or local government.

(f) Continuing education sponsors shall submit a one hundred dollar (\$100.00) materials fee if the sponsor wishes to renew approval to offer Update courses. No fee is required if the entity making application is a public real estate school or is an agency of federal, state, or local government.

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

21 NCAC 58H .0405 DENIAL OR WITHDRAWAL OF SPONSOR APPROVAL

(a) The Commission may deny or withdraw approval of any continuing education sponsor upon finding that the sponsor or the continuing education coordinator in the employ of the sponsor:

- (1) made any false statements or presented any false, incomplete, or incorrect information in connection with an application for course or sponsor approval or renewal;
- (2) provided false, incomplete, or incorrect information in connection with any reports the continuing education sponsor is required to submit to the Commission;
- (3) provided the Commission a check for required fees that was dishonored by a bank or returned for insufficient funds;
- (4) has been convicted of, pleaded guilty to, or pleaded no contest to, a misdemeanor or felony violation of state or federal law by a court of competent jurisdiction;
- (5) has been found by a court or government agency of competent jurisdiction to have violated any state or federal regulation prohibiting discrimination;
- (6) has been disciplined by the Commission or any other occupational licensing agency in North Carolina or another jurisdiction;
- (7) collected money from brokers for a continuing education course but refused or failed to provide the promised instruction;
- (8) intentionally provided false, incomplete, or misleading information relating to real estate licensing, education matters, or the broker's education needs or license status;
- (9) failed to submit the CE Roster Reports as required by Rule .0412 of this Section;
- (10) failed to submit the per student fee as required by G.S. 93A-4.1(d); or
- (11) failed to comply with any other provision of this Subchapter.

(b) A broker shall be subject to discipline pursuant to G.S. 93A-6 if the broker engages in dishonest, fraudulent, or improper conduct in connection with the operations of a continuing education course sponsor if that broker:

- (1) has an ownership interest in the course sponsor;
- (2) is the designated continuing education coordinator for the course sponsor; or
- (3) is an instructor for the course sponsor.

(c) Course sponsor approval shall terminate if, at any time after the original approval of a course sponsor, an aggregate of 50 percent or more of the ownership interest is transferred to natural persons or entities other than those having an ownership interest at the time of the original application. Termination shall be effective on the date of the transaction resulting in the aggregate transfer of fifty percent or more of the original ownership. The transferring owner shall report course completions as of the date of the transfer to the Commission. The formerly approved continuing education sponsor and the transferring owners shall not conduct any course after the termination of the former

continuing education sponsor approval. The natural persons or entities holding an ownership interest after the transfer shall obtain approval from the Commission prior to advertising courses, registering students, or accepting tuition, and shall obtain a new original continuing education sponsor approval prior to conducting courses.

Authority G.S. 93A-3(c); 93A-4.1; 93A-6(a)(15).

21 NCAC 58H .0406 APPROVAL AND RENEWAL OF ELECTIVE COURSE

(a) Prior to obtaining the Commission's written approval of a continuing education elective course, sponsors shall not offer, advertise, or otherwise represent that any continuing education elective course is, or may be, approved for continuing education credit in North Carolina.

(b) A sponsor seeking original approval of a proposed elective course shall complete an application on a form available on the Commission's website that requires the applicant to set forth the:

- (1) title of the proposed elective course;
- (2) continuing education sponsor's legal name, address, and telephone number;
- (3) continuing education coordinator's legal name;
- (4) continuing education sponsor's sponsor code, if previously approved;
- (5) credit hours awarded for completing the course;
- (6) subject matter of the course;
- (7) identity of the course owner;
- (8) written permission of the course owner, if other than the applicant;
- (9) identity of prospective instructors; and
- (10) continuing education sponsor's signature.

(c) The application for original approval shall be accompanied by a copy of the course guide, which shall include course objectives, learning objectives for each topic, a timed outline, instructional methods and aids to be employed, and all materials that will be provided to students.

(d) If the elective course will be taught by any method other than live, in-person, in-class instruction, the applicant shall submit, along with the application for original approval:

- (1) a full copy of the course on the medium to be utilized for instruction;
- (2) a description of the method by which the sponsor will verify and record student attendance;
- (3) a list of hardware and software or other equipment necessary to both offer and complete the course;
- (4) the contact information for the technical support service for the course; and
- (5) a copy of the student orientation and course tutorial information.

(e) If the course will be taught by any method other than live, in-person, in-class instruction, the applicant shall, if requested, make available, at a date and time satisfactory to the Commission and at the applicant's expense, all hardware and software necessary for the Commission to review the submitted course. In the case of an Internet-based course, the Commission shall be provided access

to the course at a date and time set by the Commission and shall not be charged any fee for such access.

(f) A sponsor seeking approval to offer an already approved elective course shall complete an application on a form available on the Commission's website that requires the applicant to set forth the:

- (1) title of the elective course;
- (2) applicant's legal name, address, and telephone number;
- (3) applicant's continuing education coordinator's legal name;
- (4) applicant's continuing education sponsor code, if previously approved;
- (5) identity of the course owner;
- (6) written permission of the course owner, if other than the applicant;
- (7) identity of prospective instructors; and
- (8) continuing education sponsor's signature.

(g) All applicants shall submit a fee of one hundred dollars (\$100.00) per elective course. No fee shall be required if the applicant is a public real estate school or is an agency of federal, state, or local government.

(h) Applications submitted pursuant to Paragraph (f) of this Rule shall be deemed approved ten business days after the Commission has received both a complete application and the required one hundred dollar (\$100.00) per course fee, unless the Commission notifies the applicant otherwise.

(i) Commission approval of all continuing education elective courses shall expire on June 30.

(j) In order to ensure continuous approval, a course sponsor shall include the name and course number of each previously approved continuing education elective it wishes to renew, along with the required fifty dollar (\$50.00) fee, in the sponsor approval renewal application pursuant to Rule .0404 of this Section.

(k) In order to obtain approval for an expired continuing education elective, a course sponsor shall submit an application for original approval.

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

21 NCAC 58H .0407 CONTINUING EDUCATION ELECTIVE COURSE REQUIREMENTS

(a) Continuing education elective courses shall:

- (1) cover subject matter related to real estate brokerage practice and offer knowledge or skills that will enable brokers to better serve real estate consumers and the public interest;
- (2) consist of at least four hours of instruction;
- (3) offer four continuing education credit hours;
- (4) include handout materials for students that provide the information to be presented in the course; and
- (5) be taught only by an instructor who possesses at least one of the following:
 - (A) a baccalaureate or higher degree in a field directly related to the subject matter of the course;
 - (B) three years' full-time work experience within the previous ten years that is

directly related to the subject matter of the course;

- (C) three years' full-time experience within the previous ten years teaching the subject matter of the course; or
- (D) education or experience or both found by the Commission to be equivalent to one of the above standards.

(b) Sponsors shall obtain approval from the Commission before making any changes in the content of an elective course. Requests for approval of changes shall be in writing. However, changes in course content that are technical in nature do not require approval during the approval period, but shall be reported at the time the sponsor requests renewal of course approval.

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

21 NCAC 58H .0408 COMMISSION CREATED UPDATE COURSES

(a) The Commission shall annually develop Update courses and shall produce instructor and student materials for use by sponsors.

(b) Only approved continuing education sponsors shall offer Update courses. Only approved instructors pursuant to Rule .0302 of this Subchapter shall instruct Update courses.

(c) Continuing education sponsors shall obtain written approval from the Commission prior to offering, advertising, or otherwise representing that any Update course is being offered for continuing education credit in North Carolina.

(d) A continuing education sponsor seeking approval to offer Update courses shall submit an application form available on the Commission's website that shall require the applicant to set forth the:

- (1) continuing education sponsor's legal name, address, and telephone number;
- (2) continuing education coordinator's legal name;
- (3) continuing education sponsor's number assigned by the Commission;
- (4) name and instructor number of prospective instructors; and
- (5) continuing education sponsor's signature.

(e) A continuing education sponsor seeking approval to offer a modified Update course pursuant to Paragraph (k) of this Rule shall also submit the written permission of each of the course owners, if other than the applicant.

(f) A licensed or approved school may obtain approval from the Commission to offer an Update Course by requesting it on the application or renewal of the school license or approval.

(g) The applicant shall submit a one hundred dollar (\$100.00) materials fee. No fee shall be required if the applicant is a public school or is an agency of federal, state, or local government.

(h) Sponsors shall use only the Commission-developed course materials to conduct the Update courses, unless modifications to the Update course content have received advance approval from the Commission. Sponsors shall provide a copy of the materials developed or otherwise approved by the Commission to each broker taking an Update course.

(i) Commission approval to offer Update courses shall expire annually on June 30 following issuance of approval. Sponsors shall apply for renewal of approval to offer Update courses each

year along with the renewal of sponsor approval required in Rule .0404 of this Section.

(j) All Update course materials developed by the Commission are the sole property of the Commission and are subject to the protection of federal copyright laws. Violation of the Commission's copyright with regard to these materials shall be grounds for disciplinary action or other action as permissible by law.

(k) With advance approval from the Commission, course sponsors and approved instructors may make modifications to the Update course when the Update course is being promoted to and conducted for a group of brokers that specialize in a particular area of real estate brokerage. Such modifications shall relate to the same general subject matter addressed in the prescribed Update course and the Update course as modified shall achieve the same educational objectives as the unmodified Update course. All modified Update course materials shall be the joint property of the Commission and the course sponsor or approved instructor approved to make such modifications, or as otherwise determined by written agreement. Violation of the Commission's copyright with regard to these materials shall be grounds for disciplinary action or other action as permitted by law.

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

21 NCAC 58H .0409 RECORDS AND COMMISSION REVIEW

(a) All continuing education sponsors shall retain on file for three years records of student registration and attendance for each session of a continuing education course that is conducted and shall make such records available to the Commission upon request during an investigation.

(b) Continuing education sponsors shall admit any Commission authorized representative to monitor any continuing education class without prior notice. Such representatives shall not be required to register or pay any fee and shall not be reported as having completed the course.

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

21 NCAC 58H .0410 CONTINUING EDUCATION COURSE SCHEDULING AND NOTIFICATION

(a) All continuing education courses shall be scheduled and conducted in a manner that limits class sessions to a maximum of eight instructional hours in any given day. The maximum permissible class session without a break is 90 minutes. Courses scheduled for more than four instructional hours in any given day shall include a meal break of at least one hour.

(b) Continuing education sponsors shall not offer, conduct, or allow a student to complete any course and offer continuing education credit between June 11 and June 30, inclusive.

(c) Sponsors shall provide the Commission written notice of all scheduled course offerings at least 10 days prior to the scheduled course date. The notice shall include:

- (1) the sponsor name;
- (2) the sponsor number assigned by the Commission;
- (3) the legal name and instructor number of the course instructor;

- (4) the course number;
- (5) the scheduled course date and start time; and
- (6) the course location.

(d) Continuing education sponsors shall notify the Commission of any schedule changes or course cancellations at least five days prior to the original scheduled course date. If a change or cancellation within five days of the scheduled course date, then the continuing education sponsor shall provide notice to the Commission within 24 hours of the change or cancellation.

(e) The sponsor of any distance education course shall require students to complete the course within 30 days of the date of registration or the date the student is provided the course materials and permitted to begin work, whichever is the later date. The sponsor shall not offer, conduct, or allow a student to complete any course for continuing education credit between June 11 and June 30, inclusive. The sponsor shall advise all students registering for a distance education course, prior to accepting payment for any course, of the deadlines for course completion.

(f) Each sponsor shall certify that its facilities and equipment are in compliance with all applicable local, state, and federal laws and regulations regarding health, safety, and welfare, including the Americans with Disabilities Act.

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

21 NCAC 58H .0411 CONTINUING EDUCATION COURSE ATTENDANCE

(a) Continuing education sponsors shall require each student who is a licensed broker to provide his or her name and license number at the initial check in for a class session.

(b) A student shall not be issued a Course Completion Certificate, and shall not be reported to the Commission as having completed a course unless the student satisfies the attendance requirement in 21 NCAC 58A .1705.

(c) Sponsors and instructors shall not make any exceptions to this Rule.

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

21 NCAC 58H .0412 CONTINUING EDUCATION ROSTER REPORTS AND CERTIFICATES

(a) At the conclusion of any continuing education course, elective or Update, the sponsor shall submit to the Commission a CE Roster Report verifying each broker's completion of the course pursuant to Rule .0411 of this Section. The CE Roster Report shall contain the:

- (1) sponsor's name;
- (2) sponsor's number assigned by the Commission;
- (3) course instructor's name and number;
- (4) course's name and number;
- (5) course completion date; and
- (6) name and license number of each student who completed the course.

(b) Sponsors shall submit the CE Roster Report electronically within seven calendar days following the end of any course, but in no case later than June 15.

(c) Sponsors shall submit the ten dollar (\$10.00) per student fee required by G.S. 93A-4.1(d), along with the CE Roster Report.

(d) Sponsors shall provide a course completion certificate to each student who completes an approved continuing education course pursuant to Rule .0411 of this Section. Sponsors shall provide a printed or electronic certificate within 15 days following the course, but in no case later than June 15, for any course completed prior to that date.

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

21 NCAC 58H .0413 CONTINUING EDUCATION COURSE COST, CANCELLATION, AND REFUNDS

(a) Sponsors shall establish an all-inclusive cost to be charged to students taking any continuing education course. No separate or additional costs shall be charged to students.

(b) Sponsors shall establish written course cancellation and refund policies. In the event a sponsor cancels a scheduled course, registered students shall be notified within 24 hours. Sponsors shall refund all prepaid payments received from registered students within 30 days of the date of cancellation, or with the student's written permission apply the refund toward another course.

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

21 NCAC 58H .0414 ADVERTISING

(a) Sponsors shall not utilize advertising that is false or misleading.

(b) All course advertisement and promotional materials shall specify the number of continuing education credit hours to be awarded by the Commission for the course.

(c) All continuing education course promotional materials shall describe the course costs, the cancellation policy, and refund policies.

(d) Sponsors shall not use endorsements or recommendations of any person or organization, in advertising or otherwise, unless the person or organization:

- (1) has consented in writing to the use of the endorsement or recommendation; and
- (2) is not compensated for such use.

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

* * * * *

Notice is hereby given in accordance with G.S. 150B-21.2 that the Real Estate Commission intends to adopt the rule cited as 21 NCAC 58A .1905, amend the rules cited as 21 NCAC 58A .0101, .0103, .0106, .0302, .0304, .0502, .0503, .0505, and repeal the rule cited as 21 NCAC 58A .0509.

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

Proposed Effective Date: July 1, 2017

Public Hearing:

Date: December 14, 2016

Time: 9:00 a.m.

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

Reason for Proposed Action:

21 NCAC 58A .0101 – Proof of Licensure

The amendments are proposed to allow the use of electronic pocket cards as proof of licensure and to merge the requirements of A .0509, to submit a \$5 duplicate license fee, into this Rule.

21 NCAC 58A .0103 – Broker Name and Address

The amendments are proposed to add a requirement that brokers changing their name of record must show legal proof of such name change; to comply with S.L. 2016-100 (SB 124) the Assumed Business Act recently passed by the General Assembly; and to clarify the use of an unlicensed person's name as a tradename.

21 NCAC 58A .0106 – Deliver of Instruments

The amendments are proposed to clarify a broker's responsibility to deliver information regarding the identity of current or former tenants to property owner clients.

21 NCAC 58A .0302 – Filing and Fees

The amendments are proposed to comply with S.L. 2016-117 (HB 728) that increased the broker's application fee from \$30 to \$100.

21 NCAC 58A .0304 – Equivalent Experience Qualifications for Applicants

The amendments are proposed to clarify Prelicensing education waiver requirements.

21 NCAC 58A .0502 – Business Entities

The amendments are proposed to clarify that the qualifying broker is affiliated with the firm so that they receive notice if a broker-in-charge were to withdraw their designation and to require brokers to disclose the banking institution where their trust accounts will be held.

21 NCAC 58A .0503 – License Renewal; Penalty for Operating While License Expired

The amendments are proposed to require brokers to disclose the banking institution where their trust accounts are held each time they renew their license and any criminal convictions or disciplinary actions within the previous year.

21 NCAC 58A .0505 – Reinstatement

The amendments are proposed to comply with S.L. 2016-117 (HB 728) that changed a broker's reinstatement application fee to an amount equal to two times the license renewal fee instead of the previous reinstatement fee of \$55 and to clarify the requirements for a broker to reinstate a license.

21 NCAC 58A .0509 – Duplicate License Fee

The amendments are proposed to merge this Rule into A .0101, Proof of Licensure, and to repeal this Rule.

21 NCAC 58A .1905 – Waiver of 90-Hour Postlicensing Education Requirement

The adoption of a rule is proposed to clarify the Postlicensing education waiver requirements.

Comments may be submitted to: Melissa A. Vuotto, P.O. Box 17100, Raleigh, NC 27619-7100, phone (919) 875-3700

Comment period ends: January 17, 2017

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 58A – REAL ESTATE BROKERS

SECTION .0100 - GENERAL BROKERAGE

21 NCAC 58A .0101 PROOF OF LICENSURE

(a) The annual ~~license renewal~~ pocket card issued by the Commission to each ~~licensee broker~~ shall be retained by the ~~licensee broker~~ as evidence of licensure. Each ~~licensee broker~~ shall ~~carry his or her pocket card on his or her person at all times while engaging in real estate brokerage and shall produce a legible form of the card as proof of licensure whenever requested while engaging in real estate brokerage.~~

~~(b) The qualifying broker of a firm shall retain the firm's renewal pocket card at the firm and shall produce it upon request as proof of firm licensure as required by Rule .0502.~~

~~(c)~~ (b) Every licensed real estate business entity or firm shall prominently display its license certificate or a copy of its license certificate ~~facsimile thereof~~ in each office maintained by the entity or firm. A broker-in-charge shall also prominently display his or her license certificate in the office where he or she is broker-in-charge.

~~(d) Every licensee shall include his or her license number in agency contracts and disclosures as provided in Rule .0104 of this Subchapter.~~

(c) A replacement real estate license or pocket card may be obtained by:

- (1) submitting a written request to the Commission that includes the broker or firm's:
 - (A) legal name;
 - (B) license number;
 - (C) physical and mailing address;
 - (D) phone number;
 - (E) email address;
 - (F) proof of legal name change pursuant to Rule .0103 of this Section, if applicable; and
 - (G) signature;
- (2) paying a five dollar (\$5.00) replacement fee.

Authority G.S. 93A-3(c); 93A-4.

21 NCAC 58A .0103 BROKER NAME AND ADDRESS

(a) Upon initial licensure~~licensure~~, every broker shall notify the Commission of the broker's current personal name, firm name, trade name, residence address, firm address, telephone number, and email address. All addresses provided to the Commission shall be sufficiently descriptive to enable the Commission to correspond with and locate the broker.

(b) Every broker shall notify the Commission in writing of each change of personal name, firm name, trade name, residence address, firm address, telephone number, and email address within 10 days of said change. A broker notifying the Commission of a change of personal name or firm name shall also provide evidence of a legal name change for either the individual or firm, such as a court order or name change amendment from the Secretary of State's Office. All addresses shall be sufficiently descriptive to enable the Commission to correspond with and locate the broker.

~~(b)(c)~~ (c) In the event that any broker shall advertise or operate in any manner using a name different from the name under which the broker is licensed, the broker shall first file the appropriate an assumed name certificate with the office of the county register of deeds in each county in which the broker intends to engage in brokerage activities in compliance with G.S. 66-68-G.S. 66-71.4 and shall notify the Commission in writing of the use of such a firm name or assumed name. An individual broker shall not advertise or operate in any manner that would mislead a consumer as to the broker's actual identity or as to the identity of the firm with which he or she is affiliated.

~~(e)(d)~~ (d) A broker shall not include the name of a provisional broker or an unlicensed person in the name of a sole proprietorship, partnership, assumed name, trade name, or business entity other than a corporation or limited liability company. No broker shall use a business name that includes the name of any active, inactive, or cancelled current or former broker without the permission of that broker or that broker's authorized representative.

Authority G.S. 55B-5; 66-68; 93A-3(c); 93A-6(a)(1).

21 NCAC 58A .0106 DELIVERY OF INSTRUMENTS

(a) Except as provided in Paragraph (b) of this Rule, every broker shall immediately, but in no event later than five days from the date of execution, deliver a copy to the parties thereto copies of

any ~~required~~ written agency agreement, contract, offer, lease, ~~rental agreement, or option affecting real property, option, or other pertinent document to their client within five days of the document's execution.~~

(b) A broker may be relieved of ~~his or her the~~ duty to deliver copies of leases or rental agreements to a property owner under pursuant to Paragraph (a) of this Rule to deliver copies of leases or rental agreements to the property owner, if the broker:

- (1) obtains the prior ~~express~~ written authority of the property owner to enter into and retain copies of leases or rental agreements on behalf of the property owner;
- (2) executes the lease or rental agreement on a pre-printed form, the material terms of which may not be changed by the broker without prior approval by the property ~~owner~~ owner, except as may be required by law; and
- ~~(3) promptly provides a copy of the lease or rental agreement to the property owner upon reasonable request; and~~
- ~~(4) delivers to the property owner within 45 days following the date of execution of the lease or rental agreement, an accounting which identifies the leased property and which sets forth the names of the tenants, the rental rates and rents collected.~~
- (3) delivers to the property owner an accounting within 45 days following the date of execution of the lease or rental agreement that identifies:
 - (A) the leased property;
 - (B) the name, phone number, and home address of each tenant; and
 - (C) the rental rates and rents collected.

(c) Paragraph (b) of this Rule notwithstanding, upon the request of a property owner, a broker shall deliver a copy of any lease or rental agreement within five days.

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

SECTION .0300 - APPLICATION FOR LICENSE

21 NCAC 58A .0302 LICENSE APPLICATION AND FEE

(a) An applicant shall file a complete and accurate application and, except as provided by Rule .0403 of this Subchapter, shall submit his or her application to the Commission's office accompanied by the application fee. Examination scheduling of applicants who are required to pass the real estate licensing examination shall be accomplished in accordance with Rule .0401 of this Subchapter. The fee for an original application of a broker or firm license shall be one hundred dollars (\$100.00).

~~(b) Except for persons applying for licensure under the provisions of Section .1800 of this Subchapter, the license application fee shall be thirty dollars (\$30.00). In addition to the license application fee, applicants for licensure who are required to take the license examination must pay the examination fee charged by the Commission's authorized testing service in the form and manner acceptable to the testing service. Persons applying for~~

~~licensure under Section .1800 of this Subchapter shall pay the application fee set forth in Rule .1803 of this Subchapter.~~

~~(e)(b) An applicant shall update information provided in connection with an a license application in writing to the Commission or submit a newly completed new application form that includes the updated information without request by the Commission to assure ensure that the information provided in the application is current and accurate. Failure to submit updated information prior to the issuance of a license may result in disciplinary action against a licensee-broker or firm in accordance with G.S. 93A-6(b)(1). In the event that the Commission requests Upon the request of the Commission, an applicant to shall submit updated information or to provide additional information necessary to complete the application and the applicant fails to submit such information within 90 days following the Commission's request, the Commission shall cancel the applicant's application. days of the request or the license application shall be canceled.~~

~~(c) The license application of an individual found by the Commission to be qualified for the licensing examination shall be immediately canceled if the applicant fails to to:~~

- ~~(1) pass a scheduled licensing examination, license examination within 180 days of filing a complete application pursuant to Rule .0301 of this Section; or~~
- ~~(2) fails to appear for and take any scheduled examination for which the applicant has been scheduled without having the applicant's examination postponed or absence excused in accordance with Rule .0401(b) and (c) pursuant to Rule .0401 of this Section, Subchapter. or fails to take and pass the examination within 180 days of filing a complete application as described in Rule .0301 of this Section and having the application entered into the Commission's examination applicant file. Except as permitted otherwise in Rule .0403 of this Subchapter, an applicant whose license application has been canceled and who wishes to obtain a real estate license must start the licensing process over by filing a complete application to the Commission and paying all required fees.~~

Authority G.S. 93A-4; 93A-6(b)(1); 93A-9.

21 NCAC 58A .0304 WAIVER OF 75-HOUR PRELICENSING EDUCATION REQUIREMENT

~~Experience obtained by a broker applicant in violation of law or rule shall not be recognized by the Commission as fulfilling the requirements for licensure when the applicant is requesting the Commission to waive the prescribed education requirement based wholly or in part on equivalent experience obtained by the applicant.~~

(a) An applicant for a North Carolina real estate broker license may request a waiver of the 75-hour education program required by G.S. 93A-4(a) by submitting an application to the Commission pursuant to Rule .0301 of this Section and shall submit:

- (1) an official transcript and copy of a baccalaureate or higher degree in the field of real estate, real estate brokerage, real estate law, real estate finance, real estate development, or similar field, conferred on the applicant from any college or university accredited by a college accrediting body recognized by the U. S. Department of Education; or
- (2) an official course completion certificate or transcript evidencing the successful completion of a prelicensing education program in another state that consisted of at least 75-hours of instruction that was completed within one year prior to license application and while the applicant was a resident of said state.

(b) The Commission will not consider education or experience obtained in violation of any law or rule as fulfilling the requirements for waiver of the 75-hour prelicensing education requirement.

Authority G.S. 93A-4.

SECTION .0500 - LICENSING

21 NCAC 58A .0502 FIRM LICENSING

(a) Every business entity other than a sole proprietorship shall apply for and obtain from the Commission a firm license prior to engaging in business as a real estate broker.

(b) An entity that changes its business form other than by conversion shall submit a new firm license application upon making the change and obtain a new firm license. An entity that converts to a different business entity in conformity with and pursuant to applicable North Carolina General Statutes is not required to apply for a new license. However, such converted entity shall provide the information required by this Paragraph in writing to the Commission within 10 days of the conversion and shall include the duplicate license replacement fee prescribed in Rule .0509 of this Section pursuant to Rule .0101(c) of this Subchapter to have the firm license reissued in the legal name of the converted entity. Incomplete applications shall not be acted upon by the Commission.

(c) Application Firm license application forms for partnerships, corporations, limited liability companies, associations, and other business entities required to be licensed as brokers shall be available on the Commission's website at www.ncree.gov or upon request to the Commission and shall require the applicant to set forth:

- (1) the name of the entity;
- (2) the name under which the entity will do business;
- (3) the type of business entity;
- (4) the address of its principal office;
- (5) the entity's NC Secretary of State Identification Number if it is required to be registered with the Office of the NC Secretary of State;
- (6) each federally insured depository institution lawfully doing business in this State where the entity's trust account(s) will be held, if applicable;

- ~~(6)~~(7) the name, real estate license number, and signature of the proposed qualifying broker for the proposed firm;
- ~~(7)~~(8) the address of and name of the proposed broker-in-charge for each office as defined in Rule .0110(a) of this Subchapter, along with a completed broker-in-charge declaration form for each proposed broker-in-charge;
- ~~(8)~~(9) any past criminal conviction of and any pending criminal charge against any principal in the company or any proposed broker-in-charge;
- ~~(9)~~(10) any past revocation, suspension, or denial of a business or professional license of any principal in the company or any proposed broker-in-charge;
- ~~(10)~~(11) if a general partnership, a description of the applicant entity, including a copy of its written partnership agreement or if no written agreement exists, a written description of the rights and duties of the partners, and the name of each partner. If a partner is an entity rather than a natural person, the name of each officer, partner, or manager of that entity, or any entity therein;
- ~~(11)~~(12) if a limited liability company (LLC), company, a description of the applicant entity, including a copy of its written operating agreement or if no written agreement exists, a written description of the rights and duties of the managers, and the name of each manager. If a manager is an entity rather than a natural person, the name of each officer, partner, or manager of that entity, or any entity therein;
- ~~(12)~~(13) if a business entity other than a corporation, limited liability company, or partnership, a description of the organization of the applicant entity, including a copy of its organizational documents evidencing its authority to engage in real estate brokerage;
- ~~(13)~~(14) if a foreign business entity, a Certificate of Authority to transact business in North Carolina issued by the NC Secretary of State and an executed consent to service of process and pleadings; and
- ~~(14)~~(15) any other information required by this Rule.

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

~~(b)~~(e) After filing a written-firm license application with the Commission and upon a showing to the Commission that one principal of the business entity holds a broker license on active

status and is in good standing who will serve as qualifying broker of the entity, the entity shall be licensed provided it appears to the Commission that the applicant entity employs and is directed by personnel possessed of the requisite character and fitness required of applicants for a broker license by G.S. 93A-4(b). A natural person serving as a qualifying broker of a licensed entity shall affiliate with a broker-in-charge prior to engaging in brokerage activity in the name of the licensed entity. The qualifying broker of a partnership of any kind shall be a general partner of the partnership; the qualifying broker of a limited liability company shall be a manager of the company; and the qualifying broker of a corporation shall be an officer of the corporation. A licensed business entity may serve as the qualifying broker of another licensed business entity if the qualifying broker-entity has as its qualifying broker a natural person who is licensed as a broker. The natural person who is qualifying broker shall assure to the Commission the performance of the qualifying broker's duties with regard to both entities. A provisional broker may not serve as a qualifying broker.

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

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

- (1) designating and assuring that there is at all times a broker-in-charge for each office and branch office of the entity as "office" and "branch office" are defined in Rule .0110(a) of this Subchapter;
- (2) renewing the real estate broker license of the entity;
- (3) retaining the firm's renewal pocket card at the firm and producing it as proof of firm licensure upon request and maintaining a photocopy of the firm license certificate and pocket card at each branch office thereof;
- (4) notifying the Commission of any change of business address or trade name of the entity and the registration of any assumed business name adopted by the entity for its use;
- (5) notifying the Commission in writing of any change of his or her status as qualifying broker within 10 days following the change;
- (6) securing and preserving the transaction and trust account records of the firm whenever there is a change of broker-in-charge at the firm or any office thereof and notifying the Commission if the trust account records are out of balance or have not been reconciled as required by Rule .0117 of this Subchapter;
- (7) retaining and preserving the transaction and trust account records of the firm upon termination of his or her status as qualifying broker until a new qualifying broker has been designated with the Commission or, if no new qualifying broker is designated, for the period

- of time records are required to be retained by Rule .0108 of this Subchapter;
- (8) notifying the Commission if, upon the termination of his or her status as qualifying broker, the firm's transaction and trust account records cannot be retained or preserved or if the trust account records are out of balance or have not been reconciled as required by Rule .0117 of this Subchapter; and
- (9) notifying the Commission regarding any revenue suspension, revocation of Certificate of Authority, or administrative dissolution of the entity by the NC Secretary of State within 10 days of the suspension, revocation, or dissolution.

~~(e)(h)~~ Every licensed business entity and every entity applying for licensure shall conform to all the requirements imposed upon it by the North Carolina General Statutes for its continued existence and authority to do business in North Carolina. Failure to conform to such requirements shall be grounds for disciplinary action or denial of the entity's application for licensure.

(i) Upon receipt of notice from an entity or agency of this State that a licensed entity has ceased to exist or that its authority to engage in business in this State has been terminated by operation of law, the Commission shall cancel the license of the entity.

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

21 NCAC 58A .0503 LICENSE RENEWAL

(a) All real estate licenses issued by the Commission under G.S. 93A, Article 1 shall expire on ~~the 30th day of June 30~~ following issuance. Any broker desiring renewal of his or her license shall ~~apply for renewal/renew on the Commission's website~~ within 45 days prior to license expiration ~~by submitting an electronic renewal application on the Commission's website at www.ncree.gov and submitting with the electronic application the required and shall submit~~ a renewal fee of forty-five dollars (\$45.00). A broker who does not have the ability to renew online may renew by calling the Commission's office during normal business hours posted on the Commission's website.

~~(b) During the renewal process, Every every individual broker shall provide on his or her renewal application an email address to be used by the Commission/Commission, to communicate with the broker. The email address may be designated by the broker as private in order to be exempt from public records disclosures pursuant to G.S. 93A-4(b2). A broker who does not have an email address shall so state on the renewal application. A broker is not required to obtain an email address to comply with this Rule.~~

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

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

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

(c) During the renewal process, every designated broker-in-charge shall disclose:

- (1) each federally insured depository institution lawfully doing business in this State where the trust account(s) for the broker-in-charge or the entity for which the broker-in-charge is designated is held, if applicable; and
- (2) any criminal conviction or occupational license disciplinary action that occurred within the previous year.

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

21 NCAC 58A .0505 REINSTATEMENT OF A LICENSE

~~(a) Licenses expired for not more than six months may be reinstated upon the submission of payment of a fifty five dollar (\$55.00) reinstatement fee. In order to reinstate the license on active status, the person requesting reinstatement shall have obtained the continuing education as is required by Rule .1703 of this Subchapter to change an inactive license to active status. A person reinstating a license on inactive status is not required to have obtained any continuing education in order to reinstate the license; however, in order to subsequently change his or her reinstated license from inactive status to active status, the licensee must satisfy the continuing education requirement prescribed in Rule .1703 of this Subchapter, and be supervised by a broker in-charge in compliance with the requirements of Rule .0506 of this Section.~~

~~(b) Reinstatement of licenses expired for more than six months shall be considered upon the submission of a complete and accurate application and payment of a fifty five dollar (\$55.00) reinstatement fee. Applicants must satisfy the Commission that they possess the current knowledge, skills and competence, as well as the truthfulness, honesty and integrity, necessary to function in the real estate business in a manner that protects and serves the public interest. To demonstrate knowledge, skills and competence, the Commission may require the applicants to complete real estate education or pass the license examination or both.~~

~~(c) Reinstatement of a revoked license shall be considered upon the submission of a complete and accurate application and payment of a thirty dollar (\$30.00) fee. Applicants must satisfy the same requirements as those prescribed in Paragraph (b) of this Rule for reinstatement of licenses expired for more than six months.~~

~~(d) Reinstatement of a license surrendered under the provisions of G.S. 93A 6(c) shall be considered upon termination of the period of surrender specified in the order approving the surrender and upon the submission of a complete and accurate application and payment of a thirty dollar (\$30.00) fee. Applicants must satisfy the same requirements as those prescribed in Paragraph (b) of this Rule for reinstatement of licenses expired for more than six months.~~

~~(e) When a license is suspended by the Commission, the suspended license shall be restored at the end of the period of~~

~~active suspension provided that any applicable license renewal fees that accrued during the time of the suspension are paid by the licensee within 60 days from the end of the period of license suspension. In order for the license to be restored on active status, the licensee shall demonstrate that the licensee has satisfied the continuing education requirement for license activation prescribed by Rule .1703 of this Subchapter and that the licensee is supervised by a broker-in-charge in compliance with the requirements of Rule .0506 of this Section, if applicable. Failure to pay the accrued license renewal fees within the time set forth in this Paragraph shall result in expiration of the license effective the last day of the suspension period. A former licensee whose license expires under this Paragraph and who thereafter seeks reinstatement must satisfy the same requirements as those prescribed in Paragraph (b) of this Rule for reinstatement of licenses expired for more than six months.~~

~~(f) Whenever a license is reinstated by the Commission following expiration for more than six months, revocation, or voluntary surrender, the date of licensure for the licensee shall be the date of reinstatement and not the date of original licensure.~~

~~(a) The fee for reinstatement of a license that has been expired, revoked, or suspended shall be an amount equal to two times the current renewal license fee pursuant to .0503 of this Section.~~

~~(b) The reinstatement application is a Commission prescribed form available on the Commission's website and shall set forth the applicant's:~~

- ~~(1) legal name;~~
- ~~(2) mailing, physical, and email address;~~
- ~~(3) telephone number;~~
- ~~(4) previous license number;~~
- ~~(5) Secretary of State identification number, if applicable;~~
- ~~(6) social security number and date of birth, if applicable;~~
- ~~(7) qualifying broker and broker-in-charge's legal name and license number, if applicable;~~
- ~~(8) certification; and~~
- ~~(9) signature.~~

~~(c) An individual seeking reinstatement of a license that has been expired or revoked for less than six months shall submit the reinstatement fee pursuant to Paragraph (a) of this Rule.~~

~~(d) An individual seeking reinstatement of a license that has been expired or revoked for six months but no more than two years shall:~~

- ~~(1) submit a complete reinstatement application pursuant to Paragraph (b) of this Rule;~~
- ~~(2) submit the reinstatement fee pursuant to Paragraph (a) of this Rule; and either~~
 - ~~(A) complete one Postlicensing course within six months prior to submitting his or her reinstatement application;~~
 - ~~(B) pass both the "National" and "State" sections of the current license examination within six months prior to submitting his or her reinstatement application; or~~
 - ~~(C) pass only the "State" section of the current license examination within six months prior to submitting his or her~~

reinstatement application if the individual possesses an active broker license in another state.

(e) An individual seeking reinstatement of a license that has been expired or revoked for two years or more shall file an original license application pursuant to G.S. 93A-4 and Rules .0301 and .0302 of this Subchapter.

(f) A business entity seeking reinstatement of a license that has been expired or revoked:

- (1) for less than six months shall submit the reinstatement fee pursuant to Paragraph (a) of this Rule.
- (2) for six months but no more than two years shall:
 - (A) submit a complete reinstatement application pursuant to Paragraph (b) of this Rule; and
 - (B) submit the reinstatement fee pursuant to Paragraph (a) of this Rule.
- (3) for two years or more shall file an original firm license application pursuant to G.S. 93A-4 and Rules .0301, .0302, and .0502 of this Subchapter.

(g) An individual or business entity seeking reinstatement of a license that has been suspended shall submit the reinstatement fee pursuant to Paragraph (a) of this Rule.

(h) A license shall be reinstated with the same license number and status, either full or provisional, it held before expiration, revocation, or suspension and shall be effective as of the date of reinstatement, not the date of original licensure. An individual seeking reinstatement of a license on active status shall satisfy the requirements of Rule .1703 of this Subchapter.

(i) An individual or firm seeking restoration of a license surrendered pursuant to G.S. 93A-6(e) shall, after the period of surrender specified in the order accepting the surrender, file an original application pursuant to G.S. 93A-4 and either Rules .0301 and .0302 or Rule .0502 of this Subchapter, as applicable.

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

21 NCAC 58A .0509 DUPLICATE LICENSE FEE

~~A licensee may, by filing a prescribed form and paying a five dollar (\$5.00) fee to the Commission, obtain a duplicate real estate license or pocket card to replace an original license or pocket card which has been lost, damaged or destroyed or if the name of the licensee has been lawfully changed.~~

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

SECTION .1900 - POST-LICENSING EDUCATION

21 NCAC 58A .1905 WAIVER OF 90-HOUR POSTLICENSING EDUCATION REQUIREMENT

(a) A provisional North Carolina real estate broker may apply for a waiver of one or more of the three 30-hour Postlicensing courses described in Rule .1902 of this Section. For each course for which waiver is sought, the provisional broker shall submit evidence of one or more of the following:

- (1) equivalent education obtained in another jurisdiction, which shall include the course(s):

- (A) jurisdiction of delivery;
- (B) title;
- (C) credit hours earned;
- (D) beginning and end dates; and
- (E) detailed subject matter description.
- (2) full-time experience as a licensed broker in another state for at least five of the seven years immediately prior to application for waiver, which shall include the applicant's:
 - (A) employer;
 - (B) title at employer;
 - (C) dates of employment;
 - (D) hours per week devoted to brokerage;
 - (E) approximate number of transactions;
 - (F) areas of practice;
 - (G) approximate percentage of time devoted to each area of practice;
 - (H) detailed description of applicant's role and duties;
 - (I) managing broker's name, telephone number, and email address; and
 - (J) official certification of licensure issued within the six months preceding application from a jurisdiction within a state, territory, or possession of the United States or Canada in which the applicant holds a current real estate license that has been active within the three years prior to application.
- (3) full-time experience as a licensed North Carolina attorney practicing primarily in real estate matters for the two years immediately preceding application, which shall include the applicant's:
 - (A) firm or practice name;
 - (B) law license number;
 - (C) dates of employment;
 - (D) hours per week devoted to real estate law practice;
 - (E) approximate number of closings conducted;
 - (F) detailed description of practice; and
 - (G) manager or supervising attorney's name, telephone number, and email address.

(b) The Commission will not consider education or experience obtained in violation of any law or rule as fulfilling the requirements for waiver of the 90-hour postlicensing education requirement.

Authority G.S. 93A-4(a1).

Notice is hereby given in accordance with G.S. 150B-21.2 that the Real Estate Commission intends to adopt the rule cited as 21 NCAC 58A .0512 and amend the rule cited as 21 NCAC 58A .0511.

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

Proposed Effective Date: July 1, 2018

Public Hearing:

Date: December 14, 2016

Time: 9:00 a.m.

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

Reason for Proposed Action:

21 NCAC 58A .0511 – *Licensing of Persons Licensed in Another Jurisdiction. The amendments are proposed to create a temporary practice permit for military spouses pursuant to N.C.G.S 93B-15.1*

21 NCAC 58A .0512 – *Death or Incapacity of Sole Proprietor. The adoption of a rule is proposed to create a succession plan if a broker were to become deceased or become incapacitated while serving as a broker-in-charge of a sole proprietorship.*

Comments may be submitted to: Melissa A. Vuotto, P.O. Box 17100, Raleigh, NC 27619-7100, phone (919) 875-3700

Comment period ends: January 17, 2017

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 58A - REAL ESTATE BROKERS

SECTION .0500 - LICENSING

**21 NCAC 58A .0511 LICENSING OF PERSONS
LICENSED IN ANOTHER JURISDICTION**

~~(a) Persons applying for a North Carolina broker license who hold a current real estate license that has been on active status within the previous three years in another state of the United States, a United States territory or possession or a Canadian jurisdiction shall meet the licensing requirements prescribed in G.S. 93A-4 except that such persons shall be exempt from the "national" section of the North Carolina real estate license examination, but shall pass the "state" section of that examination. A person qualifying for licensure under this provision shall be issued a North Carolina broker license on a status comparable to the category of license held by the person in the jurisdiction where the qualifying license is held.~~

(a) "Jurisdiction" shall mean a state, territory, or possession of the United States or Canada.

(b) An individual seeking a real estate license who, at the time of application, holds a current real estate license in another jurisdiction that has been on active status within the three years prior to application may request a waiver of the 75-hour education program required by G.S. 93A-4(a) and the "National" section of the North Carolina real estate license examination, as defined in Rule .0402(b) of this Subchapter, by submitting an official certification of licensure issued within the six months preceding application to the Commission along with their application for licensure pursuant to Rule .0301 of this Subchapter.

~~(b)(c) Brokers who were licensed in North Carolina by reciprocity shall be entitled to retain such license indefinitely, unless suspended, ~~revoked~~ or surrendered pursuant to G.S. 93A-6, so long as the license is continuously renewed or is reinstated within six months of expiration pursuant to Rule .0505 of this Section. A person who was previously licensed in North Carolina by reciprocity and who seeks reinstatement of that license after the license has been expired for more than six months, suspended, ~~revoked~~ or surrendered shall satisfy the requirements described in Rule .0505 of this Section.~~

(d) Military-trained applicants or military spouses applying for a North Carolina broker license may be issued a temporary practice permit if they satisfy all of the following:

- (1) the military-trained applicant or military spouse shall be licensed, certified, or registered in another jurisdiction;
- (2) the military-trained applicant or military spouse shall satisfy the requirements for licensure under G.S. 93B-15.1(a) or G.S. 93B-15.1 (b);

(3) the jurisdiction where the military-trained applicant or military spouse holds licensure, certification, or registration has standards that are equivalent to that of G.S. 93A-4; and

(4) the military-trained applicant or military spouse shall provide a copy of the official military orders or a written verification signed by the commanding officer of the military-trained spouse.

(d) The military-trained applicant or military spouse may engage in brokerage activity under the temporary practice permit until a license shall be granted or until a notice to deny a license shall be issued, whichever occurs sooner.

(e) A temporary practice permit shall automatically expire after 180 days from issuance. An applicant that is issued a temporary practice permit under this Subchapter shall remain a provisional broker for the duration of the permit.

Authority G.S. 93A-3(c); 93A-4; 93A-4.1; 93A-9(a); 93B-15.1.

**21 NCAC 58A .0512 DEATH OR INCAPACITY OF
SOLE PROPRIETOR**

(a) If a licensed real estate broker engaged in business as a sole proprietor dies or becomes incapacitated, the Commission may issue a temporary license to the executor or administrator of the estate of the deceased sole proprietor broker or to the court-appointed fiduciary of the incapacitated sole proprietor broker.

(b) A temporary license shall be valid only for the purpose of distributing trust money held or paying commissions owed by the sole proprietor broker at the time of death or incapacity, but shall not otherwise entitle the holder to undertake any action for which a real estate license is required.

(c) The Commission shall issue the temporary license upon receipt of:

- (1) a written notification to the Commission of the date of the broker's death or disability; and
- (2) a certified copy of the court order appointing the executor, administer, or fiduciary.

(d) The temporary license shall be valid for one year from issuance.

Authority G.S. 93A-2(c)(4).

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 270th day from publication in the Register unless the agency submits the permanent rule to the Rules Review Commission by the 270th day.

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

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Rule-making Agency: Social Services Commission

Rule Citation: 10A NCAC 10 .0602, .0702

Effective Date: October 28, 2016

Date Approved by the Rules Review Commission: October 20, 2016

Reason for Action: The effective date of a recent act of the General Assembly or of the U.S. Congress, The Child Care and Development Block Grant Act 42 U.S.C. 9858, effective date November 19, 2014. Amendments to these Rules are necessary to bring North Carolina into compliance with the training requirements of the Child Care and Development Block Grant (CCDBG) Act of 2014. These temporary rules would require facilities not currently subject to the training requirements to comply in order to be eligible to participate in the state's subsidized child care assistance program. The CCDBG, 42 U.S.C 9857, Section 658E(c)(2)(G) requires all child care providers "that provide services for which assistance is provided in accordance" with the Act to comply with training requirements under the Act. Presently, facilities operating under G.S. 110-106, centers operating in other states, and centers certified by the United States Department of Defense are not required to comply with current regulatory requirements under G.S. 110, Article 7 and 10A NCAC 09 governing training.

Participation in the program is voluntary for all child care providers. Facilities that are currently "only" subject to basic health and safety standards under NC law and rules would be required to meet these training requirements if they choose to participate and receive subsidy funds. The Child Care and Development Fund (CCDF) that is authorized by the CCDBG provides federal funding for low-income families with children in child care who are working or continuing their education and training. These funds help families pay for child care services.

Although the CCDBG Act was enacted in 2014, the final regulations were just published in the Federal Register on September 23, 2016. If NC cannot certify that it is compliant with the requirements of the CCDBG Act by the September 30 deadline, NC risks forfeiting millions of federal dollars it desperately needs to maintain funding for low-income families with children in child care.

The Social Services Commission adopted these rules under the temporary rules process to help protect the health and safety of

children in child care so that providers would have access to the required training by the September 30, 2016 deadline. The training includes the following 11 topic areas:

- 1) prevention and control infection diseases, including immunization;
- 2) administration of medication, consistent with standards for parental consent;
- 3) prevention of and response to emergencies due to food and allergic reactions;
- 4) building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
- 5) emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused event;
- 6) handling and storage of hazardous materials and the appropriate disposal of bio-contaminants;
- 7) precautions in transporting children, if applicable;
- 8) prevention of shaken baby syndrome and abusive head trauma;
- 9) CPR and First Aid training;
- 10) recognizing and responding to Suspicions of Child Maltreatment; and
- 11) prevention of sudden infant death syndrome and use of safe sleeping practices.

CHAPTER 10 – SUBSIDIZED CHILD CARE RULES

SECTION .0600 - REQUIREMENTS FOR CHILD CARE CENTERS

10A NCAC 10 .0602 APPROVAL AND CONTINUED PARTICIPATION IN THE SUBSIDIZED CHILD CARE ASSISTANCE PROGRAM

(a) Application for approval to participate in the ~~state's~~ State's Subsidized Child Care Assistance Program shall be made to the local purchasing agency.

(b) Any center approved for participation in the Subsidized Child Care Assistance Program shall continue to be eligible for as long as the center maintains compliance with all of the requirements set forth in this ~~Subchapter.~~ Chapter.

(c) To be eligible to participate in the Subsidized Child Care Assistance Program, centers that are exempt from licensure pursuant to G.S. 110-106, centers operating in other states, and centers certified by the United States Department of Defense shall comply with all staff orientation and training requirements set forth in 10A NCAC 09 .0705, .0706, and .0707, in accordance with the Child Care and Development Block Grant Act, 42 U.S.C. 9858, et seq.

~~(e)~~(d) When a center is found to be out of compliance with any requirement for participation, the Division shall set a time limit

for compliance. The Division shall base the time limit on the length of time projected to be needed for the center to comply with the requirement. If the center fails to comply within the set time limit, approval may be terminated.

~~(d)~~(e) Upon request for review by a local, state, or federal agency representative, the operator of a center shall provide records pertaining to his or her participation in the state's Subsidized Child Care Assistance Program.

History Note: Authority G.S. 143B-153(2a); Eff. February 1, 1986; Amended Eff. April 1, 2001; February 1, 1996; Emergency Amendment Eff. August 22, 2016; Temporary Amendment Eff. October 28, 2016.

SECTION .0700 - REQUIREMENTS FOR FAMILY CHILD CARE HOMES

10A NCAC 10 .0702 APPROVAL AND CONTINUED PARTICIPATION IN THE SUBSIDIZED CHILD CARE ASSISTANCE PROGRAM

(a) Any family child care home approved for participation in the ~~subsidized child care program~~ Subsidized Child Care Assistance Program shall continue to be eligible for as long as the home maintains compliance with all of the requirements set forth in this Subchapter. Chapter.

(b) To be eligible to participate in the Subsidized Child Care Assistance Program, family child care homes that are exempt from licensure pursuant to G.S. 110-106, family child care homes operating in other states, and family child care homes certified by the United States Department of Defense shall comply with all staff orientation and training requirements set forth in 10A NCAC 09 .1701, .1705 and .1731, in accordance with the Child Care and Development Block Grant Act, 42 U.S.C. 9858, et seq.

~~(b)~~(c) When a home is found to be out of compliance with any requirement for participation, the Division shall set a time limit for compliance. The Division shall base the time limit on the length of time projected to be needed for the home to comply with the requirement. If the home fails to comply within the set time limit, approval shall be terminated.

~~(e)~~(d) Upon request for review by a local, state or federal agency representative, the operator of a family child care home shall provide records pertaining to his or her participation in the state's ~~subsidized child care program~~. Subsidized Child Care Assistance Program.

History Note: Authority G.S. 143B-153(2a); Eff. January 1, 1988; Amended Eff. April 1, 2001; February 1, 1996; Emergency Amendment Eff. August 22, 2016; Temporary Amendment Eff. October 28, 2016.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 40 - BOARD OF OPTICIANS

Rule-making Agency: NC State Board of Opticians

Rule Citation: 21 NCAC 40 .0202

Effective Date: November 1, 2016

Date Approved by the Rules Review Commission: October 20, 2016

Reason for Action: The effective date of a recent act of the General Assembly, S.L. 2016-117(3)(c), Effective October 1, 2016. Changes to the Board's fee structure includes a separate registration for optician-in-charge at an optical place of business.

Since S.L. 2016-117 was not approved by the Governor until July 28th, it places the Board in the position of having to ask for the rule revision as soon as possible so that it can implement the new registration and associated fee.

SECTION .0200 - CONDUCT OF REGISTRANTS

21 NCAC 40 .0202 REGISTRATION OF OPTICAL PLACE OF BUSINESS AND OPTICIAN IN CHARGE

(a) As used in this Rule, "optical place of business" means the principal ~~office~~ office, as well as each branch office of such a the business.

~~(b) Every optical place of business shall have a licensed optician in charge, who shall serve as the registered licensee in charge of only one optical place of business.~~

~~(e)~~(1) Every optical place of business shall be registered with the Board within 10 days following its opening for business and thereafter annually and in the event of ~~relocation, relocation or change of ownership.~~ ownership or change of licensed optician in charge. The registration fee shall be paid for each registration.

~~(d)~~(2) Registration of an optical place of business automatically expires on the first day of July of each year, and it shall not engage in business until it is registered for the next annual period.

~~(e)~~(3) ~~Registration~~ An optical place of business registration is the responsibility of both the licensed optician in charge and the owner. Any licensed optician in charge of an optical place of business which that violates the registration requirements of this Rule shall be subject to the Board's disciplinary authority under ~~G.S. 90-249.1~~ G.S. 90-249.1, G.S. 90-252, and G.S. 90-254. An injunction closing an unregistered optical place of business may also be obtained.

~~(f)~~(4) An optical place of business registered in compliance with this Rule is shall be eligible to be a training establishment when the requirements of Rules .0314 and .0321 of this Chapter are met.

(b) Every optical place of business shall register a licensed optician in charge, who shall serve as the licensee in charge of only one optical place of business.

- (1) Every optician in charge shall be registered with the Board within 10 days of a business opening, or change of optician in charge. The registration fee shall be paid for each registration under G.S. 90-246. of an optical place of business that violates the registration requirements of this Rule shall be subject to the Board's disciplinary authority under G.S. 90-249.1 and G.S. 90-252.
- (2) Registration of an optician in charge automatically expires on the first day of July of each year, and the optical business shall not engage in dispensing activities under G.S. 90-236 until it has a registered optician in charge for the next annual period. *History Note: Authority G.S. 90-239; 90-243; 90-249(5); 90-252; 90-253; Eff. February 1, 1976; Amended Eff. November 1, 1978; June 21, 1978; September 6, 1977; Readopted Eff. May 23, 1979;*
- (3) An optician in charge registration is the responsibility of both the licensed optician in charge and the owner. Any optician in charge *Amended Eff. August 1, 1998; January 1, 1994; August 1, 1991; February 1, 1989; August 1, 1985; Temporary Amendment Eff. November 1, 2016.*

This Section contains information for the meeting of the Rules Review Commission October 21, 2016 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-431-3000. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

Jeff Hyde (1st Vice Chair)
Robert A. Bryan, Jr.
Margaret Currin
Jay Hemphill
Jeffrey A. Poley

Appointed by House

Garth Dunklin (Chair)
Stephanie Simpson (2nd Vice Chair)
Paul Powell
Jeanette Doran
Danny Earl Britt, Jr.

COMMISSION COUNSEL

Abigail Hammond	(919)431-3076
Amber Cronk May	(919)431-3074
Amanda Reeder	(919)431-3079
Jason Thomas	(919)431-3081

RULES REVIEW COMMISSION MEETING DATES

November 17, 2016	December 15, 2016
January 19, 2017	February 16, 2016

RULES REVIEW COMMISSION MEETING

MINUTES

October 21, 2016

The Rules Review Commission met on Thursday, October 21, 2016, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Bobby Bryan, Margaret Currin, Jeanette Doran, Garth Dunklin, Jay Hemphill, Jeff Hyde, Jeff Poley, and Stephanie Simpson.

Staff members present were Commission Counsels Amber Cronk May, Amanda Reeder, Abigail Hammond, and Jason Thomas; and Julie Brincefield, Alex Burgos, and Dana Vojtko.

The meeting was called to order at 10:03 a.m. with Chairman Dunklin presiding.

Chairman Dunklin introduced OAH extern Derrick Lloyd.

Chairman Dunklin introduced Senator Andy Wells, Senate Co-Chair of the Joint Legislative Administrative Procedure Oversight Committee.

Chairman Dunklin announced that Commissioner Currin was recently awarded the Long Leaf Pine award for her service to the State of North Carolina.

Chairman Dunklin 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 of interest.

APPROVAL OF MINUTES

Chairman Dunklin asked for any discussion, comments, or corrections concerning the minutes of the September 15, 2016 meeting. There were none and the minutes were approved as distributed.

FOLLOW UP MATTERS

Criminal Justice Education and Training Standards Commission

12 NCAC 09B .0203 - The agency is addressing the objection from the September meeting. No action was required by the Commission.

Environmental Management Commission

15A NCAC 02H .1019, .1042, .1043, .1044, .1045, .1050, .1051, .1052, .1053, .1054, .1055, .1056, .1059, and .1060 - The agency is addressing the objection from the September meeting. No action was required by the Commission.

LOG OF FILINGS (PERMANENT RULES)

Soil and Water Conservation Commission

All rules were unanimously approved.

Environmental Management Commission

All rules were unanimously approved with the following exception:

The Commission objected to 15A NCAC 02I .0501 for lack of statutory authority. Specifically, the Commission found that the existing language of the rule exceeds the statutory language of G.S. 150B-20 and creates a higher burden for the general public than required in the specific legislative directive of the General Assembly.

Craig Bromby, General Counsel with the Department of Environmental Quality, addressed the Commission.

Department of Transportation

19A NCAC 03D .0522 was unanimously approved.

Irrigation Contractors Licensing Board

All rules were unanimously approved.

LOG OF RULES (TEMPORARY RULES)

Social Services Commission

All rules were unanimously approved.

The agency requested a waiver pursuant to G.S. 150B-21.1(a2) waiving the 210-day limitation found in G.S. 150B-21.1(a1). The waiver request was approved, with Commissioner Doran voting against.

Alexi Gruber, with the Attorney General's Office representing the agency, addressed the Commission.

State Board of Opticians

21 NCAC 40 .0202 was unanimously approved.

EXISTING RULES REVIEW

Commission for Public Health

10A NCAC 39 - The Commission unanimously approved the report as submitted by the agency.

10A NCAC 43C - The Commission unanimously approved the report as submitted by the agency.

10A NCAC 43E - The Commission unanimously approved the report as submitted by the agency.

10A NCAC 43G – The Commission unanimously approved the report as submitted by the agency with the following exceptions for rules 10A NCAC 43G .0108, .0110, and .0111. The RRC designated these rules as “necessary with substantive public interest.”

10A NCAC 43H - The Commission unanimously approved the report as submitted by the agency.

10A NCAC 43I - The Commission unanimously approved the report as submitted by the agency.

10A NCAC 43J - The Commission unanimously approved the report as submitted by the agency.

Department of Secretary of State

18 NCAC 06 - The Commission unanimously approved the report as submitted by the agency.

18 NCAC 07 - The Commission unanimously approved the report as submitted by the agency.

18 NCAC 10 - The Commission unanimously approved the report as submitted by the agency.

Department of Administration

01 NCAC 04 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than July 31, 2017 pursuant to G.S. 150B-21.3A(d)(2).

DHHS/Division of Medical Assistance

10A NCAC 23, 25 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than March 31, 2019 pursuant to G.S. 150B-21.3A(d)(2).

Department of Transportation

19A NCAC 02 - As reflected in the attached letter, the Commission voted to schedule readoption of these Rules no later than August 31, 2019 pursuant to G.S. 150B-21.3A(d)(2).

COMMISSION BUSINESS

The Commission amended Rule 26 NCAC 05 .0211 to reflect changes in the Administrative Code.

At 10:30 a.m., Chairman Dunklin opened the meeting for a public hearing on the proposed amendment of Rule 26 NCAC 05 .0205. The Chair called on anyone present who wished to comment on 26 NCAC 05 .0205 as the rule was noticed in the North Carolina Register. No comments were submitted at the public hearing. The period to receive comments will expire at 5:00 p.m., October 31, 2016.

The Commission may vote on the adoption of Rule 26 NCAC 05 .0205 at its regularly scheduled meeting in November.

The public hearing portion of the meeting was closed at 10:32 a.m.

The meeting adjourned at 10:35 a.m.

The next regularly scheduled meeting of the Commission is Thursday, November 17th 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, Paralegal

Minutes approved by the Rules Review Commission:

Garth Dunklin, Chair

October 20, 2016

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Jennifer Everett	DEQ
Helen Vandi	DOT
Alexi Grober	DOJ
Elizabeth Everett	DCDEE
Dawn Alon	DCDEE
Ann Wan	Adm
Craig Bromby	DEQ
David Williams	NCDACS /Soils Water
Julie Henshaw	"
Ryan Boyce	NCDOT
Bob MARTIN	NC BPH
Katy Kingburn	Brooks pierce
Joelle Burleson	NCDEQ-DAQ
Charminique Branson	NC CJETS
Carrie Hollis	OSBM
Patrick Krawlan	DEQ DAQ



**STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS**

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6714

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

October 20, 2016

J. Brian Ratledge, Rulemaking Coordinator
General Counsel
North Carolina Department of Administration
116 W. Jones Street
Raleigh, NC 27603-8003

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **01 NCAC 04**

Dear Mr. Ratledge:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the October 20, 2016 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than July 31, 2017.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Abigail M. Hammond".

Abigail M. Hammond
Commission Counsel

Administration
919/431-3000
fax: 919/431-3100

Rules Division
919/431-3000
fax: 919/431-3104

Judges and
Assistants
919/431-3000
fax: 919/431-3100

Clerk's Office
919/431-3000
fax: 919/431-3100

Rules Review
Commission
919/431-3000
fax: 919/431-3104

Civil Rights
Division
919/431-3036
fax: 919/431-3103

An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
January 21, 2016
APO Review: February 02, 2016
Administration, Department of
Total: 1**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>01</u> <u>NCAC 04A .0201</u>	Necessary with substantive public interest



**STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS**

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6714

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

October 20, 2016

Sarah Pfau, Rulemaking Coordinator
Department of Health and Human Services
Division of Medical Assistance
2501 Mail Service Center
Raleigh, North Carolina 27699-2501

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **10A NCAC 23 & 10A NCAC 25**

Dear Ms. Pfau:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the October 20, 2016 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than March 31, 2019.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Abigail M. Hammond".

Abigail M. Hammond
Commission Counsel

Administration 919/431-3000 fax: 919/431-3100	Rules Division 919/431-3000 fax: 919/431-3104	Judges and Assistants 919/431-3000 fax: 919/431-3100	Clerk's Office 919/431-3000 fax: 919/431-3100	Rules Review Commission 919/431-3000 fax: 919/431-3104	Civil Rights Division 919/431-3056 fax: 919/431-3103
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An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW**

May 19, 2016

APO Review: July 23, 2016

**HHS - Medical Assistance, Division of
Total: 47**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>10A NCAC 23A .0103</u>	Necessary with substantive public interest
<u>10A NCAC 23C .0201</u>	Necessary with substantive public interest
<u>10A NCAC 23D .0101</u>	Necessary with substantive public interest
<u>10A NCAC 23D .0102</u>	Necessary with substantive public interest
<u>10A NCAC 23D .0201</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0101</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0102</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0103</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0104</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0105</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0106</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0107</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0108</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0201</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0202</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0203</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0204</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0205</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0206</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0207</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0208</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0209</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0210</u>	Necessary with substantive public interest
<u>10A NCAC 23E .0211</u>	Necessary with substantive public interest
<u>10A NCAC 23G .0101</u>	Necessary with substantive public interest
<u>10A NCAC 23G .0201</u>	Necessary with substantive public interest
<u>10A NCAC 23G .0202</u>	Necessary with substantive public interest
<u>10A NCAC 23G .0203</u>	Necessary with substantive public interest
<u>10A NCAC 23G .0204</u>	Necessary with substantive public interest
<u>10A NCAC 23G .0303</u>	Necessary with substantive public interest
<u>10A NCAC 23G .0304</u>	Necessary with substantive public interest
<u>10A NCAC 23H .0106</u>	Necessary with substantive public interest
<u>10A NCAC 23H .0107</u>	Necessary with substantive public interest
<u>10A NCAC 23H .0108</u>	Necessary with substantive public interest
<u>10A NCAC 23H .0109</u>	Necessary with substantive public interest
<u>10A NCAC 23H .0110</u>	Necessary with substantive public interest

<u>10A</u>	<u>NCAC</u>	<u>23H</u>	<u>.0111</u>	Necessary with substantive public interest
<u>10A</u>	<u>NCAC</u>	<u>23H</u>	<u>.0112</u>	Necessary with substantive public interest
<u>10A</u>	<u>NCAC</u>	<u>23H</u>	<u>.0113</u>	Necessary with substantive public interest
<u>10A</u>	<u>NCAC</u>	<u>25A</u>	<u>.0201</u>	Necessary with substantive public interest
<u>10A</u>	<u>NCAC</u>	<u>25H</u>	<u>.0203</u>	Necessary with substantive public interest
<u>10A</u>	<u>NCAC</u>	<u>25K</u>	<u>.0201</u>	Necessary with substantive public interest
<u>10A</u>	<u>NCAC</u>	<u>25K</u>	<u>.0401</u>	Necessary with substantive public interest
<u>10A</u>	<u>NCAC</u>	<u>25M</u>	<u>.0201</u>	Necessary with substantive public interest
<u>10A</u>	<u>NCAC</u>	<u>25P</u>	<u>.0201</u>	Necessary with substantive public interest
<u>10A</u>	<u>NCAC</u>	<u>25P</u>	<u>.0301</u>	Necessary with substantive public interest
<u>10A</u>	<u>NCAC</u>	<u>25P</u>	<u>.0402</u>	Necessary with substantive public interest



**STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS**

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6714

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

October 20, 2016

Helen Landi, Rulemaking Coordinator
Department of Transportation
1501 Mail Service Center
Raleigh, North Carolina 27699-1501

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **19A NCAC 02**

Dear Ms. Landi:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the October 20, 2016 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than August 31, 2019.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Abigail M. Hammond".

Abigail M. Hammond
Commission Counsel

Administration
919/431-3000
fax: 919/431-3100

Rules Division
919/431-3000
fax: 919/431-3104

Judges and
Assistants
919/431-3000
fax: 919/431-3100

Clerk's Office
919/431-3000
fax: 919/431-3100

Rules Review
Commission
919/431-3000
fax: 919/431-3104

Civil Rights
Division
919/431-3036
fax: 919/431-3103

An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
July 21, 2016
APO Review: September 06, 2016
Transportation, Department of
Total: 107**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>19A NCAC 02B .0143</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0145</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0150</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0152</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0153</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0154</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0155</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0156</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0157</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0158</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0202</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0206</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0240</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0315</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0316</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0432</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0433</u>	Necessary with substantive public interest
<u>19A NCAC 02B .0507</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0102</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0104</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0402</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0403</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0404</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0405</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0406</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0408</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0410</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0414</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0415</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0421</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0425</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0535</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0538</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0539</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0602</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0607</u>	Necessary with substantive public interest

<u>19A NCAC 02D .0612</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0633</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0643</u>	Necessary with substantive public interest
<u>19A NCAC 02D .0644</u>	Necessary with substantive public interest
<u>19A NCAC 02D .1101</u>	Necessary with substantive public interest
<u>19A NCAC 02D .1102</u>	Necessary with substantive public interest
<u>19A NCAC 02D .1103</u>	Necessary with substantive public interest
<u>19A NCAC 02D .1104</u>	Necessary with substantive public interest
<u>19A NCAC 02D .1105</u>	Necessary with substantive public interest
<u>19A NCAC 02D .1106</u>	Necessary with substantive public interest
<u>19A NCAC 02D .1107</u>	Necessary with substantive public interest
<u>19A NCAC 02D .1108</u>	Necessary with substantive public interest
<u>19A NCAC 02D .1109</u>	Necessary with substantive public interest
<u>19A NCAC 02D .1110</u>	Necessary with substantive public interest
<u>19A NCAC 02D .1111</u>	Necessary with substantive public interest
<u>19A NCAC 02D .1112</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0201</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0202</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0203</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0204</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0206</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0207</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0208</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0209</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0210</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0212</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0213</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0214</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0215</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0221</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0224</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0225</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0226</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0301</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0303</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0402</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0403</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0404</u>	Necessary with substantive public interest
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<u>19A NCAC 02E .0406</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0407</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0408</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0409</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0410</u>	Necessary with substantive public interest

<u>19A NCAC 02E .0411</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0412</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0413</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0414</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0415</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0416</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0417</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0418</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0419</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0420</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0421</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0422</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0423</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0426</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0427</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0601</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0602</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0603</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0604</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0608</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0609</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0610</u>	Necessary with substantive public interest
<u>19A NCAC 02E .0611</u>	Necessary with substantive public interest
<u>19A NCAC 02E .1006</u>	Necessary with substantive public interest
<u>19A NCAC 02E .1103</u>	Necessary with substantive public interest
<u>19A NCAC 02E .1105</u>	Necessary with substantive public interest
<u>19A NCAC 02E .1106</u>	Necessary with substantive public interest

**LIST OF APPROVED PERMANENT RULES
October 20, 2016 Meeting****SOIL AND WATER CONSERVATION COMMISSION**

<u>Definitions for Subchapter 59H</u>	02	NCAC 59H .0102
<u>Allocation Guidelines and Procedures</u>	02	NCAC 59H .0103

ENVIRONMENTAL MANAGEMENT COMMISSION

<u>Excess Emissions Reporting and Malfunctions</u>	15A	NCAC 02D .0535
<u>Treatment of Malfunction Events and Work Practices for St...</u>	15A	NCAC 02D .0545
<u>Applicability</u>	15A	NCAC 02D .0902
<u>Heavy-Duty Vehicle Idling Restrictions</u>	15A	NCAC 02D .1010

TRANSPORTATION, DEPARTMENT OF

<u>Denial, Suspension or Revocation of Licenses</u>	19A	NCAC 03D .0522
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IRRIGATION CONTRACTORS LICENSING BOARD

<u>Definitions</u>	21	NCAC 23 .0101
<u>Surety Bonds and Legal Status</u>	21	NCAC 23 .0102
<u>Continuing Education</u>	21	NCAC 23 .0104
<u>Complaint Process</u>	21	NCAC 23 .0208
<u>Irrigation Record Drawing</u>	21	NCAC 23 .0301
<u>System Design Objectives and Requirements</u>	21	NCAC 23 .0401
<u>Piping</u>	21	NCAC 23 .0402
<u>Water Pressure</u>	21	NCAC 23 .0404
<u>Drip/Microirrigation</u>	21	NCAC 23 .0405
<u>Components and Zone Design</u>	21	NCAC 23 .0406
<u>General Requirements</u>	21	NCAC 23 .0501
<u>Site Considerations</u>	21	NCAC 23 .0502
<u>Water Supply</u>	21	NCAC 23 .0503
<u>System Layout</u>	21	NCAC 23 .0504
<u>Trenching and Piping</u>	21	NCAC 23 .0505
<u>Electrical</u>	21	NCAC 23 .0506
<u>Grounding</u>	21	NCAC 23 .0507
<u>Sprinklers</u>	21	NCAC 23 .0508
<u>Controller</u>	21	NCAC 23 .0509
<u>Initial System Start Up</u>	21	NCAC 23 .0510
<u>Owner's Manual</u>	21	NCAC 23 .0511
<u>Purpose</u>	21	NCAC 23 .0601
<u>Basic System Maintenance Practices</u>	21	NCAC 23 .0602
<u>Scheduling</u>	21	NCAC 23 .0603

**LIST OF APPROVED TEMPORARY RULES
October 20, 2016 Meeting**

SOCIAL SERVICES COMMISSION

<u>Approval and Continued Participation in the Subsidized Ch...</u>	10A NCAC 10 .0602
<u>Approval and Continued Participation in the Subsidized Ch...</u>	10A NCAC 10 .0702

OPTICIANS, STATE BOARD OF

<u>Registration of Place of Business</u>	21 NCAC 40 .0202
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**RRC DETERMINATION
PERIODIC RULE REVIEW
October 20, 2016
Necessary with Substantive Public Interest**

Public Health, Commission for

10A NCAC 43G .0108
10A NCAC 43G .0110
10A NCAC 43G .0111

**RRC DETERMINATION
PERIODIC RULE REVIEW
October 20, 2016
Necessary without Substantive Public Interest**

Public Health, Commission for

10A NCAC 39A .1001
10A NCAC 39A .1002
10A NCAC 39A .1003
10A NCAC 39A .1004
10A NCAC 39A .1005
10A NCAC 39A .1006
10A NCAC 39B .0101
10A NCAC 39B .0102
10A NCAC 39B .0104
10A NCAC 39B .0106
10A NCAC 39B .0107
10A NCAC 39B .0111
10A NCAC 39B .0113
10A NCAC 39C .0101
10A NCAC 39C .0102
10A NCAC 39C .0103
10A NCAC 39C .0104
10A NCAC 43G .0109
10A NCAC 43H .0103
10A NCAC 43H .0105
10A NCAC 43H .0109
10A NCAC 43H .0110
10A NCAC 43H .0111
10A NCAC 43H .0113
10A NCAC 43H .0115
10A NCAC 43H .0116
10A NCAC 43H .0118
10A NCAC 43H .0202
10A NCAC 43H .0301
10A NCAC 43H .0314

10A NCAC 43I .0101
10A NCAC 43J .0101

**Secretary of State, Department
of the**

18 NCAC 06A .1101
18 NCAC 06A .1102
18 NCAC 06A .1104
18 NCAC 06A .1202
18 NCAC 06A .1203
18 NCAC 06A .1205
18 NCAC 06A .1206
18 NCAC 06A .1207
18 NCAC 06A .1208
18 NCAC 06A .1209
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18 NCAC 06A .1301
18 NCAC 06A .1302
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18 NCAC 06A .1701
18 NCAC 06A .1702
18 NCAC 06A .1703

18 NCAC 06A .1704	18 NCAC 07B .0107	18 NCAC 07B .0905
18 NCAC 06A .1705	18 NCAC 07B .0201	18 NCAC 07B .0906
18 NCAC 06A .1706	18 NCAC 07B .0301	18 NCAC 07B .0907
18 NCAC 06A .1707	18 NCAC 07B .0302	18 NCAC 07B .1001
18 NCAC 06A .1708	18 NCAC 07B .0401	18 NCAC 07C .0101
18 NCAC 06A .1709	18 NCAC 07B .0402	18 NCAC 07C .0102
18 NCAC 06A .1710	18 NCAC 07B .0403	18 NCAC 07C .0201
18 NCAC 06A .1713	18 NCAC 07B .0501	18 NCAC 07C .0202
18 NCAC 06A .1715	18 NCAC 07B .0502	18 NCAC 07C .0203
18 NCAC 06A .1717	18 NCAC 07B .0503	18 NCAC 07C .0301
18 NCAC 06A .1801	18 NCAC 07B .0504	18 NCAC 07C .0401
18 NCAC 06A .1802	18 NCAC 07B .0505	18 NCAC 07C .0402
18 NCAC 06A .1803	18 NCAC 07B .0701	18 NCAC 07C .0403
18 NCAC 06A .1804	18 NCAC 07B .0702	18 NCAC 07C .0501
18 NCAC 06A .1805	18 NCAC 07B .0703	18 NCAC 07C .0502
18 NCAC 06A .1806	18 NCAC 07B .0704	18 NCAC 07C .0503
18 NCAC 06A .1807	18 NCAC 07B .0705	18 NCAC 07C .0601
18 NCAC 06A .1808	18 NCAC 07B .0706	18 NCAC 07C .0602
18 NCAC 06A .1810	18 NCAC 07B .0707	18 NCAC 07C .0603
18 NCAC 06B .0101	18 NCAC 07B .0708	18 NCAC 07C .0604
18 NCAC 06B .0102	18 NCAC 07B .0709	18 NCAC 10 .0101
18 NCAC 06B .0201	18 NCAC 07B .0710	18 NCAC 10 .0201
18 NCAC 06C .0101	18 NCAC 07B .0711	18 NCAC 10 .0301
18 NCAC 06C .0102	18 NCAC 07B .0712	18 NCAC 10 .0302
18 NCAC 06C .0103	18 NCAC 07B .0713	18 NCAC 10 .0303
18 NCAC 06C .0104	18 NCAC 07B .0714	18 NCAC 10 .0304
18 NCAC 06C .0105	18 NCAC 07B .0715	18 NCAC 10 .0305
18 NCAC 06C .0106	18 NCAC 07B .0716	18 NCAC 10 .0306
18 NCAC 06C .0107	18 NCAC 07B .0717	18 NCAC 10 .0307
18 NCAC 06C .0108	18 NCAC 07B .0718	18 NCAC 10 .0308
18 NCAC 07B .0101	18 NCAC 07B .0719	18 NCAC 10 .0309
18 NCAC 07B .0102	18 NCAC 07B .0720	18 NCAC 10 .0701
18 NCAC 07B .0103	18 NCAC 07B .0901	18 NCAC 10 .0801
18 NCAC 07B .0104	18 NCAC 07B .0902	18 NCAC 10 .0901
18 NCAC 07B .0105	18 NCAC 07B .0903	
18 NCAC 07B .0106	18 NCAC 07B .0904	

**RRC DETERMINATION
PERIODIC RULE REVIEW
October 20, 2016
Unnecessary**

Public Health, Commission for	10A NCAC 39A .0306	10A NCAC 39A .0603
10A NCAC 39A .0102	10A NCAC 39A .0307	10A NCAC 39A .0701
10A NCAC 39A .0103	10A NCAC 39A .0308	10A NCAC 39A .0702
10A NCAC 39A .0104	10A NCAC 39A .0309	10A NCAC 39A .0703
10A NCAC 39A .0105	10A NCAC 39A .0311	10A NCAC 39A .0704
10A NCAC 39A .0106	10A NCAC 39A .0501	10A NCAC 39A .0705
10A NCAC 39A .0107	10A NCAC 39A .0502	10A NCAC 39A .0706
10A NCAC 39A .0109	10A NCAC 39A .0503	10A NCAC 39A .0707
10A NCAC 39A .0110	10A NCAC 39A .0504	10A NCAC 39A .0708
10A NCAC 39A .0111	10A NCAC 39A .0505	10A NCAC 39A .0709
10A NCAC 39A .0301	10A NCAC 39A .0506	10A NCAC 39A .0710
10A NCAC 39A .0302	10A NCAC 39A .0507	10A NCAC 39A .0711
10A NCAC 39A .0303	10A NCAC 39A .0508	10A NCAC 39A .0901
10A NCAC 39A .0304	10A NCAC 39A .0601	10A NCAC 39A .0902
10A NCAC 39A .0305	10A NCAC 39A .0602	10A NCAC 39A .0903

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10A NCAC 43H .0206
10A NCAC 43H .0207
10A NCAC 43H .0208
10A NCAC 43H .0209
10A NCAC 43H .0210
10A NCAC 43H .0303
10A NCAC 43H .0304
10A NCAC 43H .0305
10A NCAC 43H .0306
10A NCAC 43H .0307
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10A NCAC 43H .0309
10A NCAC 43H .0310
10A NCAC 43H .0311
10A NCAC 43H .0312
10A NCAC 43H .0313

**Secretary of State, Department
of the**

18 NCAC 06A .1409
18 NCAC 06A .1601
18 NCAC 06A .1602
18 NCAC 06A .1603
18 NCAC 06A .1604
18 NCAC 06A .1607
18 NCAC 06A .1711
18 NCAC 06A .1716

CONTESTED CASE DECISIONS

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

OFFICE OF ADMINISTRATIVE HEARINGS

Chief Administrative Law Judge
JULIAN MANN, III

Senior Administrative Law Judge
FRED G. MORRISON JR.

ADMINISTRATIVE LAW JUDGES

Melissa Owens Lassiter	A. B. Elkins II
Don Overby	Selina Brooks
J. Randall May	Phil Berger, Jr.
J. Randolph Ward	David Sutton
Stacey Bawtinheimer	

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>DATE</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
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NC Alcoholic Beverage Control Commission v. Brewers LLC T/A Two Doors Down	16 ABC 0290	06/01/16	
NC Alcoholic Beverage Control Commission v. Dasab LLC T/A D and S Kwik Stop	16 ABC 01759	05/25/16	
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Kathleen B. McGuire v. Department of Health Service Regulation MH Licensure Section	16 DHR 03014	05/13/16	
Kathleen B. McGuire v. Department of Health Service Regulation MH Licensure Section	16 DHR 03015	05/13/16	
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Monique Brown Miller v. DHHS, Division of Health Service Regulation	16 DHR 03131	06/22/16	
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Kevin Michael Weber v. Sheriffs' Education and Training Standards Commission	15 DOJ 08610	04/22/16	31:01 NCR 71
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