

# NORTH CAROLINA REGISTER

VOLUME 31 • ISSUE 17 • Pages 1752 - 1795

March 1, 2017

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**PUBLISHED BY**

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## Contact List for Rulemaking Questions or Concerns

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

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

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Office of State Budget and Management  
116 West Jones Street (919) 807-4700  
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Contact: Anca Grozav, Economic Analyst osbmruleanalysis@osbm.nc.gov (919) 807-4740  
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NC Association of County Commissioners  
215 North Dawson Street (919) 715-2893  
Raleigh, North Carolina 27603  
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**NORTH CAROLINA REGISTER**  
 Publication Schedule for January 2017 – December 2017

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	Earliest Eff. Date of Permanent Rule	Delayed Eff. Date of Permanent Rule 31st legislative day of the session beginning:	270 <sup>th</sup> day from publication in the Register
31:13	01/03/17	12/07/16	01/18/17	03/06/17	03/20/17	05/01/17	05/2018	09/30/17
31:14	01/17/17	12/20/16	02/01/17	03/20/17	04/20/17	06/01/17	05/2018	10/14/17
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31:16	02/15/17	01/25/17	03/02/17	04/17/17	04/20/17	06/01/17	05/2018	11/12/17
31:17	03/01/17	02/08/17	03/16/17	05/01/17	05/22/17	07/01/17	05/2018	11/26/17
31:18	03/15/17	02/22/17	03/30/17	05/15/17	05/22/17	07/01/17	05/2018	12/10/17
31:19	04/03/17	03/13/17	04/18/17	06/02/17	06/20/17	08/01/17	05/2018	12/29/17
31:20	04/17/17	03/24/17	05/02/17	06/16/17	06/20/17	08/01/17	05/2018	01/12/18
31:21	05/01/17	04/07/17	05/16/17	06/30/17	07/20/17	09/01/17	05/2018	01/26/18
31:22	05/15/17	04/24/17	05/30/17	07/14/17	07/20/17	09/01/17	05/2018	02/09/18
31:23	06/01/17	05/10/17	06/16/17	07/31/17	08/21/17	10/01/17	05/2018	02/26/18
31:24	06/15/17	05/24/17	06/30/17	08/14/17	08/21/17	10/01/17	05/2018	03/12/18
32:01	07/03/17	06/12/17	07/18/17	09/01/17	09/20/17	11/01/17	05/2018	03/30/18
32:02	07/17/17	06/23/17	08/01/17	09/15/17	09/20/17	11/01/17	05/2018	04/13/18
32:03	08/01/17	07/11/17	08/16/17	10/02/17	10/20/17	12/01/17	05/2018	04/28/18
32:04	08/15/17	07/25/17	08/30/17	10/16/17	10/20/17	12/01/17	05/2018	05/12/18
32:05	09/01/17	08/11/17	09/16/17	10/31/17	11/20/17	01/01/18	05/2018	05/29/18
32:06	09/15/17	08/24/17	09/30/17	11/14/17	11/20/17	01/01/18	05/2018	06/12/18
32:07	10/02/17	09/11/17	10/17/17	12/01/17	12/20/17	02/01/18	05/2018	06/29/18
32:08	10/16/17	09/25/17	10/31/17	12/15/17	12/20/17	02/01/18	05/2018	07/13/18
32:09	11/01/17	10/11/17	11/16/17	01/02/18	01/22/18	03/01/18	05/2018	07/29/18
32:10	11/15/17	10/24/17	11/30/17	01/16/18	01/22/18	03/01/18	05/2018	08/12/18
32:11	12/01/17	11/07/17	12/16/17	01/30/18	02/20/18	04/01/18	05/2018	08/28/18
32:12	12/15/17	11/22/17	12/30/17	02/13/18	02/20/18	04/01/18	05/2018	09/11/18

## 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



# State of North Carolina

Roy Cooper  
Governor

January 31, 2017

## EXECUTIVE ORDER NO. 4

### EXTENDING EXECUTIVE ORDER 117 ALLOWING FOR THE EXPEDITED MOVEMENT OF TEMPORARY HOUSING FOR SURVIVORS OF HURRICANE MATTHEW

**WHEREAS**, Executive Order No. 117 was issued on December 1, 2016, which allowed for the expedited movement of temporary housing for survivors of Hurricane Matthew on the intrastate and interstate highways of North Carolina; and

**WHEREAS**, the Executive Order is to set to expire on February 1, 2017 and there continues to be a substantial need for temporary housing in many of the counties that were declared by FEMA 4285-DR-NC; and

**WHEREAS**, the Executive Order needs to remain in place to allow for the continued expedited movement and placement of temporary housing in the disaster area.

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

Executive Order No. 117, *ALLOWING FOR THE EXPEDITED MOVEMENT OF TEMPORARY HOUSING FOR SURVIVORS OF HURRICANE MATTHEW*, signed on December 1, 2016 is hereby extended until July 31, 2017.

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 31<sup>st</sup> day of January in the year of our Lord two thousand and seventeen.

Handwritten signature of Roy Cooper in black ink.

Roy Cooper  
Governor

ATTEST:

Handwritten signature of Elaine F. Marshall in black ink.

Elaine F. Marshall  
Secretary of State



**Note from the Codifier:** The notices published in this Section of the NC Register include the text of proposed rules. The agency must accept comments on the proposed rule(s) for at least 60 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. If the agency adopts a rule that differs substantially from a prior published notice, the agency must publish the text of the proposed different rule and accept comment on the proposed different rule for 60 days. Statutory reference: G.S. 150B-21.2.

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

*Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g, that the Commission for Public Health intends to readopt without substantive changes the rules cited as 10A NCAC 43G .0108, .0110, and .0111.*

*Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for readoption without substantive changes are not required to be published. The text of the rules is available on the OAH website: <http://reports.oah.state.nc.us/ncac.asp>.*

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

**Proposed Effective Date:** July 1, 2017

**Public Hearing:**

**Date:** April 11, 2017

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

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

**Reason for Proposed Action:** *These rules govern the administration of the statewide early intervention program under Federal Law, Part C of the Individuals with Disabilities Act (IDEA), define program eligibility requirements, and establish standards and procedures for the delivery of early intervention services to eligible participants. The rules were determined to be necessary with substantive public interest therefore requiring readoption.*

**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](mailto:chris.hoke@dhhs.nc.gov)

**Comment period ends:** May 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
- No fiscal note required by G.S. 150B-21.3A(d)(2)

**CHAPTER 43 – PERSONAL HEALTH**

**SUBCHAPTER 43G – DEVELOPMENTAL EVALUATION CENTERS: SPECIALIZED SERVICES BRANCH**

**SECTION .0100 – GENERAL POLICIES**

**10A NCAC 43G .0108 ADMINISTRATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**10A NCAC 43G .0110 ELIGIBILITY (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**10A NCAC 43G .0111 SERVIDCE PLAN-SERVICE DELIVERY (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**TITLE 19A – DEPARTMENT OF TRANSPORTATION**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Transportation intends to amend the rule cited as 19A NCAC 02D .0818.*

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

**Proposed Effective Date:** July 1, 2017

**Public Hearing:**

**Date:** March 23, 2017

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

**Location:** Transportation Mobility and Safety, Conference Room 161, 750 N. Greenfield Parkway, Garner, NC

**Reason for Proposed Action:** *The proposed change removes the requirement for a notary seal on the Non-Collusion Affidavit, Debarment Certification and Gift Ban Certification form. There are very few notaries who sign documents with a digital signature, which forces the apparent lowest responsible bidder to paper documentation. The proposed changes to 19A NCAC 02D .0818 provides consistency as all forms will be supplied electronically. The requested changes provide a seamless submittal of documentation for award of contract.*

**Comments may be submitted to:** *Helen Landi, 1501 Mail Service Center, Raleigh, NC 27699-1501; email hlandi@ncdot.gov*

**Comment period ends:** *May 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

**CHAPTER 02 - DIVISION OF HIGHWAYS**

**SUBCHAPTER 02D - HIGHWAY OPERATIONS**

**SECTION .0800 - PREQUALIFICATION: ADVERTISING AND BIDDING REGULATIONS**

**19A NCAC 02D .0818 NON-COLLUSION CERTIFICATIONS**

(a) Every bidder ~~and subcontractor~~ shall furnish to the Department an unsworn certification made under penalty of perjury under the laws of the United States, a non-collusion affidavit certification at the time of bid, certifying that the bidder has not entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with his or her bid on the project. The

affidavit non-collusion certification shall also indicate that the bidder intends to do the work with its own employees or subcontractors and is not bidding for the benefit of another contractor.

(b) A "Non-Collusion Certification" form means a form provided on the Department's website [www.ncdot.gov](http://www.ncdot.gov) for execution by the bidding prequalified contractor certifying that:

- (1) neither the individual, nor any official, agent, or employee has entered into any agreement, participated in any collusion, or otherwise taken any action that is in restraint of free competitive bidding in connection with any bid or contract;
- (2) the bidder has not been convicted of violating G.S 133-24 within the last three years; and
- (3) the bidder intends to do the work with its own employees or subcontractors and the bid is not for the benefit of another contractor.

~~(b)(c)~~ In the "Non-Collusion Certification" form, the prospective bidder ~~and subcontractors~~ shall also certify his or her debarment status under penalty of perjury under the laws of the United States. ~~furnish executed debarment certification forms to the Department.~~ In the event the prospective bidder ~~or subcontractor~~ cannot certify that he or she is not disbarred, the prospective bidder ~~or subcontractor~~ shall provide a written explanation, which the Department shall review and evaluate to determine if the bidder ~~or subcontractor~~ is still prequalified for bidding, ~~contracting~~ contracting, or subcontracting on Department projects.

Authority *G.S. 136-18(1); 136-28.1; 133-30.*

\*\*\*\*\*

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Transportation/Division of Motor Vehicles intends to adopt the rule cited as 19A NCAC 03D .0237 and amend the rule cited as 19A NCAC 03D .0219.*

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

**Proposed Effective Date:** *July 1, 2017*

**Public Hearing:**

**Date:** *March 23, 2017*

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

**Location:** *Transportation Mobility and Safety, Conference Room 161, 750 N. Greenfield Parkway, Garner, NC*

**Reason for Proposed Action:** *Session law 2016-74 amended G.S. 20-297 to allow motor vehicle dealers to maintain required business records in an electronic, (rather than paper), format. This legislation also directs the Division of Motor Vehicles to adopt rules consistent with the act's provisions. These proposed rules amend current authority to clarify that dealers may maintain electronic records and direct the manner in which such record are to be disclosed to the Division.*

Comments may be submitted to: Helen Landi, 1501 Mail Service Center, Raleigh, NC 27699-1501; email hlandi@ncdot.gov

Comment period ends: May 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 Per S.L. 2016-74 Section 2

CHAPTER 03 - DIVISION OF MOTOR VEHICLES

SUBCHAPTER 03D - ENFORCEMENT SECTION

SECTION .0200 - MOTOR VEHICLE DEALER, SALES, DISTRIBUTOR AND FACTORY REPRESENTATIVE LICENSE

19A NCAC 03D .0219 BUSINESS RECORDS

(a) All motor vehicle dealers, manufacturers, factory branches, distributors, distributor branches, and wholesalers shall keep a record for at least four years of all vehicles manufactured, received, sold, traded, or junked. In addition, a copy of any disclosure required by G.S. 20-71.4 received or given by the dealer must shall be retained for four years. An odometer disclosure form shall be retained for a period of five years as required by G.S. 20-347.1.

(b) All motor vehicle dealers, manufacturers, factory branches, distributors, distributor branches, and wholesalers shall keep for a period of four years the following additional records for each vehicle, and mobile/modular mobile home, or modular home manufactured, received, sold, traded, or junked:

- (1) Make the make, body style, and vehicle identification number, and year model.
(2) Name the name of the person, firm, or corporation from whom acquired.

- (3) Date the date the vehicle was purchased or manufactured.
(4) Name the name of person, firm, or corporation to whom the vehicle was sold or traded.
(5) Date the date the vehicle was sold or traded.
(6) Copy of bill of sale (written statement).
(7) The North Carolina oversize single trip or annual permit number issued pursuant to G.S. 20-119 that authorizes movement of the mobile/modular unit, mobile home or modular home, the date of move, transporter, and name and address of purchaser.

(c) All records required to be maintained in Paragraphs (a) and (b) shall be kept and maintained for every vehicle purchased or sold and shall be kept so as to be readily available for inspection upon demand from an authorized agent of the North Carolina Division of Motor Vehicles. Vehicles in order that the ownership of any vehicle purchased or sold can be traced. All records that are required to be maintained by this Rule shall be either original or electronic records as defined by this Rule.

(d) For the purpose of this Rule, an "original record" is the writing or recording itself or any non-electronic duplicate intended to have the same effect by a person executing or issuing it. An "original" of a photograph includes the negative or any print therefrom.

(e) For the purpose of this Rule, an "electronic record" is a duplicate produced by electronic re-recording or by equivalent techniques, such as imaging or image processing, that reproduce the original record. If only electronic records are maintained, the following requirements shall be met:

- (1) Upon demand by the Division, the person(s) in possession of the demanded electronic records may produce the records in either reproduced paper or electronic copies. All records shall be produced in a readable format and identified by title.
(2) Any person(s) producing electronic records to the Division shall verify that the records being produced to the Division consist of all information contained in the original records.

(d) Manufacturer's Certificates of Origin and title for all vehicles owned by a motor vehicle dealer, manufacturer, factory branch, distributor, distributor branch or wholesaler must be immediately available to assign to the purchaser.

(e) Retail installment sales must be made in accordance with G.S. 20-303. Cash sales may be made by proper endorsement and delivery of the title to the purchaser and any other receipt that the purchaser and seller agree upon.

(f) Pursuant to 16 CFR 455.2 a dealer shall not willfully remove the "Monroney Label" or sticker from a new automobile that is



displayed for sale. The "Monroney Label" must be affixed to the new automobile at the time of sale to the ultimate purchaser. "Ultimate Purchaser" means the first person, other than a dealer purchasing in his capacity as a dealer, who in good faith purchases a new automobile for purposes other than a resale.

(g) Pursuant to 15 USC Sec. 1231 every dealer offering used cars for sale shall post buyers guides with warranty information as required by the Federal Trade Commission and same shall be displayed at the time of sale.

Authority G.S. 20-1; 20-52; 20-71.4; 20-75; 20-79(a) and (b); 20-286(6) and (15); 20-297; 20-302; 20-303; 20-347.

**19A NCAC 03D .0237 VEHICLE RECORDS AND REQUIRED DISCLOSURES**

(a) Manufacturer's Certificates of Origin and title for all vehicles owned by a motor vehicle dealer, manufacturer, factory branch, distributor, distributor branch, or wholesaler shall be available to assign to the purchaser at the time of purchase.

(b) Retail installment sales shall be made in accordance with G.S. 20-303. Cash sales may be made by proper endorsement and delivery of the title to the purchaser and any other receipt that the purchaser and seller agree upon.

(c) A dealer shall not willfully remove any label or sticker required by 15 USC G.S. 1232 from a new automobile that is displayed for sale. Any label or sticker required by 15 USC G.S. 1232 shall be affixed to the new automobile at the time of sale to the ultimate purchaser. "Ultimate Purchaser" means, with respect to any new automobile, the first person, other than a dealer purchasing in his or her capacity as a dealer, who in good faith purchases such new automobile for purposes other than resale.

(d) Every dealer offering used vehicles for sale shall post a "Buyers Guide" that complies with 16 CFR 455.2 on all used vehicles offered for sale and shall display the same on the vehicle at the time of sale.

Authority G.S. 20-39; 20-79.1.

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

**CHAPTER 10 - BOARD OF CHIROPRACTIC EXAMINERS**

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Board of Chiropractic Examiners intends to adopt the rule cited as 21 NCAC 10 .0306.

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

Proposed Effective Date: July 1, 2017

**Public Hearing:**

Date: March 21, 2017

Time: 6:00 P.M.

Location: Office of the Board of Chiropractic Examiners, 363 Church Street North, Suite 250-R, Concord, NC 28025

**Reason for Proposed Action:** There are many post-graduate educational programs available to chiropractic physicians, and these programs vary in length, academic rigor and value to patients. Physicians who earn certification upon completing program requirements often tout these credentials in advertising, but consumers have no way of determining a credential's legitimacy. The proposed rule establishes minimum standards for post-graduate educational programs below the level of diplomate and prohibits chiropractors from advertising credentials bestowed by non-compliant programs.

**Comments may be submitted to:** Tom Sullivan, Executive Director, NC Board of Chiropractic Examiners, 363 Church Street North, Suite 250-R, Concord, NC 28025

**Comment period ends:** May 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

**SECTION .0300 – RULES OF UNETHICAL CONDUCT**

**21 NCAC 10 .0306 PUBLICATION OF NON-DIPLOMATE CREDENTIALS**

(a) Scope of Rule. Any credential awarded to a licensee of the Board upon completion of a healthcare-related educational program shall be subject to this Rule except an academic degree or a diploma issued in conformity with Rule .0304 of this Section.

(b) Publication of Unrecognized Credentials Unlawful. It shall constitute false or misleading advertising, in violation of G.S. 90-154(b)(1), for a licensee to publish a credential that is not recognized by the Board. For purposes of this Rule, "publication" includes representations made in a licensee's print, broadcast, or online advertisement, professional stationery, business cards, and office signage.

(c) Criteria for Recognition. The criteria for recognition by the Board of a credential subject to this Rule shall be as follows:

- (1) the educational program leading to the awarding of the credential shall be offered at the post-doctor of chiropractic level;
- (2) for a chiropractic discipline, the educational program shall be offered or sponsored by a chiropractic college accredited by the Council on Chiropractic Education;
- (3) for a discipline not unique to chiropractic, the educational program shall be offered or sponsored by a professional school or college accredited by an agency that is the equivalent of the Council on Chiropractic Education;
- (4) the educational program shall be at least 100 hours duration except for programs in Acupuncture-Meridian Therapy, whose duration shall conform to Rule .0208 of this Chapter; and
- (5) The educational program shall culminate in a final examination that the candidate must pass to earn the credential.

(d) Recognized Credentials. The following credentials are recognized by the Board and may be published upon the credentialed licensee's compliance with Paragraph (e) of this Rule.

- (1) Certified Chiropractic Extremity Practitioner (CCEP);
- (2) Certified Chiropractic Rehabilitation Doctor (CCRD);
- (3) Certified Chiropractic Sports Physician (CCSP);
- (4) Chiropractic Certification in Spinal Trauma (CCST);
- (5) International Chiropractic Sports Physician (ICSP); or
- (6) Certificate in Acupuncture-Meridian Therapy.

Any licensee wishing to publish a credential not listed in this Paragraph shall first make written application to the Board and provide evidence that the credential meets the criteria set forth in Paragraph (c) of this Rule. The licensee may publish the credential only after receipt of Board recognition.

(e) Filing Certificates. A licensee shall not publish any recognized credential until he or she files with the Board a copy of the dated certificate or similar document signifying that the licensee successfully completed all program requirements and that the credential was duly awarded.

Authority G.S. 90-142; 90-154.

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**CHAPTER 32 – MEDICAL BOARD**

*Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Medical Board intends to adopt the rule cited as 21 NCAC 32K .0209, amend the rule cited as 21 NCAC 32Y .0101, readopt with substantive changes the rules cited as 21 NCAC 32K .0101, .0201, .0202, .0204-.0208 and*

*readopt without substantive changes the rules cited as 21 NCAC 32A .0104, .0111; 32K .0203; and 32M .0111.*

*Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for readoption without substantive changes are not required to be published. The text of the rules are available on the OAH website: <http://reports.oah.nc.us/ncac.asp>.*

**Link to agency website pursuant to G.S. 150B-19.1(c):** <http://www.ncmedboard.org/about-the-board/latest-board-activity/rule-change-tracker>

**Proposed Effective Date:** July 1, 2017

**Public Hearing:**

**Date:** May 1, 2017

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

**Location:** NC Medical Board, 1203 Front Street, Raleigh, NC 27609

**Reason for Proposed Action:**

*21 NCAC 32K .0209 is being adopted as part of the Board's internal review and to adopt recommendations of the State Auditor.*

*21 NCAC 32K .0101; 21 NCAC 32K .0201; 21 NCAC 32K .0202; 21 NCAC 32K .0204; 21 NCAC 32K .0205; 21 NCAC 32K .0206; 21 NCAC 32K .0207; 21 NCAC 32K .0208 are being readopted following the period review of the Board's rules, as part of the Board's internal review and to adopt recommendations of the State Auditor.*

*21 NCAC 32A .0104; 21 NCAC 32A .0111; 21 NCAC 32K .0203; 21 NCAC 32M .0111; are being readopted following a periodic review of the Board's rules. The Board did not find any necessary changes.*

*21 NCAC 32Y .0101 is being amended to increase the number of prescribers whose prescribing practices in Board would like to review.*

**Comments may be submitted to:** Wanda long, Rules Coordinator, NC Medical Board, P.O. Box 20007, Raleigh, NC 27619; email [rules@ncmedboard.org](mailto:rules@ncmedboard.org)

**Comment period ends:** May 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
No fiscal note required by G.S. 150B-21.3A(d)(2)

SUBCHAPTER 32A - ORGANIZATION

21 NCAC 32A .0104 MEETINGS (READOPTIO WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 32A .0111 REQUEST FOR DECLARATORY RULES (READOPTIO WITHOUT SUBSTANTIVE CHANGES)

SUBCHAPTER 32K - NORTH CAROLINA PHYSICIANS HEALTH PROGRAM

SECTION .0100 - GENERAL INFORMATION

21 NCAC 32K .0101 DEFINITIONS

The following definitions apply to this Subchapter:

- (1) "Board" or "NCMB" means the North Carolina Medical Board.
(2) "Compliance Committee" means the committee which meets to coordinate with the NCMB in its oversight of licensees in the PHP.
(3) "Impairment" means the inability to practice medicine or perform acts, tasks and functions with skill and safety to patients by reasons of physical or mental illness or condition, including use of alcohol, drugs, chemicals or any other type of material.
(4) "Impaired Practitioner" means a licensee of the NCMB who is or could be afflicted with a condition of impairment as defined above.
(4)(5) "Licensee" means a person licensed by the NCMB.
(5)(6) "Medical Director" "Chief Executive Officer" means the person employed by the Program to coordinate the activities of the Program.
(6)(7) "Participant" means a licensee of the NCMB who is permitted to participate and may receive

services from PHP, and has executed a monitoring contract with PHP.

(7)(8) "Program" or "NCPHP" or "PHP" means the North Carolina Physicians Health Program, Program established for promoting a eordinated and effective peer review process.

Authority G.S. 90-21.22.

SECTION .0200 - GUIDELINES FOR PROGRAM ELEMENTS

21 NCAC 32K .0201 RECEIPT AND USE OF INFORMATION OF POTENTIAL IMPAIRMENT

Information concerning potential impairments a Participant may be received by the Program through reports from any source. Upon receipt of information of a potential impairment, the Program shall conduct an assessment a screening interview of the Participant as soon as possible. This screening interview shall not create a physician-patient or other clinical relationship. A physician assistant selected by the Medical Director shall be present during an assessment of a physician assistant. The Program may conduct routine inquiries regarding potential impairments. Licensees with potential impairments may Participants shall be required to submit to personal interviews before the Medical Director or a designee, with Program staff. Records relating to the Participant's involvement with the Program shall not be deemed medical records.

Authority G.S. 90-21.22.

21 NCAC 32K .0202 ASSESSMENT AND REFERRAL

When an initial assessment screening interview reveals that further assessment, treatment or monitoring is indicated, PHP the Program shall advise the licensee Participant and referral source of the findings and recommendations. The Program shall develop a treatment plan designed to ensure that the recipient Participant is safe to practice.

Authority G.S. 90-21.22.

21 NCAC 32K .0203 MONITORING TREATMENT SOURCES (READOPTIO WITHOUT SUBSTANTIVE CHANGES)

21 NCAC 32K .0204 MONITORING REHABILITATION AND PERFORMANCE

- (a) If a licensee Participant is referred to the Program by the Board, and if the Program finds that treatment or monitoring are appropriate, the Program shall ask the licensee Participant to sign a monitoring contract, contract in order to become an active participant in the Program. If the licensee Participant chooses not to sign a monitoring contract, the Program may shall refer the licensee Participant to the Board, Board for potential disciplinary action.
(b) If a licensee Participant is self-referred to the Program, and if the Program finds that treatment or monitoring are appropriate, the Program shall ask the licensee Participant to sign a monitoring contract, contract in order to become a participant in the program.

The Program shall report the Participant to the Board if the criteria of G.S. 90-21.22 are met.

(c) Participants shall be required to submit urine or other bodily specimens if requested by ~~PHP~~ the Program.

(d) Participants ~~may~~ shall be required to submit to periodic ~~personal~~ interviews with the ~~Medical Director or a designee~~ Program staff.

(e) ~~Treatment providers~~ Participants shall be required to sign appropriate releases allowing their treatment providers, employers or other workplace monitors to submit reports regarding a licensee's the Participant's rehabilitation and performance to the Program, Program and to the Board if the Participant is known to the Board. Participants shall ensure the such reports are provided to the Program and the Board if the Participant is known to the Board. Such reports shall be in accordance with state and federal laws. The Program shall maintain case records for each Participant, participant or licensee.

(f) When appropriate the Program shall require Participants to engage in post-treatment support. Post-treatment support may include family counseling, advocacy, after care support groups, self-help groups and other services and programs deemed appropriate to improve recoveries.

(g) The Program shall monitor post-treatment support.

Authority G.S. 90-21.22.

**21 NCAC 32K .0205 MONITORING POST-TREATMENT SUPPORT**

~~(a) The Program may require post treatment support. Post-treatment support may include family counseling, advocacy, after care support groups, self help groups and other services and programs deemed appropriate to improve recoveries.~~

~~(b) The Program shall monitor post-treatment support.~~

Authority G.S. 90-21.22.

**21 NCAC 32K .0206 REPORTS OF INDIVIDUAL CASES TO THE BOARD**

~~Bimonthly, the~~ The Program shall submit a report to the Board on a bi-monthly basis regarding the status of all Participants known to the Board, participants under monitoring contracts and all licensees being treated who have not signed monitoring contracts. The Program shall report immediately to the Board information about any licensee as required under G.S. 90-21.22(d).

Authority G.S. 90-21.22.

**21 NCAC 32K .0207 PERIODIC REPORTING OF STATISTICAL INFORMATION**

On not less than a quarterly basis and upon Upon request by the Board, the Program shall provide statistical and demographic information concerning potential impairments, impairments, self-referrals, post-treatment support and other demographic and substantive information collected through Program operations.

Authority G.S. 90-21.22.

**21 NCAC 32K .0208 CONFIDENTIALITY**

~~Any nonpublic information acquired, created, or used in good faith by the Program shall be treated according to G.S. 90-21.22.~~

Authority G.S. 90-21.22.

**21 NCAC 32K .0209 REVIEW COMMITTEE**

(a) A Review Committee is created for Participants to request reconsideration of PHP staff findings and recommendations in the following areas:

- (1) General nature of diagnosis;
- (2) Need for additional assessment beyond PHP;
- (3) Need for treatment;
- (4) Need for monitoring by PHP;
- (5) Closure of file or loss of PHP advocacy;

(b) The Review Committee shall have three primary members and three alternate members. The PHP Executive Committee will nominate all potential members. The PHP Board of Directors shall appoint members to the Review Committee. Review Committee members shall not be current members of the PHP Compliance Committee, the PHP Board of Directors, or the North Carolina Medical Board, nor shall they have served in those organizations within two years of their appointment to the Review Committee.

(c) Two primary Review Committee members shall be clinicians, including one physician and one person with relevant clinical experience with substance use disorders. One Review Committee member, either primary or alternate, shall be a physician assistant.

(d) A Participant who wishes to challenge one of the matters included in Paragraph (a) of this Rule must deliver to the Chair of the Board of Directors a written request for review of the matter within ten days of being notified of the matter giving rise to the disagreement. Prior to the Review Committee considering the request, the Participant must:

- (1) Sign a release allowing PHP staff to share all information with Review Committee members;
- (2) Agree to abide by the finding of the Review Committee;
- (3) Agree that all decisions by the Review Committee are final; and
- (4) Sign a form releasing PHP and the Review Committee from legal liability for activities conducted in good faith consistent with the provisions of G.S. 90-21.22(f).

(e) At any time prior to the Review Committee undertaking the request for reconsideration, the Participant and PHP staff are encouraged, but not required, to attempt to resolve the disagreement prior to the Review Committee meeting.

(f) The Chair of the Board of Directors shall empanel the three primary members of the Review Committee to act on the request for reconsideration. In the event one or more primary members are not available, the Chair of the Board of Directors shall select from the alternate members to constitute a panel of three members.

(g) The three-member panel of the Review Committee ("panel") shall meet and the Participant and Program staff shall appear via teleconference within 30 days after receipt of the written request for reconsideration.

- (1) At least five days prior to the teleconference meeting, Program staff and the Participant shall furnish to each other and to the panel any

materials they believe are relevant for the panel to consider. However, information provided to the Program from the Board regarding a Participant shall be provided pursuant to G.S. 90-16(c), and such information, including reports of investigation and attachments thereto, shall remain confidential and shall not be provided to the Participant.

(2) The teleconference shall last no more than one hour.

(3) If the Participant is a physician assistant, a physician assistant member of the Review Committee must be included in the panel.

(4) The panel, Participant and Program staff shall announce the names of all persons present on the phone call prior to the teleconference commencing. The Participant shall be allowed not less than 15 minutes to make a presentation followed by questions of the Participant and Program staff by panel members. A Participant is permitted to be represented by counsel, and that counsel may participate in the meeting. The Review Committee process is not a legal or quasi-judicial proceeding and is not governed by the Rules of Evidence, Rules of Civil Procedure or the Administrative Procedures Act. Neither Participant nor Program staff has any right to question or otherwise examine Program staff or Participant. Neither Participant nor Program staff have any right to question or otherwise examine panel members.

(5) After the presentation and questioning, the panel members shall discuss the request for reconsideration without the presence of the Participant or Program staff. After completing the discussion, the panel shall announce its decision.

(6) The panel shall choose among the assessment, treatment and monitoring options provided by Program staff and the Participant. The panel shall not consider options for assessment, treatment, or monitoring that have not been previously considered by Program staff or the Participant unless significant new information is provided to the panel.

(7) The panel shall reduce its decision to writing and provide a copy of its written decision to the Participant and Program staff within five business days.

(8) The panel's decision is binding upon the Program and the Participant.

(9) The Program staff shall make an official recording of the teleconference meeting and preserve the recording. The Participant is allowed to make a recording of the meeting.

(h) After completion of the review, new or additional review requests may be made by the Participant only if there are new findings or recommendations by PHP regarding the Participant.

*Authority G.S. 90-21.22.*

**SUBCHAPTER 32M – APPROVAL OF NURSE PRACTITIONERS**

**21 NCAC 32M .0111 METHOD OF IDENTIFICATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)**

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

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

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

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

(b) In addition, the Department may report to the Board information regarding prescribers who have had two or more patient deaths in the preceding twelve months due to opioid ~~poisoning~~ poisoning where the prescribers authorized more than 30 tablets of an opioid to the decedent and the prescriptions were written within 60 days of the patient deaths.

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

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

*Authority G.S. 90-113.74.*

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**APPROVED RULES**

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

Rules approved by the Rules Review Commission at its meeting on January 19, 2017 Meeting.

**REGISTER CITATION TO THE  
NOTICE OF TEXT**

**INDUSTRIAL COMMISSION**

Electronic Filings with the Commission; How to File 04 NCAC 10A .0108\* 31:08 NCR

**HHS - MENTAL HEALTH, DIVISION OF**

Scope 10A NCAC 26C .0701\* 30:24 NCR

County Request to Disengage from a Local Management Entit... 10A NCAC 26C .0702\* 30:24 NCR

Secretary Response to County Requests to Disengage from a... 10A NCAC 26C .0703\* 30:24 NCR

**INSURANCE, DEPARTMENT OF**

Definitions 11 NCAC 05A .0101\* 31:04 NCR

Comprehensive Emergency Management Plan 11 NCAC 05A .0202\* 31:04 NCR

Certification of Eligibility 11 NCAC 05A .0302\* 31:04 NCR

Administration of Firefighters' Relief Fund 11 NCAC 05A .0303\* 31:04 NCR

Establishment of Fire Department 11 NCAC 05A .0503\* 31:04 NCR

Primary Personnel 11 NCAC 05A .0504\* 31:04 NCR

Alarm and Communications 11 NCAC 05A .0506\* 31:04 NCR

Records and Documents 11 NCAC 05A .0507\* 31:04 NCR

Inspection 11 NCAC 05A .0510\* 31:04 NCR

Standards and Policies 11 NCAC 05A .0512\* 31:04 NCR

Definitions 11 NCAC 05A .0601\* 31:04 NCR

Fire District Rating Certification 11 NCAC 05A .0602\* 31:04 NCR

Other Grant Criteria 11 NCAC 05A .0604\* 31:04 NCR

Definitions 11 NCAC 05A .0701\* 31:04 NCR

ALS Certifications 11 NCAC 05A .0702\* 31:04 NCR

Other Grant Criteria 11 NCAC 05A .0705\* 31:04 NCR

**COASTAL RESOURCES COMMISSION**

General Use Standards for Ocean Hazard Areas 15A NCAC 07H .0306\* 31:04 NCR

**PLUMBING, HEATING AND FIRE SPRINKLER CONTRACTORS, BOARD OF EXAMINERS OF**

State and Local Government Plumbing or Heating Technician 21 NCAC 50 .0312\* 31:07 NCR

Responsibilities of State and Local Government Technician... 21 NCAC 50 .0313\* 31:07 NCR

Multiple Licenses 21 NCAC 50 .0405\* 31:07 NCR

Supervision in Absence of Inspection 21 NCAC 50 .0414\* 31:07 NCR

Fees for Copies of Records and Returned Checks 21 NCAC 50 .1104\* 31:07 NCR

**TITLE 04 - DEPARTMENT OF COMMERCE**

**04 NCAC 10A .0108 ELECTRONIC FILINGS WITH THE COMMISSION; HOW TO FILE**

(a) All documents filed with the Commission in workers' compensation cases shall be submitted electronically in accordance with this Rule. Any document transmitted to the Commission in a manner not in accordance with this Rule shall not be accepted for filing. Any document filed with the Commission that requires contemporaneous payment of a processing fee pursuant to Rule 04 NCAC 10E .0203 shall not be deemed filed until the fee has been paid in full. The electronic filing requirements of this Rule shall not apply to claimants, medical providers, or non-insured employers without legal representation. Claimants, medical providers, and non-insured employers without legal representation may file all documents with the Commission via the Commission's Electronic Document Filing Portal ("EDFP"), electronic mail, facsimile, U.S. Mail, private courier service, or hand delivery.

(b) Except as set forth in Paragraphs (d) and (e) of this Rule, all documents shall be transmitted to the Commission via EDFP. Information regarding how to register for and use EDFP is available at <http://www.ic.nc.gov/training.html>. In the event EDFP is inoperable, all documents required to be filed via EDFP shall be transmitted to the Commission via electronic mail to

edfp@ic.nc.gov. Documents required to be filed via EDFP that are sent to the Commission via electronic mail when EDFP is operable shall not be accepted for filing.

(c) Transcripts of depositions shall be filed with the Commission pursuant to this Rule by the court reporting service. The transcripts filed with the Commission shall have only one page of text per page and shall include all exhibits. The parties shall provide the Commission's court reporting service with the information necessary to effectuate filing of the deposition transcripts and attached exhibits via EDFP. If an exhibit to a deposition is in a form that makes submission of an electronic copy impracticable, counsel for the party offering the exhibit shall make arrangements with the Commission to facilitate the submission of the exhibit. Condensed transcripts and paper copies of deposition transcripts shall not be accepted for filing.

(d) A Form 19 shall be filed as the first report of injury (FROI) via electronic data interchange (EDI), except in claims involving non-insured employers or in claims for lung disease, in which case the Form 19 shall be filed in accordance with Paragraph (e) of this Rule. Information regarding how to register for and use EDI is available at [www.ncicedi.info](http://www.ncicedi.info).

(e) The workers' compensation forms and documents listed in Table 1 shall not be required to be transmitted via EDFP provided all applicable qualifying conditions are met.

Table 1: Forms and documents exempt from EDFP filing requirements and how to file them:

DOCUMENT	QUALIFYING CONDITION(S)	HOW TO FILE
Form 18	No IC file number has been assigned	Electronically to forms@ic.nc.gov, by mail to 4335 Mail Service Center, Raleigh, North Carolina 27699-4335, or as otherwise permitted pursuant to Paragraph (a) of this Rule
Form 18B	Always exempt from EDFP filing requirement	Electronically to forms@ic.nc.gov, by mail to 4335 Mail Service Center, Raleigh, North Carolina 27699-4335, or as otherwise permitted pursuant to Paragraph (a) of this Rule
Form 19	1. The claim involves a non-insured employer; or 2. The claim is for lung disease.	Electronically to forms@ic.nc.gov, by mail to 4335 Mail Service Center, Raleigh, North Carolina 27699-4335, or as otherwise permitted pursuant to Paragraph (a) of this Rule
Form 51	Always exempt from EDFP filing requirement	Electronically to forms@ic.nc.gov
Plaintiff's Attorney Representation Letter	No IC file number has been assigned	Electronically to forms@ic.nc.gov
Medical motions, responses, and appeals of administrative orders on medical motions filed pursuant to Rule .0609A of this Subchapter	Always exempt from EDFP filing requirement	Electronically to medicalmotions@ic.nc.gov or as otherwise permitted pursuant to Paragraph (a) of this Rule
Documents to be filed with the Commission's Compliance & Fraud Investigative Division	Always exempt from EDFP filing requirement	Electronically to fraudcomplaints@ic.nc.gov or as otherwise permitted pursuant to Paragraph (a) of this Rule
Documents to be filed with the Commission's Medical Fees Section	Always exempt from EDFP filing requirement	Electronically to medicalfees@ic.nc.gov or as otherwise permitted pursuant to Paragraph (a) of this Rule

Documents to be filed with the Commission's Safety Education & Training Section	Always exempt from EDFP filing requirement	Electronically to safety@ic.nc.gov or as otherwise permitted pursuant to Paragraph (a) of this Rule
A Form 25N to be filed with the Commission's Medical Rehabilitation Nurses Section	No IC file number has been assigned	Electronically to 25N@ic.nc.gov
Rehabilitation referrals to be filed with the Commission's Medical Rehabilitation Nurses Section	No IC file number has been assigned	Electronically to rehab.referrals@ic.nc.gov

(f) A self-insured employer, carrier or guaranty association, third-party administrator, court reporting service, or law firm may apply to the Commission for an emergency temporary waiver of the electronic filing requirement set forth in Paragraph (a) of this Rule when it is unable to comply because of temporary technical problems or lack of electronic mail or internet access. The request for an emergency temporary waiver shall be included with any filing submitted via facsimile, U.S. Mail, or hand delivery due to such temporary technical or access issues.

(g) A Notice of Appeal to the North Carolina Court of Appeals shall be accepted for filing by the Commission via EDFP or U.S. Mail.

*History Note: Authority G.S. 97-80; 97-81; Eff. February 1, 2016; Amended Eff. February 1, 2017.*

consumers, advocates, self-advocates, and State and Local Consumer and Family Advisory Committees (CFACs) using locally established communication methods, such as mailings, routine stakeholder meetings, press releases, and social media messages, and shall post the public comments on its website for a minimum of 30 calendar days.

(d) A county seeking to disengage from an LME-MCO and realign with a different LME-MCO operating a Medicaid waiver shall provide written documentation of the following to the Secretary, which shall constitute its written request to disengage:

- (1) Approval of its disengagement plan by its Board of County Commissioners which reflects the date of the approval and that the approval was by majority vote;
- (2) A written plan, approved by its Board of County Commissioners, to ensure continuity of services during the transition which includes written notice to the provider agencies with which the LME-MCO contracts;
- (3) A written plan, approved by its Board of County Commissioners, which provides for distribution of real property, where appropriate, and reflects title to the same;
- (4) Approval of the Area Board, by majority vote, of the LME-MCO with which it is seeking to realign;
- (5) Evidence of written notice to the other counties who are also members of the LME-MCO from which the county is seeking disengagement;
- (6) Evidence of its written notice to the providers impacted by its decision to disengage;
- (7) Evidence of its compliance with the population requirements of G.S. 122C-115(a);
- (8) Evidence of its financial liabilities to the LME-MCO from which it is seeking to disengage within 30 calendar days of the request to disengage; and
- (9) Documentation of its compliance with Paragraphs (a) through (c) of this Rule.

*History Note: Authority G.S. 122C-115; Eff. February 1, 2017.*

**TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**10A NCAC 26C .0701 SCOPE**

A county seeking to disengage from a Local Management Entity-Managed Care Organization (LME-MCO) and align with another LME-MCO operating under a Medicaid waiver shall first obtain the approval of the Secretary of the Department of Health and Human Services (DHHS) in accordance with the rules of this Section.

*History Note: Authority G.S. 122C-115; Eff. February 1, 2017.*

**10A NCAC 26C .0702 COUNTY REQUEST TO DISENGAGE FROM A LOCAL MANAGEMENT ENTITY-MANAGED CARE ORGANIZATION**

(a) A county seeking to disengage from an LME-MCO shall provide written notice of its intent to disengage from an LME-MCO to the Secretary, the Co-Chairs of the Joint Legislative Oversight Committee on Health and Human Services, and affected counties a minimum of nine months prior to the proposed effective date of disengagement.

(b) A county seeking to disengage from an LME-MCO shall publish its plan for disengagement on its website, and the website of the LME-MCO with which it seeks to align.

(c) The county seeking to disengage from an LME-MCO shall accept public comments on its disengagement plan for a minimum of 60 calendar days. The county shall solicit comments from



**10A NCAC 26C .0703 SECRETARY RESPONSE TO COUNTY REQUESTS TO DISENGAGE FROM A LOCAL MANAGEMENT ENTITY-MANAGED CARE ORGANIZATION**

(a) Upon written request by a county seeking to disengage from an LME-MCO, the Secretary may waive the nine month requirement set forth in Rule .0702(a) of this Section upon consideration of the following factors:

- (1) the impact of delay upon consumers currently served in the county seeking to disengage;
- (2) the financial vulnerability of the LME-MCO from which disengagement is sought; and
- (3) any substantiated evidence of criminal activity or malfeasance on the part of the LME-MCO from which disengagement is sought.

(b) The Secretary shall consider the following in deciding whether to approve a county request to disengage from an LME-MCO and realign with a different LME-MCO operating under a Medicaid waiver:

- (1) the impact to and public comments received from consumers, advocates, self-advocates, and State and Local CFACs within the county in response to Rule .0702(c) of this Section;
- (2) the county's plan for disengagement from one LME-MCO and realignment with a different LME-MCO;
- (3) the county's plan to ensure continuity of services during the disengagement and realignment phase;
- (4) whether the county has complied with the requirements of Rule .0702 of this Section;
- (5) whether the county is contiguous to the catchment area of the LME-MCO with which it is requesting to align;
- (6) the timing of the request and whether the disengagement will conflict with setting capitation rates;
- (7) whether the disengagement will impact the financial viability of the LME-MCO from which the county is seeking to disengage;
- (8) whether the disengagement and realignment will ensure compliance with the population requirements of G.S. 122C-115(a);
- (9) whether the disengagement and realignment will impact the stability, as a whole, of the State's healthcare system;
- (10) how the disengagement and realignment will affect the quality, variety, and amount of services for the clients, as defined in G.S. 122C-3, in the subject county; and
- (11) the operational alignment of the county within the context of the LME-MCO disengagement related to geography, service delivery, and demonstrated provision of whole-person centered care.

(c) The Secretary shall issue a written decision to approve or deny the request for disengagement and realignment within 90 calendar days of receipt.

(d) The Secretary may approve the request as submitted or set conditions upon its issuance based upon consideration of the factors set forth in Paragraph (b) this Rule.

(e) The Secretary shall notify the following of the decision to approve or deny a county request for disengagement and realignment:

- (1) The Board of County Commissioners of the county seeking to disengage;
- (2) The Boards of County Commissioners of the counties of the LME-MCO with which realignment is requested;
- (3) The LME-MCO from which disengagement is sought;
- (4) The LME-MCO with which realignment is requested; and
- (5) The Co-Chairs of the Joint Legislative Oversight Committee on Health and Human Services.

*History Note: Authority G.S. 122C-115; Eff. February 1, 2017.*

**TITLE 11 - DEPARTMENT OF INSURANCE**

**11 NCAC 05A .0101 DEFINITIONS**

As used in this Subchapter:

- (1) "ISO" means the Insurance Services Office, Inc., or any successor organization.
- (2) "North Carolina Fire Suppression Rating Schedule" or "NCFRS" means the ISO Fire Suppression Rating Schedule. The NCFRS is incorporated into this Subchapter by reference, including subsequent amendments or editions. The NCFRS may be obtained from the ISO at <http://www.iso.com/> for a fee of one hundred dollars (\$100.00). Fire chiefs and local government chief administrative officials may request a single copy of the FRS, free of charge at [www.iso.com](http://www.iso.com).
- (3) "NFIRS" means the National Fire Incident Reporting System administered by the United States Fire Administration (USFA) and coordinated and collected in North Carolina by the Office of the State Fire Marshal. State fire incident reporting instructions are provided by OSFM at [http://www.ncdoi.com/OSFM/Fire\\_Rescue\\_Commission/Default.aspx?field1=Incident\\_Reporting\\_-\\_Information&user=Incident\\_Reporting](http://www.ncdoi.com/OSFM/Fire_Rescue_Commission/Default.aspx?field1=Incident_Reporting_-_Information&user=Incident_Reporting) for no charge and satisfy NFIRS reporting requirements.
- (4) "Office of State Fire Marshal" or "OSFM" means the Office of State Fire Marshal of the North Carolina Department of Insurance

*History Note: Authority G.S. 58-2-40; Eff. February 1, 1976;*

*Readopted Eff. May 12, 1978;  
Amended Eff. February 1, 2017; September 1, 2010; October 1, 2006; July 1, 1986.*

**11 NCAC 05A .0202 COMPREHENSIVE EMERGENCY MANAGEMENT PLAN**

The Commissioner of Insurance acts as an advisor to the Governor for Structural Fire Suppressions and Rescue Services under the North Carolina Emergency Operations Plan and assists other state and local agencies through the OSFM in the following areas:

- (1) planning in the fire and rescue services;
- (2) training in the various fields of emergency structural fire suppression, rescue services, search and rescue, fire prevention and education;
- (3) serving as the lead agency for Structural Fire Suppressions and Rescue Services during these declared emergencies; and
- (4) serving as a support agency for search and rescue functions during these declared emergencies.

*History Note: Authority G.S. 58-2-40;  
Eff. February 1, 1976;  
Readopted Eff. May 12, 1978;  
Amended Eff. February 1, 2017; July 1, 1986.*

**11 NCAC 05A .0302 CERTIFICATION OF ELIGIBILITY**

The certification form required by G.S. 58-84-46 shall be entitled "Local Relief Fund Board of Trustees Report" and shall, include the following:

- (1) the name of the city, fire district, or sanitary district;
- (2) names, home addresses, email addresses, and phone numbers of the "board of trustees of the local Firefighters' Relief Fund";
- (3) identify of the treasurer and board chair of the local Firefighters' Relief Fund; and
- (4) the date each person was (re)elected or (re)appointed to the board.

*History Note: Authority G.S. 58-2-40(1); 58-84-46;  
Eff. February 1, 1976;  
Readopted Eff. May 12, 1978;  
Amended Eff. February 1, 2017; September 1, 2010; October 1, 2006; July 1, 2002; February 1, 1993; July 1, 1986.*

**11 NCAC 05A .0303 ADMINISTRATION OF FIREFIGHTERS' RELIEF FUND**

(a) OSFM shall compile and maintain records, including the following information:

- (1) certifications of the "Local Relief Fund Board of Trustees Report" filed in accordance with G.S. 58-84-46;
- (2) certifications filed by the North Carolina State Firemen's Association in accordance with G.S. 58-84-40(b);

- (3) amount of Firefighters' Relief Fund tax assigned by the North Carolina Department of Revenue; and
- (4) amount of property tax values for each rated fire district as filed by each County.

(b) If a fire department dissolves, the following procedures apply:

- (1) If a neighboring fire department elects to expand its boundaries to include the area served by the dissolved fire department, the Firefighters' Relief Fund account shall be transferred to the expanding fire department.
- (2) If no neighboring fire department elects to include the dissolved fire department's territory into its own, the dissolved fire department shall not be certified and shall forfeit its right to future annual payments from the Firefighters' Relief Fund.

(c) If a rated and certified fire department that is serving two or more rated and certified districts divides into separate fire departments, the original rated and certified fire department shall retain the relief fund for each rated and certified district. Any new fire department resulting from the division shall be entitled to receive relief fund money after it has been rated and certified in accordance with 11 NCAC 05A .0503.

(d) Fire department checks shall be disbursed by the Department of Insurance Controllers office to the fire departments in that county through Electronic Funds Transfer, unless a fire department's account cannot accept electronic funds transfers, in which case the Commissioner shall distribute the department's allocation by paper check.

*History Note: Authority G.S. 58-2-40(1); 58-84-25; 58-84-40; 58-84-50; 58-85-1;  
Eff. February 1, 1976;  
Readopted Eff. May 12, 1978;  
Amended Eff. February 1, 2017; September 1, 2010; February 1, 1993; July 1, 1986.*

**11 NCAC 05A .0503 ESTABLISHMENT OF FIRE DEPARTMENT**

To become a rated and certified fire department, a fire department shall apply and meet the following criteria:

- (1) the fire department shall be operated by a city, county, or sanitary district as a division of that governmental unit or be incorporated under Chapter 55A of the General Statutes;
- (2) if the fire department is incorporated, it shall operate under a contract with either a city, county, or sanitary district or any combination thereof;
- (3) boundaries defining the area of responsibility shall be established by a County Board of Commissioners for areas outside municipalities pursuant to G.S. 153A-233; and
- (4) the fire department shall provide OSFM with a hand drawn map with a written description or a GIS computer generated map of its initial or revised fire insurance district with the

documentation of the approval by the County Commissioners.

*History Note: Authority G.S. 58-2-40; 58-84-5; Eff. September 1, 1985; Amended Eff. February 1, 2017; October 1, 2006; July 1, 1992; July 1, 1986.*

**11 NCAC 05A .0504 PRIMARY PERSONNEL**

Upon initial or re-inspection for certification as a Class "9S" fire department, the fire department shall have 20 primary personnel. No eligible firefighter may be counted as a primary firefighter of two, on call, volunteer departments. At the time of re-inspection, a fire department shall maintain 20 primary personnel on their certified state roster. At least one engine with four personnel must respond to each reported structure fire, which includes fire alarm activations where fire or damage has occurred. For the purpose of this Section "primary personnel" means an eligible firefighter that is associated with the fire department for the purpose of satisfying certification inspection requirements.

*History Note: Authority G.S. 58-2-40; Eff. September 1, 1985; Amended Eff. February 1, 2017; October 1, 2006; July 1, 1992.*

**11 NCAC 05A .0506 ALARM AND COMMUNICATIONS**

Communications facilities shall be provided for the receipt of reported emergencies, dispatching, documentation of responding fire apparatus, and notification of firefighters. The communications system shall provide facilities for dispatching assistance to fire emergencies 24 hours a day, seven days a week. The communications facility shall have the capability of activating all types of systems utilized to dispatch the fire apparatus and notify all firefighters of an emergency. The alert may be provided by pagers, portable radios with alerting capabilities, siren activation from the communications center, or station alerting devices with paid personnel. Text paging or phone paging shall not be a means of notification.

*History Note: Authority G.S. 58-2-40; Eff. September 1, 1985; Amended Eff. February 1, 2017; October 1, 2006.*

**11 NCAC 05A .0507 RECORDS AND DOCUMENTS**

(a) The city or county manager, fire department chief, or county fire marshal shall keep records on dates, times and locations of all emergencies on the current version of the National Fire Incident Reporting System (NFIRS) as prescribed in Rule .0101 of this Subchapter; and shall submit the following documents to the Department of Insurance upon request prior to an inspection: certified state roster, charter, contract(s) with city(ies) and county(ies), service test report, weight tickets, an inventory of protective clothing, and verification of workers compensation coverage.

(b) A fire department shall comply with G.S. 58-79-45 by using the NFIRS reporting requirements found at no charge at the following link: [http://www.ncdoi.com/OSFM/Fire\\_Rescue\\_Commission/Default](http://www.ncdoi.com/OSFM/Fire_Rescue_Commission/Default)

[t.aspx?field1=Incident\\_Reporting\\_-\\_Information&user=Incident\\_Reporting](#). All reports shall be submitted within 120 days of incident occurrence.

*History Note: Authority G.S. 58-2-40; 58-79-45; Eff. September 1, 1985; Amended Eff. February 1, 2017; September 1, 2010; October 1, 2006; July 1, 1992.*

**11 NCAC 05A .0510 INSPECTION**

*History Note: Authority G.S. 58-2-40; 58-36-10(3); 58-86-25; Eff. September 1, 1985; Amended Eff. October 1, 2006; July 1, 1992; Repealed Eff. February 1, 2017.*

**11 NCAC 05A .0512 STANDARDS AND POLICIES**

(a) The NCFRS shall be used by OSFM when OSFM inspects fire departments for the purpose of determining Fire Insurance District Ratings Classifications. Each fire department shall assure the response of at least four firefighters and one engine to all fires and fire alarms where fire or damage occurred in structures. The chief may be one of the four responding firefighters. Response of a fire department, as primary first alarm department, to a fire or fire alarm in a structure within its established fire insurance district with less than the minimum required engine or four firefighters shall be considered by OSFM to be an inadequate response. Fire alarms where no fire or damage has occurred as determined by a fire official on-scene shall not be considered by the inspector. Any department determined by OSFM to have two or more inadequate responses shall be placed on probation by OSFM for a period of up to 12 consecutive months. A fire department on probation shall submit quarterly records to the OSFM inspector for all fires and fire alarms reported in structures for the next 12 consecutive calendar months showing there have been no additional inadequate response within the period. If the fire department fails to submit the quarterly report, the insurance district for the fire department shall be designated as "Class 10" (non-certified) by OSFM. In addition, any department found to have any deficiencies during an Inspection shall be placed on probation until the deficiency, as determined by the 9S inspection requirement, has been corrected, or up to 12 months at which time the department shall be designated a "Class 10" insurance district by in accordance with Rule .0501 of this Section.

(b) After evaluation of data collected during an NCFRS inspection, if the results of the inspection indicate that a fire department's ratings classification must be reduced, OSFM shall notify the city or county manager, the fire department chief, and the county fire marshal in writing of the reduction in ratings classification. For the purpose of survey grading inspections below 9S notification shall include:

- (1) hydrant flow tests and hauled water evaluations;
- (2) ratings classification details; and
- (3) OSFM community report of conditions found.

(c) If the city or county manager, the fire department chief, and the county fire marshal fails to acknowledge receipt within 30

days after receipt of the notification, OSFM shall reduce the ratings classification of the fire department.

(d) If the city or county manager, the fire department chief, and the county fire marshal acknowledges receipt of the notification to OSFM within 30 days after receipt of the notification and advises OSFM that the fire department wants to retain its ratings classification. The city or county manager, the fire department chief, and the county fire marshal shall consult with the individual inspector who conducted the NCFRSRS inspection and develop a plan of action to correct the deficiencies which caused the reduction in ratings classification.

(e) Within 90 days after the consultation, the city or county manager, or fire department chief, and the county fire marshal shall submit the plan to OSFM that shall determine whether the plan is satisfactory to cover the deficiencies. OSFM shall notify the city manager, county manager, fire department chief, and county fire marshal in writing when OSFM approves the plan.

(f) The fire department shall have one year after the receipt of the approval to complete the plan of action to correct the deficiencies which caused the reduction in ratings classification.

(g) The sharing or borrowing of equipment between or among fire departments or between or among stations within a fire department, the falsifying of documents, or engaging in any other act of misrepresentation, for the purpose of falsely satisfying the apparatus or equipment grading score of a NCFRSRS survey grading or 9S inspection shall be prohibited, and shall result in the department being placed on probation. Ratings and inspections information may be found at the following link [http://www.ncdoi.com/OSFM/Ratings\\_and\\_Inspections/Default.aspx?field1=Forms](http://www.ncdoi.com/OSFM/Ratings_and_Inspections/Default.aspx?field1=Forms).

*History Note:* Authority G.S. 58-2-40; 58-36-10(3);  
Eff. October 1, 2006;  
Amended Eff. February 1, 2017.

**11 NCAC 05A .0601 DEFINITIONS**

*History Note:* Authority G.S. 58-2-40(1); 58-87-1;  
Eff. February 1, 1993.  
Repealed Eff. February 1, 2017.

**11 NCAC 05A .0602 FIRE DISTRICT RATING CERTIFICATION**

If a fire department is working with OSFM to obtain its fire district rating certification as of March 1, it may apply for a grant. In order to receive a grant, the fire department shall obtain its fire district rating certification within 60 days after OSFM has determined that the fire department has otherwise satisfied the requirements of G.S. 58-87-1 and the rules in this Section.

*History Note:* Authority G.S. 58-2-40(1); 58-36-10(3); 58-87-1;  
Eff. February 1, 1993;  
Amended Eff. February 1, 2017.

**11 NCAC 05A .0604 OTHER GRANT CRITERIA**

In addition to criteria in G.S. 58-87-1, in awarding grants the Commissioner of Insurance shall consider the following criteria in relation to each fire department:

- (1) number of paid personnel;
- (2) personnel salary paid by the unit or the city or county;
- (3) number and age of vehicles;
- (4) county population density;
- (5) county per capita income;
- (6) source of fire department funding, including the following funding sources for the last fiscal year:
  - (a) city or county funding;
  - (b) fire tax;
  - (c) sales tax;
  - (d) contracted services;
  - (e) revenue from EMS billing;
  - (f) fund raising;
  - (g) donations; and
  - (h) revenue from non-OSFM grants.
- (7) cash balance as of the beginning of current fiscal year;
- (8) protective equipment requested;
- (9) miscellaneous equipment requested;
- (10) vehicles requested;
- (11) capital improvements requested; and
- (12) current fire insurance rating.

*History Note:* Authority G.S. 58-2-40(1); 58-87-1;  
Eff. February 1, 1993;  
Amended Eff. February 1, 2017.

**11 NCAC 05A .0701 DEFINITIONS**

As used in this section:

- (1) "Office of State Fire Marshal" or "OSFM" means the Office of State Fire Marshal of the North Carolina Department of Insurance.
- (2) "Fund" means the Volunteer Rescue/EMS Fund created in G.S. 58-87-5.
- (3) "Unit" means a volunteer rescue unit, a rescue/EMS unit, or an EMS unit recognized by OSFM in accordance with G.S. 58-87-5(b)(3).

*History Note:* Authority G.S.58-2-40(1); 58-87-5;  
Eff. February 1, 1993;  
Amended Eff. February 1, 2017.

**11 NCAC 05A .0702 ALS CERTIFICATION**

If a unit is working with the Office of Emergency Medical Services (OEMS) to obtain its Advanced Life Support (ALS) certification as of October 1, that unit may apply for a grant. In order to receive a grant, the unit shall obtain its ALS certification from OEMS within 60 days after OSFM has determined that the unit has otherwise satisfied the requirements in G.S. 58-87-5 and the rules in this Section.

*History Note:* Authority G.S. 58-2-40(1); 58-87-5;  
Eff. February 1, 1993;  
Amended Eff. February 1, 2017.

**11 NCAC 05A .0705 OTHER GRANT CRITERIA**

In addition to criteria in G.S. 58-87-5 and other Rules in this Section, in awarding grants the OSFM shall consider the following criteria in relation to each unit:

- (1) number of paid personnel;
- (2) personnel salary paid by the unit or the city or county;
- (3) number and age of vehicles;
- (4) county population density;
- (5) county per capita income;
- (6) unit funding sources including the following funding sources for the last fiscal year:
  - (a) city or county funding;
  - (b) fire tax;
  - (c) sales tax;
  - (d) contracted services;
  - (e) revenue from EMS billing;
  - (f) fund raising;
  - (g) donations; and
  - (h) revenue from non-OSFM grants;
- (7) cash balance as of the beginning of current fiscal year;
- (8) protective equipment requested;
- (9) miscellaneous equipment requested;
- (10) capital improvements requested; and
- (11) vehicles requested.

*History Note: Authority G.S. 58-2-40(1); 58-87-5; Eff. February 1, 1993; Amended Eff. February 1, 2017.*

**TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY**

**15A NCAC 07H .0306 GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS**

(a) In order to protect life and property, all development not otherwise specifically exempted or allowed by law or elsewhere in the Coastal Resources Commission's rules shall be located according to whichever of the following is applicable:

- (1) The ocean hazard setback for development is measured in a landward direction from the vegetation line, the static vegetation line, or the measurement line, whichever is applicable.
- (2) In areas with a development line, the ocean hazard setback line shall be set at a distance in accordance with Subparagraphs (a)(3) through (9) of this Rule. In no case shall new development be sited seaward of the development line.
- (3) In no case shall a development line be created or established below the mean high water line.
- (4) The setback distance shall be determined by both the size of development and the shoreline long term erosion rate as defined in Rule .0304 of this Section. "Development size" is defined by total floor area for structures and buildings or total area of footprint for development other

than structures and buildings. Total floor area includes the following:

- (A) The total square footage of heated or air-conditioned living space;
- (B) The total square footage of parking elevated above ground level; and
- (C) The total square footage of non-heated or non-air-conditioned areas elevated above ground level, excluding attic space that is not designed to be load-bearing.

Decks, roof-covered porches, and walkways shall not be included in the total floor area unless they are enclosed with material other than screen mesh or are being converted into an enclosed space with material other than screen mesh.

- (5) With the exception of those types of development defined in 15A NCAC 07H .0309, no development, including any portion of a building or structure, shall extend oceanward of the ocean hazard setback distance. This includes roof overhangs and elevated structural components that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings. The ocean hazard setback is established based on the following criteria:

- (A) A building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;
- (B) A building or other structure greater than or equal to 5,000 square feet but less than 10,000 square feet requires a minimum setback of 120 feet or 60 times the shoreline erosion rate, whichever is greater;
- (C) A building or other structure greater than or equal to 10,000 square feet but less than 20,000 square feet requires a minimum setback of 130 feet or 65 times the shoreline erosion rate, whichever is greater;
- (D) A building or other structure greater than or equal to 20,000 square feet but less than 40,000 square feet requires a minimum setback of 140 feet or 70 times the shoreline erosion rate, whichever is greater;
- (E) A building or other structure greater than or equal to 40,000 square feet but less than 60,000 square feet requires a minimum setback of 150 feet or 75 times the shoreline erosion rate, whichever is greater;
- (F) A building or other structure greater than or equal to 60,000 square feet but less than 80,000 square feet requires a

- minimum setback of 160 feet or 80 times the shoreline erosion rate, whichever is greater;
  - (G) A building or other structure greater than or equal to 80,000 square feet but less than 100,000 square feet requires a minimum setback of 170 feet or 85 times the shoreline erosion rate, whichever is greater;
  - (H) A building or other structure greater than or equal to 100,000 square feet requires a minimum setback of 180 feet or 90 times the shoreline erosion rate, whichever is greater;
  - (I) Infrastructure that is linear in nature such as roads, bridges, pedestrian access such as boardwalks and sidewalks, and utilities providing for the transmission of electricity, water, telephone, cable television, data, storm water, and sewer requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;
  - (J) Parking lots greater than or equal to 5,000 square feet require a setback of 120 feet or 60 times the shoreline erosion rate, whichever is greater;
  - (K) Notwithstanding any other setback requirement of this Subparagraph, a building or other structure greater than or equal to 5,000 square feet in a community with a static line exception in accordance with 15A NCAC 07J .1200 requires a minimum setback of 120 feet or 60 times the shoreline erosion rate in place at the time of permit issuance, whichever is greater. The setback shall be measured landward from either the static vegetation line, the vegetation line, or measurement line, whichever is farthest landward; and
  - (L) Notwithstanding any other setback requirement of this Subparagraph, replacement of single-family or duplex residential structures with a total floor area greater than 5,000 square feet, and commercial and multi-family residential structures with a total floor area no greater than 10,000 square feet, shall be allowed provided that the structure meets the following criteria:
    - (i) the structure was originally constructed prior to August 11, 2009;
    - (ii) the structure as replaced does not exceed the original footprint or square footage;
    - (iii) it is not possible for the structure to be rebuilt in a location that meets the ocean hazard setback criteria required under Subparagraph (a)(5) of this Rule;
    - (iv) the structure as replaced meets the minimum setback required under Part (a)(5)(A) of this Rule; and
    - (v) the structure is rebuilt as far landward on the lot as feasible.
- (6) If a primary dune exists in the AEC on or landward of the lot where the development is proposed the development shall be landward of the crest of the primary dune, the ocean hazard setback, or development line, whichever is farthest from vegetation line, static vegetation line, or measurement line, whichever is applicable. For existing lots, however, where setting the development landward of the crest of the primary dune would preclude any practical use of the lot, development may be located oceanward of the primary dune. In such cases, the development may be located landward of the ocean hazard setback, but shall not be located on or oceanward of a frontal dune or the development line. The words "existing lots" in this Rule shall mean a lot or tract of land which, as of June 1, 1979, is specifically described in a recorded plat and cannot be enlarged by combining the lot or tract of land with a contiguous lot(s) or tract(s) of land under the same ownership.
  - (7) If no primary dune exists, but a frontal dune does exist in the AEC on or landward of the lot where the development is proposed, the development shall be set landward of the frontal dune, ocean hazard setback, or development line, whichever is farthest from the vegetation line, static vegetation line, or measurement line, whichever is applicable.
  - (8) If neither a primary nor frontal dune exists in the AEC on or landward of the lot where development is proposed, the structure shall be landward of the ocean hazard setback or development line, whichever is more restrictive.
  - (9) Structural additions or increases in the footprint or total floor area of a building or structure represent expansions to the total floor area and shall meet the setback requirements established in this Rule and 15A NCAC 07H .0309(a). New development landward of the applicable setback may be cosmetically, but shall not be

- structurally, attached to an existing structure that does not conform with current setback requirements.
- (10) Established common law and statutory public rights of access to and use of public trust lands and waters in ocean hazard areas shall not be eliminated or restricted. Development shall not encroach upon public accessways, nor shall it limit the intended use of the accessways.
- (11) Beach fill as defined in Rule .0305(a)(7) of this Section, represents a temporary response to coastal erosion, and compatible beach fill as defined in 15A NCAC 07H .0312 may be expected to erode at least as fast as, if not faster than, the pre-project beach. Furthermore, there is no assurance of future funding or beach-compatible sediment for continued beach fill projects and project maintenance. A vegetation line that becomes established oceanward of the pre-project vegetation line in an area that has received beach fill may be more vulnerable to natural hazards along the oceanfront if the beach fill project is not maintained. A development setback measured from the vegetation line may provide less protection from ocean hazards. Therefore, development setbacks in areas that have received large-scale beach fill as defined in 15A NCAC 07H .0305 shall be measured landward from the static vegetation line as defined in this Section, unless a development line has been approved by the Coastal Resources Commission in accordance with 15A NCAC 07J .1300.
- (12) In order to allow for development landward of the large-scale beach fill project that cannot meet the setback requirements from the static vegetation line, but can or has the potential to meet the setback requirements from the vegetation line set forth in Subparagraphs (a)(1) and (a)(5) of this Rule, a local government, group of local governments involved in a regional beach fill project, or qualified "owners' association" defined in G.S. 47F-1-103(3) that has the authority to approve the locations of structures on lots within the territorial jurisdiction of the association, and has jurisdiction over at least one mile of ocean shoreline, may petition the Coastal Resources Commission for a "static line exception" in accordance with 15A NCAC 07J .1200. The static line exception applies to development of property that lies both within the jurisdictional boundary of the petitioner and the boundaries of the large-scale beach fill project. This static line exception shall also allow development greater than 5,000 square feet to use the setback provisions defined in Part (a)(5)(K) of this Rule in areas that lie within the jurisdictional boundary of the petitioner, as well as the boundaries of the large-scale beach fill project. The procedures for a static line exception request are defined in 15A NCAC 07J .1200. If the request is approved, the Coastal Resources Commission shall allow development setbacks to be measured from a vegetation line that is oceanward of the static vegetation line under the following conditions:
- (A) Development meets all setback requirements from the vegetation line defined in Subparagraphs (a)(1) and (a)(5) of this Rule;
  - (B) Development setbacks shall be calculated from the shoreline erosion rate in place at the time of permit issuance;
  - (C) No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings, extends oceanward of the landward-most adjacent building or structure. When the configuration of a lot precludes the placement of a building or structure in line with the landward-most adjacent building or structure, an average line of construction shall be determined by the Division of Coastal Management on a case-by-case basis in order to determine an ocean hazard setback that is landward of the vegetation line, a distance no less than 30 times the shoreline erosion rate or 60 feet, whichever is greater;
  - (D) With the exception of swimming pools, the development defined in Rule .0309(a) of this Section shall be allowed oceanward of the static vegetation line; and
  - (E) Development shall not be eligible for the exception defined in Rule .0309(b) of this Section.
- (b) In order to avoid weakening the protective nature of ocean beaches and primary and frontal dunes, no development shall be permitted that involves the removal or relocation of primary or frontal dune sand or vegetation thereon that would adversely affect the integrity of the dune. Other dunes within the ocean hazard area shall not be disturbed unless the development of the property is otherwise impracticable. Any disturbance of these other dunes shall be allowed only to the extent permitted by 15A NCAC 07H .0308(b).
- (c) Development shall not cause irreversible damage to historic architectural or archaeological resources as documented by the local historic commission, the North Carolina Department of Natural and Cultural Resources, or the National Historical Registry.
- (d) Development shall comply with minimum lot size and setback requirements established by local regulations.

(e) Mobile homes shall not be placed within the high hazard flood area unless they are within mobile home parks existing as of June 1, 1979.

(f) Development shall comply with the general management objective for ocean hazard areas set forth in 15A NCAC 07H .0303.

(g) Development shall not interfere with legal access to, or use of, public resources, nor shall such development increase the risk of damage to public trust areas.

(h) Development proposals shall incorporate measures to avoid or minimize adverse impacts of the project. These measures shall be implemented at the applicant's expense and may include actions that:

- (1) minimize or avoid adverse impacts by limiting the magnitude or degree of the action;
- (2) restore the affected environment; or
- (3) compensate for the adverse impacts by replacing or providing substitute resources.

(i) Prior to the issuance of any permit for development in the ocean hazard AECs, there shall be a written acknowledgment from the applicant to the Division of Coastal Management that the applicant is aware of the risks associated with development in this hazardous area and the limited suitability of this area for permanent structures. By granting permits, the Coastal Resources Commission does not guarantee the safety of the development and assumes no liability for future damage to the development.

(j) All relocation of structures requires permit approval. Structures relocated with public funds shall comply with the applicable setback line as well as other applicable AEC rules. Structures including septic tanks and other essential accessories relocated entirely with non-public funds shall be relocated the maximum feasible distance landward of the present location. Septic tanks may not be located oceanward of the primary structure. All relocation of structures shall meet all other applicable local and state rules.

(k) Permits shall include the condition that any structure shall be relocated or dismantled when it becomes imminently threatened by changes in shoreline configuration as defined in 15A NCAC 07H .0308(a)(2)(B). Any such structure shall be relocated or dismantled within two years of the time when it becomes imminently threatened, and in any case upon its collapse or subsidence. However, if natural shoreline recovery or beach fill takes place within two years of the time the structure becomes imminently threatened, so that the structure is no longer imminently threatened, then it need not be relocated or dismantled at that time. This permit condition shall not affect the permit holder's right to seek authorization of temporary protective measures allowed under 15A NCAC 07H .0308(a)(2).

*History Note:* Authority G.S. 113A-107; 113A-113(b)(6); 113A-124; Eff. September 9, 1977; Amended Eff. December 1, 1991; March 1, 1988; September 1, 1986; December 1, 1985; RRC Objection due to ambiguity Eff. January 24, 1992; Amended Eff. March 1, 1992; RRC Objection due to ambiguity Eff. May 21, 1992; Amended Eff. February 1, 1993; October 1, 1992; June 19, 1992;

*RRC Objection due to ambiguity Eff. May 18, 1995; Amended Eff. August 11, 2009; April 1, 2007; November 1, 2004; June 27, 1995; Temporary Amendment Eff. January 3, 2013; Amended Eff. February 1, 2017; April 1, 2016; September 1, 2013.*

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

**CHAPTER 50 – BOARD OF EXAMINERS OF PLUMBING, HEATING AND FIRE SPRINKLER CONTRACTORS**

**21 NCAC 50 .0312 STATE AND LOCAL GOVERNMENT PLUMBING OR HEATING TECHNICIAN**

(a) In order to determine the qualifications of an applicant for a license as a State or local government plumbing or heating technician, the Board shall provide a written or computer-based examination in the following categories:

- (1) State and local government Plumbing Technician;
- (2) State and local government Heating Group No. 1 Technician;
- (3) State and local government Heating Group No. 2 Technician; or
- (4) State and local government Heating Group No. 3 Technician

(b) Applicants for a license as a State & Local Government Plumbing or Heating Technician shall obtain a license based on experience set forth in Paragraph (c) of this Rule and shall pass the Class I technical and Board laws and rules part of the Board-administered examination described in Rule .0301 of this Section related to the category for which a technician license is sought. The applicant need not pass the business part of the examination.

(c) Applicants for a license as a State & Local Government plumbing or heating technician shall present evidence to establish 3000 hours of full-time experience in the installation, maintenance, service, or repair of plumbing or heating systems related to the category for which a technician license is sought, whether or not a license was required for the work performed.

(d) Applicants for a license as a State & Local Government Technician who currently hold an active plumbing or heating contractor license issued by this Board may qualify for the corresponding State and local government technician license without examination.

*History Note:* Authority G.S. 87-18; 87-21(a); 87-21(b); Eff. February 1, 2017.

**21 NCAC 50 .0313 RESPONSIBILITIES OF STATE AND LOCAL GOVERNMENT TECHNICIAN LICENSEES**

(a) A licensed State and local government technician licensee shall be required to list their license with the Board in the name of the State and local government agency by whom the licensee is employed,



(b) The holder of license as a State and local government Heating Group 1 Technician, Heating Group 2 Technician, Heating Group 3 Technician, or Plumbing Technician shall be a full-time employee of a State or local government agency.

(c) A licensed State and local government technician licensee shall ensure that a permit is obtained from the appropriate State or local Code Enforcement official before commencing any work for which a license is required by the Board. The licensee shall also ensure that a request for final inspection of the work for which a license is required is made within 10 days of the earlier of the system being made operational or placed in service, absent agreement with the appropriate State or local Code Enforcement official. Absent agreement with the local Code Enforcement official the licensee shall not be relieved of responsibility to the Board to arrange inspection until a certificate of compliance or the equivalent is obtained from the appropriate State or local code enforcement official or the licensee has documentary evidence of his effort to obtain the same.

(d) The failure of a licensee to comply with the permit and inspection obligations outlined in this Rule shall be considered by the Board as evidence of incompetence or misconduct in the use of license from the Board.

(e) A licensed State and local government technician licensee shall be responsible for general supervision to the extent of his qualifications, compliance with all applicable codes and standards, and assurance that permits and inspections are obtained.

(f) The "general supervision" required by G.S. 87-26 is the degree of supervision necessary and sufficient to ensure that the work is performed in a workmanlike manner and with the requisite skill and that the installation is made in accordance with applicable codes, rules and manufacturer installation instructions and industry practice. General supervision requires that review of the work done pursuant to the State and local government technician license be performed by the State and local government technician licensee while the work is in progress.

(g) In each State or local government agency location, branch, or facility of any kind from which work requiring a license pursuant to G.S. 87, Article 2 is carried out there shall be on duty the lesser of 1500 hours annually, or all hours during which the activities described herein are carried out, at least one licensee who holds the appropriate State and local government technician license in the classification required for the work being proposed or performed, whose license is listed in the name of the particular State or local government agency at that location, and who is engaged in the work of the State or local government at the agency location or at an agency job site and who has the responsibility to exercise general supervision over the work and who has been empowered to act for the State or local government agency, as defined in Rule .0505 of this Chapter, of all work falling within his or her license qualification. Evidence of compliance shall be required as a condition of renewal or retention of license and falsification shall constitute fraud in obtaining license. The standards set forth in Rule .0512 of this Chapter shall be applied.

(h) An unlicensed person employed by a State and local government agency licensed and supervised pursuant to G.S. 87, Article 2 shall not be required to have a license and shall not be subject to an action for injunctive relief brought by the Board if

the unlicensed person is a bona-fide employee of the State and local government.

(i) The annual license fee for a State and local government Technician license is one hundred thirty dollars (\$130.00), except as provided in Paragraph (j) of this Rule.

(j) The annual license fee for a State & Local Government Technician Plumbing or Heating Technician license that is listed as the second or subsequent licensee at the same agency location is sixty-five dollars (\$65.00).

*History Note: Authority G.S. 87-18; 87-21(a)(5); 87-21(a)(6); 87-21(a)(10); 87-21(b)(2)c; 87-22; 87-22.1; 87-26; Eff. April 1, 2017.*

**21 NCAC 50 .0405 MULTIPLE LICENSES**

(a) In order to maintain the identity of firms and allow effective supervision, each licensed contractor or technician shall qualify only the business location where he is primarily located.

(b) A licensee may be listed on only one contractor license at any given time, whether the license is issued in the name of the individual or in the name of a firm; provided, however, that the Fire Sprinkler Maintenance Technician qualification and the State and local government technician qualification may be listed separately in the name of the employer to which restricted.

(c) The holder of qualification as a contractor may, upon deletion of his name and qualifications from a firm license, reinstate his personal license, either as an individual or in the name of some other corporation, partnership, or business that has a trade name, upon compliance with G.S. 87-26.

(d) A technician licensee, other than the holder of a Fire Sprinkler Maintenance Technician license, may, upon deletion of his name and qualification from a firm license, move his qualification to another licensed corporation, partnership, or business that has a trade name, upon compliance with G.S. 87-26.

*History Note: Authority G.S. 87-18; 87-21(a)(5); 87-21(a)(6); 87-21(b)(2)c; 87-26; Eff. February 1, 1976;*

*Readopted Eff. September 29, 1977;*

*Amended Eff. December 31, 2011; January 1, 2010; January 1, 2004; July 1, 1998; May 1, 1989;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;*

*Amended Eff. February 1, 2017.*

**21 NCAC 50 .0414 SUPERVISION IN ABSENCE OF INSPECTION**

In lieu of the supervision required by Rule .0505 of this Chapter, the holder of the qualifications upon which a license is based shall personally examine all work performed in reliance upon the license at completion and before the work is placed in service to assure that the installation, replacement, or repair is performed in compliance with the current edition of the North Carolina State Building Codes which is hereby incorporated by reference including all subsequent editions and amendments, and the manufacturers installation instructions, where the work will not be examined and approved by a person holding qualification from the Code Officials Qualification Board. The State Building Code may be accessed at <http://www.NCDOI.com/OSFM/Engineering>.

*History Note:* Authority G.S. 87-18; 87-21(b)(2)(c); 87-25;  
87-26;  
Eff. February 1, 2017.

**21 NCAC 50 .1104 FEES FOR COPIES OF  
RECORDS AND RETURNED CHECKS**

The Board charges the following fees:

- |     |                                    |         |
|-----|------------------------------------|---------|
| (1) | copies of license                  | \$20.00 |
| (2) | abstract of license record         |         |
|     | \$25.00 per license record search  |         |
| (3) | processing fee for returned checks |         |
|     | maximum allowed by G.S. 25-3-506   |         |
| (4) | copy of Board rules                | \$10.00 |
| (5) | processing fee for late renewal    | \$25.00 |

- (6) Business and Project Management for  
Contractors Publisher's Price as set forth at  
[www.nclicensing.org](http://www.nclicensing.org)

*History Note:* Authority G.S. 25-3-506; 87-18; 87-22; 132-  
6.2(b); 150B-19;  
Eff. September 1, 1994;  
Amended Eff. July 1, 1998; November 1, 1994;  
Temporary Amendment Eff. August 31, 2001;  
Amended Eff. July 1, 2010; December 1, 2003; December 4,  
2002;  
Pursuant to G.S. 150B-21.3A, rule is necessary without  
substantive public interest Eff. August 22, 2015;  
Amended Eff. April 1, 2017.

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**RULES REVIEW COMMISSION**

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*This Section contains information for the meeting of the Rules Review Commission March 16, 2017 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-431-3000. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2<sup>nd</sup> business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.*

**RULES REVIEW COMMISSION MEMBERS**

**Appointed by Senate**  
Jeff Hyde (1<sup>st</sup> Vice Chair)  
Robert A. Bryan, Jr.  
Margaret Currin  
Jay Hemphill  
Jeffrey A. Poley

**Appointed by House**  
Garth Dunklin (Chair)  
Stephanie Simpson (2<sup>nd</sup> Vice Chair)  
Paul Powell  
Jeanette Doran

**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**

March 16, 2017	April 20, 2017
May 18, 2017	June 15, 2017

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**AGENDA**

**RULES REVIEW COMMISSION  
THURSDAY, MARCH 16, 2017 10:00 A.M.  
1711 New Hope Church Rd., Raleigh, NC 27609**

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
  - A. Board of Agriculture - 02 NCAC 09C .0507, .0703; 09G .2005, 2008; 09J .0101, .0102; 09K .0101, .0103, .0105, .0106, .0107, .0108, .0109, .0113, .0114, .0203, .0204, .0205, .0206, .0207, .0208, .0209, .0210, .0211, .0212, .0213, .0214; 09O .0101, .0107 (Thomas)
  - B. Commission for Mental Health, Developmental Disabilities and Substance Abuse Services - 10A NCAC 27G .6702; 27H .0201, .0202, .0203, .0204, .0205, .0206, .0207 (May)
  - C. Department of Insurance - 11 NCAC 05A .0105, .0201, .0301, .0501, .0505, .0508, .0511, .0603, .0703, .0704 (Hammond)
  - D. Manufactured Housing Board - 11 NCAC 08 .0904 (Thomas)
  - E. State Human Resources Commission 25 NCAC 01C .0402, .1004; 01D .0101, .0102, .0105, .0112, .0114, .0201, .0301, .0401, .0608, .0901, .1001, .2701, .2702; 01O .0108 (Thomas)
- IV. Review of Log of Filings (Permanent Rules) for rules filed January 23, 2017 through February 20, 2017
  - Board of Agriculture (Thomas)
  - Commerce - Division of Employment Security (Hammond)
  - Medical Care Commission 10A NCAC 13E, 13F, 13G (Thomas)
  - Medical Care Commission 10A NCAC 13P (Reeder)
  - Criminal Justice Education and Training Standards Commission (Hammond)
  - Wildlife Resources Commission (Hammond)
  - Commission for Public Health (May)
  - Board of Barber Examiners (Reeder)
  - Board of Chiropractic Examiners (Hammond)
  - Board of Employee Assistance Professionals (Reeder)

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**RULES REVIEW COMMISSION**

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- Board of Dental Examiners (May)
  - Board of Massage and Bodywork Therapy (Hammond)
  - Board of Podiatry Examiners (Hammond)
  - Real Estate Commission (May)
  - Office of Administrative Hearings
- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
- VI. Existing Rules Review
- Review of Reports
    1. 10A NCAC 17- Department of Health and Human Services (Reeder)
    2. 10A NCAC 71 - Social Services Commission (Reeder)
    3. 15A NCAC 1E - Department of Environmental Quality (Reeder)
    4. 21 NCAC 04 - Auctioneer Licensing Board (Reeder)
- VII. Commission Business
- Next meeting: Thursday, April 20, 2017
- 

**Commission Review**  
***Log of Permanent Rule Filings***  
***January 23, 2017 through February 20, 2017***

**AGRICULTURE, BOARD OF**

The rules in Subchapter 9G concern milk and milk products including the pasteurized milk ordinance (.0100); and grade a milk sanitation (.2000).

<u>Vitamin Assay of Milk Products</u>	02	NCAC	09G	.0103
Readopt with Changes/*				
<u>Appeals Procedure</u>	02	NCAC	09G	.2009
Readopt without Changes/*				

**COMMERCE - EMPLOYMENT SECURITY, DIVISION OF**

The rules in Subchapter 24A concern general information (.0100); requests for documents and public records unrelated to contested claim (.0200); and petitions for rulemaking (.0300).

<u>Definitions</u>	04	NCAC	24A	.0105
Amend/*				

The rules in Subchapter 24B concern benefits including claims for unemployment insurance benefits (.0100); interstate claims (.0200); work search requirements (.0300); adjudication (.0400); labor disputes (.0500); unemployment insurance benefit overpayments (.0600); request for waiver of overpayment (.0700); interstate overpayment recovery (.0800); setoff debt collection act (.0900); and treasury offset program (.1000).

<u>Valid Job Contacts</u>	04	NCAC	24B	.0107
Adopt/*				

The rules in Subchapter 24C concern initial appeals from determination and higher authority review including general initial appeals information (.0100); initial appeals hearing (.0200); legal representation for initial appeals (.0300); subpoenas for initial appeals (.0400); higher authority review of appeals decision (.0500); and post-decision relief (.0600).

<u>Content of Higher Authority Decision</u>	04	NCAC	24C	.0506
Amend/*				

Post-Decision Relief 04 NCAC 24C .0601  
Repeal/\*

**MEDICAL CARE COMMISSION**

The rules in Subchapter 13E concern the licensing of overnight respite services including definitions (.0100); licensing (.0200); physical plant rules (.0300); staff qualifications and staffing (.0400); program policies (.0500); enrollment and service planning (.0600); medication administration (.0700); nutrition and food service (.0800); and program activities (.0900).

Definitions 10A NCAC 13E .0101  
Adopt/\*

Applying for a License to Provide Overnight Respite Services 10A NCAC 13E .0201  
Adopt/\*

Persons Not Eligible for Overnight Respite Services Licenses 10A NCAC 13E .0202  
Adopt/\*

The License 10A NCAC 13E .0203  
Adopt/\*

Renewal of License 10A NCAC 13E .0204  
Adopt/\*

Closing of Overnight Respite Services 10A NCAC 13E .0205  
Adopt/\*

Denial and Revocation of License 10A NCAC 13E .0206  
Adopt/\*

Suspension of Admissions 10A NCAC 13E .0207  
Adopt/\*

Appeal of Licensure Action 10A NCAC 13E .0208  
Adopt/\*

Submission of Information to the Division of Health Servi... 10A NCAC 13E .0301  
Adopt/\*

Capacity 10A NCAC 13E .0302  
Adopt/\*

Design and Construction 10A NCAC 13E .0303  
Adopt/\*

Location 10A NCAC 13E .0304  
Adopt/\*

Living Room 10A NCAC 13E .0305  
Adopt/\*

Dining Room 10A NCAC 13E .0306  
Adopt/\*

Kitchen 10A NCAC 13E .0307  
Adopt/\*

Bedrooms 10A NCAC 13E .0308  
Adopt/\*

Bathroom 10A NCAC 13E .0309  
Adopt/\*

Storage Areas 10A NCAC 13E .0310  
Adopt/\*

Corridor 10A NCAC 13E .0311  
Adopt/\*

Outside Entrance and Exits 10A NCAC 13E .0312  
Adopt/\*

<u>Laundry Room</u> Adopt/*	10A NCAC 13E .0313
<u>Floors</u> Adopt/*	10A NCAC 13E .0314
<u>Housekeeping and Furnishings</u> Adopt/*	10A NCAC 13E .0315
<u>Fire Safety and Disaster Plan</u> Adopt/*	10A NCAC 13E .0316
<u>Building Service Equipment</u> Adopt/*	10A NCAC 13E .0317
<u>Outside Premises</u> Adopt/*	10A NCAC 13E .0318
<u>Administrator</u> Adopt/*	10A NCAC 13E .0401
<u>Supervisor-In-Charge</u> Adopt/*	10A NCAC 13E .0402
<u>Staff and Staffing</u> Adopt/*	10A NCAC 13E .0403
<u>Training on Cardio-Pulmonary Resuscitation</u> Adopt/*	10A NCAC 13E .0404
<u>Program Policies</u> Adopt/*	10A NCAC 13E .0501
<u>Enrollment of Participants</u> Adopt/*	10A NCAC 13E .0601
<u>Planning Services for Individual Participants</u> Adopt/*	10A NCAC 13E .0602
<u>Medication Administration Policies and Procedures</u> Adopt/*	10A NCAC 13E .0701
<u>Medication Administration Competency Evaluation</u> Adopt/*	10A NCAC 13E .0702
<u>Medication Administration</u> Adopt/*	10A NCAC 13E .0703
<u>Food Procurement and Safety</u> Adopt/*	10A NCAC 13E .0801
<u>Food Preparation and Service</u> Adopt/*	10A NCAC 13E .0802
<u>Menus</u> Adopt/*	10A NCAC 13E .0803
<u>Food Requirements</u> Adopt/*	10A NCAC 13E .0804
<u>Therapeutic Diets</u> Adopt/*	10A NCAC 13E .0805
<u>Assistance with Eating</u> Adopt/*	10A NCAC 13E .0806
<u>Accommodation of Participant Needs and Preferences</u> Adopt/*	10A NCAC 13E .0807
<u>Activities Program</u> Adopt/*	10A NCAC 13E .0901

The rules in Subchapter 13F concern licensing of homes for the aged and infirm and include definitions (.0100); licensing (.0200); physical plant (.0300); staff qualification (.0400); staff orientation training, competency and

continuing education (.0500); staffing (.0600); admission and discharge (.0700); resident assessment and care plan (.0800); resident care and services (.0900); medication (.1000); Resident's funds and refunds (.1100); policies; records and reports (.1200); special care units for Alzheimer and related disorders (.1300); special care units for mental health disorders (.1400); use of physical restraints and alternatives (.1500); and rated certificates (.1600).

<u>Adverse Action on Certification</u> Adopt/*	10A NCAC 13F .1702
<u>Renewal of Administrator</u> Adopt/*	10A NCAC 13F .1703

The rules in Subchapter 13G concern licensing of family care homes including definitions (.0100); licensing (.0200); the building (.0300); staff qualifications (.0400); staffing orientation, training, competency and continuing education (.0500); staffing of the home (.0600); admission and discharge (.0700); resident assessment and care plan (.0800); resident care and services (.0900); medications (.1000); management and resident's funds and refunds (.1100); policies, records and reports (.1200); use of physical restraints and alternatives (.1300); and rated certificates (.1600).

<u>Qualifications of Administrator</u> Repeal/*	10A NCAC 13G .0401
<u>Administrator Approval</u> Adopt/*	10A NCAC 13G .1501
<u>Adverse Action on Administrator</u> Adopt/*	10A NCAC 13G .1502
<u>Renewal of Administrator Approval</u> Adopt/*	10A NCAC 13G .1503

The rules in Subchapter 13P concern emergency medical services and trauma including definitions (.0100); EMS systems (.0200); specialty care transport programs (.0300); medical oversight and EMS personnel (.0400 - .0500); EMS educational institutions (.0600); enforcement (.0700); trauma system definitions (.0800); trauma center standards and approval (.0900); trauma center designation enforcement (.1000); trauma system design (.1100); and recovery and rehabilitation of chemically dependent ems personnel (.1400).

<u>Special Situations</u> Readopt with Changes/*	10A NCAC 13P .0203
<u>EMS Provider License Requirements</u> Readopt with Changes/*	10A NCAC 13P .0204

**CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION**

The rules in Chapter 9 are from the Criminal Justice Education and Training Standards Commission. This Commission has primary responsibility for setting statewide education, training, employment, and retention standards for criminal justice personnel (not including sheriffs).

The rules in Subchapter 9B cover minimum standards for: employment (.0100); schools and training programs (.0200); criminal justice instructors (.0300); completion of training (.0400); school directors (.0500); and certification of post-secondary criminal justice education programs (.0600).

<u>Training Course Enrollment</u> Amend/*	12 NCAC 09B .0204
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The rules in Subchapter 9G are the standards for correction including scope, applicability and definitions (.0100); minimum standards for certification of correctional officers, probation/parole officers, and probation/parole officers-intermediate (.0200); certification of correctional officers, probation/parole officers, probation/parole officers intermediate and instructors (.0300); minimum standards for training of correctional officers, probation/parole officers,

and probation/parole officers-intermediate (.0400); enforcement of rules (.0500); professional certification program (.0600); and forms (.0700).

Moral Character 12 NCAC 09G .0206  
Amend/\*

The rules in Subchapter 9H concern the firearms qualification certification program for qualified retired law enforcement officers.

Minimum Training Specifications 12 NCAC 09H .0102  
Amend/\*

Filing and Fees 12 NCAC 09H .0105  
Amend/\*

**WILDLIFE RESOURCES COMMISSION**

The rules in Chapter 10 are promulgated by the Wildlife Resources Commission and concern wildlife resources and water safety.

The rules in Subchapter 10A cover general WRC practices and procedures including petitions for rulemaking (.0400); declaratory rulemaking (.0500); warning tickets (.1000); waivers (.1100); emergency powers (.1200); wildlife poacher reward fund (.1300); interstate wildlife violator compact (wcv).

General Provisions 15A NCAC 10A .1401  
Adopt/\*

Wildlife Violator Compact Manual 15A NCAC 10A .1402  
Adopt/\*

Wildlife Violator Compact Conditions for Non-Residents 15A NCAC 10A .1403  
Adopt/\*

Wildlife Violator Compact Conditions for Residents 15A NCAC 10A .1404  
Adopt/\*

Reciprocal Recognition of Suspensions 15A NCAC 10A .1405  
Adopt/\*

Appeals 15A NCAC 10A .1406  
Adopt/\*

The rules in Subchapter 10B are hunting and trapping rules and cover general hunting and wildlife provisions (.0100), hunting specific animals (.0200), trapping (.0300), and tagging furs (.0400).

Big Game Kill Reports 15A NCAC 10B .0113  
Amend/\*

Wildlife Collectors 15A NCAC 10B .0119  
Amend/\*

Bear 15A NCAC 10B .0202  
Amend/\*

Deer (White Tailed) 15A NCAC 10B .0203  
Amend/\*

Wild Turkey 15A NCAC 10B .0209  
Amend/\*

Crows 15A NCAC 10B .0215  
Amend/\*



Misuse of Tags 15A NCAC 10B .0406  
 Amend/\*

The rules in Subchapter 10C cover inland fishing including jurisdictional issues involving the Marine Fisheries Commission (.0100); general rules (.0200); game fish (.0300); non-game fish (.0400); primary nursery areas (.0500); and anadromous fish spawning areas (.0600).

Reciprocal License Agreement 15A NCAC 10C .0203  
 Amend/\*

Public Mountain Trout Waters 15A NCAC 10C .0205  
 Amend/\*

Black Bass 15A NCAC 10C .0305  
 Amend/\*

Crappie 15A NCAC 10C .0306  
 Amend/\*

Striped Bass 15A NCAC 10C .0314  
 Amend/\*

Trout 15A NCAC 10C .0316  
 Amend/\*

White Bass 15A NCAC 10C .0318  
 Amend/\*

Taking Nongame Fishes for Bait or Personal Consumption 15A NCAC 10C .0402  
 Amend/\*

The rules in Subchapter 10D are game lands rules.

General Regulations Regarding Use 15A NCAC 10D .0102  
 Amend/\*

Hunting On Game Lands 15A NCAC 10D .0103  
 Amend/\*

Fishing on Game Lands 15A NCAC 10D .0104  
 Amend/\*

The rules in Subchapter 10F cover motorboats and water safety including boat registration (.0100); safety equipment and accident reports (.0200); and local water safety regulations covering speed limits, no-wake restrictions, restrictions on swimming and other activities, and placement of markers for designated counties or municipalities (.0300).

New Hanover County 15A NCAC 10F .0314  
 Amend/\*

Montgomery County 15A NCAC 10F .0327  
 Amend/\*

Carteret County 15A NCAC 10F .0330  
 Amend/\*

The rules in Subchapter 10H concern activities regulated by the Commission including controlled hunting preserves for domestically raised game birds (.0100), holding wildlife in captivity (.0300), commercial trout ponds (.0400), fish propagation (.0700), falconry (.0800), game bird propagators (.0900), taxidermy (.1000), furbearer propagation (.1100), controlled fox hunting preserves (.1200), and reptiles and amphibians (.1300).

Possession of Reptiles and Amphibians 15A NCAC 10H .1302  
 Amend/\*

**PUBLIC HEALTH, COMMISSION FOR**

The rules in Chapter 18 cover environmental aspects of health such as sanitation (18A), mosquito control (18B), water supplies (18C), and water treatment facility operators (18D).

The rules in Subchapter 18A deal with sanitation and include handling, packing and shipping of crustacean meat (.0100) and shellfish (.0300 and .0400); operation of shellstock plants and reshippers (.0500); shucking and packing plants (.0600); depuration mechanical purification facilities (.0700); wet storage of shellstock (.0800); shellfish growing waters (.0900); summer camps (.1000); grade A milk (.1200); hospitals, nursing homes, rest homes, etc. (.1300); mass gatherings (.1400); local confinement facilities (.1500); residential care facilities (.1600); protection of water supplies (.1700); lodging places (.1800); sewage treatment and disposal systems (.1900); migrant housing (.2100); bed and breakfast homes (.2200); delegation of authority to enforce rules (.2300); public, private and religious schools (.2400); public swimming pools (.2500); restaurants, meat markets, and other food handling establishments (.2600); child day care facilities (.2800); restaurant and lodging fee collection program (.2900); bed and breakfast inns (.3000); lead poisoning prevention (.3100); tattooing (.3200); adult day service facilities (.3300); primitive camps (.3500); rules governing the sanitation of resident camps (.3600); and private drinking water well sampling (.3800).

Engineered Option Permit 15A NCAC 18A .1971  
 Adopt/\*

**BARBER EXAMINERS, BOARD OF**

The rules in Subchapter 06C concern contested cases including general rules (.0100); request for a hearing (.0200); notice (.0500); who shall hear contested cases (.0600); place of hearing (.0700); intervention (.0800); and hearing officers (.0900).

Complaints 21 NCAC 06C .0912  
 Adopt/\*

The rules in Subchapter 06I concern out-of-state transfers.

Apprentice Barber 21 NCAC 06I .0105  
 Amend/\*

The rules in Subchapter 06K concern registered barbers.

Applicants with Military Training and Expertise 21 NCAC 06K .0112  
 Adopt/\*

Military Spouses 21 NCAC 06K .0113  
 Adopt/\*

The rules in Subchapter 06L concern barber shops.

Measurements of Barber Shop 21 NCAC 06L .0102  
 Amend/\*

The rules in Subchapter 6N establish fees and provide for the use of various forms.

Fees 21 NCAC 06N .0101  
 Amend/\*

Form Bar-11 21 NCAC 06N .0112  
 Amend/\*

<u>Form Bar-12</u> Adopt/*	21	NCAC	06N	.0113
<u>Extensions for Members of the Armed Forces</u> Adopt/*	21	NCAC	06N	.0114

The rules in Subchapter 6P are definitions.

<u>General Definitions</u> Amend/*	21	NCAC	06P	.0103
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**CHIROPRACTIC EXAMINERS, BOARD OF**

The rules in Chapter 10 include organization of the Board (.0100); the practice of chiropractic (.0200); rules of unethical conduct (.0300); rule-making procedures (.0400); investigation of complaints (.0500); contested cases and hearings in contested cases (.0600-.0700); and miscellaneous provisions (.0800).

<u>Prepaid Treatment Plans</u> Adopt/*	21	NCAC	10	.0305
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**EMPLOYEE ASSISTANCE PROFESSIONALS, BOARD OF**

The rules in Chapter 11 concern the administration of the Board of Employee Assistance Professionals.

<u>License Application</u> Readopt without Changes/*	21	NCAC	11	.0104
<u>Disciplinary Action/Hearing</u> Readopt without Changes/*	21	NCAC	11	.0108
<u>Fees</u> Readopt without Changes/*	21	NCAC	11	.0111
<u>Penalties</u> Readopt without Changes/*	21	NCAC	11	.0112

**DENTAL EXAMINERS, BOARD OF**

The rules in Subchapter 16G concern dental hygienists.

<u>Functions Which May Be Delegated</u> Amend/*	21	NCAC	16G	.0101
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**MASSAGE AND BODYWORK THERAPY, BOARD OF**

The rules in Chapter 30 concern organization and general provisions (.0100); application for licensure (.0200); licensing (.0300); business practices (.0400); standards of professional conduct (.0500); massage and bodywork therapy schools (.0600); continuing education (.0700); rules (.0800); complaints, disciplinary action and hearings (.0900); and massage and bodywork therapy establishments (.1000).

<u>Documentation; Referrals</u> Amend/*	21	NCAC	30	.0504
<u>Board Approval</u> Amend/*	21	NCAC	30	.0601
<u>Definitions</u> Amend/*	21	NCAC	30	.0602
<u>Admissions</u> Amend/*	21	NCAC	30	.0618

<u>Program Requirements</u> Amend/*	21	NCAC	30	.0620
<u>Learning Resources</u> Amend/*	21	NCAC	30	.0623
<u>Ethical Requirements in Advertising</u> Amend/*	21	NCAC	30	.0628
<u>Student Enrollment Agreement</u> Amend/*	21	NCAC	30	.0629
<u>School Catalog</u> Amend/*	21	NCAC	30	.0630
<u>Action on a Complaint</u> Amend/*	21	NCAC	30	.0903
<u>Summary Suspension</u> Adopt/*	21	NCAC	30	.0906

**PODIATRY EXAMINERS, BOARD OF**

The rules in Chapter 52 concern Board of Podiatry Examiners including organization of the Board (.0100); examination and licensing (.0200); professional corporations (.0300); revocation or suspension of license (.0400); certification of podiatric assistants (.0500); general provisions (.0600); petitions for rules (.0700); notice of rulemaking hearings (.0800); rulemaking hearings (.0900); declaratory rulings (.1000); administrative hearing procedures (.1100); administrative hearings decisions related rights and procedures (.1200); nominations for podiatrist members of the board of podiatry examiners; the board of podiatry examiners constituting a board of podiatry elections; and procedures for holding an election (.1300); and scope of practice (.1400).

<u>Application</u> Amend/*	21	NCAC	52	.0201
<u>Annual Renewal of License</u> Amend/*	21	NCAC	52	.0207
<u>Notice of Unlicensed Activity</u> Adopt/*	21	NCAC	52	.0214
<u>Complaints</u> Adopt/*	21	NCAC	52	.0409

**REAL ESTATE COMMISSION**

The rules in Subchapter 58A are rules relating to real estate brokers and salesmen including rules dealing with general brokerage (.0100); application for license (.0300); examinations (.0400); licensing (.0500); real estate commission hearings (.0600); petitions for rules (.0700); rulemaking (.0800); declaratory rulings (.0900); real estate education and recovery fund (.1400); discriminatory practices prohibited (.1600); mandatory continuing education (.1700); limited nonresident commercial licensing (.1800); post-licensure education (.1900); annual reports (.2000); brokers in military service (.2100); and broker price opinions and comparative market analyses (.2200).

<u>Proof of Licensure</u> Amend/*	21	NCAC	58A	.0101
<u>Broker Name and Address</u> Amend/*	21	NCAC	58A	.0103
<u>Delivery of Instruments</u> Amend/*	21	NCAC	58A	.0106
<u>License Application and Fee</u> Amend/*	21	NCAC	58A	.0302
<u>Waiver of 75-hour Prelicensing Education Requirement</u> Amend/*	21	NCAC	58A	.0304

<u>Firm Licensing</u> Amend/*	21	NCAC	58A	.0502
<u>License Renewal</u> Amend/*	21	NCAC	58A	.0503
<u>Reinstatement of a License</u> Amend/*	21	NCAC	58A	.0505
<u>Duplicate License Fee</u> Repeal/*	21	NCAC	58A	.0509
<u>Licensing of Persons Licensed in Another Jurisdiction</u> Amend/*	21	NCAC	58A	.0511
<u>Death or Incapacity of Sole Proprietor</u> Adopt/*	21	NCAC	58A	.0512
<u>Continuing Education Requirement</u> Amend/*	21	NCAC	58A	.1702
<u>Continuing Education for License Activation</u> Amend/*	21	NCAC	58A	.1703
<u>Attendance and Participation Requirements</u> Amend/*	21	NCAC	58A	.1705
<u>Equivalent Credit</u> Amend/*	21	NCAC	58A	.1708
<u>Extensions of Time to Complete Continuing Education</u> Amend/*	21	NCAC	58A	.1709
<u>Denial or Withdrawal of Continuing Education Credit</u> Amend/*	21	NCAC	58A	.1710
<u>Continuing Education Required of Nonresident Brokers</u> Amend/*	21	NCAC	58A	.1711
<u>Denial or Withdrawal of Postlicensing Education Credit</u> Amend/*	21	NCAC	58A	.1904
<u>Waiver of 90-Hour Postlicensing Education Requirement</u> Adopt/*	21	NCAC	58A	.1905

The rules in Subchapter 58C deal with real estate prelicensing education schools including rules dealing with the licensing of all schools except private real estate schools (.0100); private real estate schools (.0200); prelicensing courses (.0300); and pre-licensing course instructors (.0600).

<u>Applicability Requirement for Approval</u> Repeal/*	21	NCAC	58C	.0101
<u>Application for Approval</u> Repeal/*	21	NCAC	58C	.0102
<u>Criteria for Approval</u> Repeal/*	21	NCAC	58C	.0103
<u>Scope Duration and Renewal of Approval</u> Repeal/*	21	NCAC	58C	.0104
<u>Withdrawal or Denial of Approval</u> Repeal/*	21	NCAC	58C	.0105
<u>Use of Examination Performance Data</u> Repeal/*	21	NCAC	58C	.0107
<u>Student Evaluations of Instructor Performance</u> Repeal/*	21	NCAC	58C	.0108
<u>Applicability</u> Repeal/*	21	NCAC	58C	.0201

<u>Original Application Fee</u>	21	NCAC	58C	.0202
Repeal/*				
<u>School Name</u>	21	NCAC	58C	.0203
Repeal/*				
<u>Courses</u>	21	NCAC	58C	.0204
Repeal/*				
<u>Additional Course Offerings</u>	21	NCAC	58C	.0205
Repeal/*				
<u>Administration</u>	21	NCAC	58C	.0206
Repeal/*				
<u>Facilities and Equipment</u>	21	NCAC	58C	.0207
Repeal/*				
<u>Bulletins</u>	21	NCAC	58C	.0208
Repeal/*				
<u>Enrollment Procedure and Contracts</u>	21	NCAC	58C	.0209
Repeal/*				
<u>Admissions Policy and Practice</u>	21	NCAC	58C	.0210
Repeal/*				
<u>Records</u>	21	NCAC	58C	.0211
Repeal/*				
<u>Enforcement of Institutional Standards</u>	21	NCAC	58C	.0212
Repeal/*				
<u>Performance Board</u>	21	NCAC	58C	.0213
Repeal/*				
<u>Advertising and Recruitment Standards</u>	21	NCAC	58C	.0214
Repeal/*				
<u>Changes During the Licensing Period</u>	21	NCAC	58C	.0216
Repeal/*				
<u>License Renewal and Fees</u>	21	NCAC	58C	.0217
Repeal/*				
<u>Licensing Exam Confidentiality: School Perform/Licensing</u>	21	NCAC	58C	.0218
Repeal/*				
<u>Violations of the Americans with Disabilities Act</u>	21	NCAC	58C	.0219
Repeal/*				
<u>Student Evaluations of Instructor Performance</u>	21	NCAC	58C	.0220
Repeal/*				
<u>Transfer of School Ownership</u>	21	NCAC	58C	.0221
Repeal/*				
<u>Purpose and Applicability</u>	21	NCAC	58C	.0301
Repeal/*				
<u>Program Structuring and Admission Requirements</u>	21	NCAC	58C	.0302
Repeal/*				
<u>Course Content</u>	21	NCAC	58C	.0303
Repeal/*				
<u>Course Completion Standards</u>	21	NCAC	58C	.0304
Repeal/*				
<u>Course Scheduling</u>	21	NCAC	58C	.0305
Repeal/*				
<u>Textbooks</u>	21	NCAC	58C	.0306
Repeal/*				
<u>Instructors</u>	21	NCAC	58C	.0307
Repeal/*				

<u>Course Completion Reporting</u> Repeal/*	21	NCAC	58C	.0309
<u>Course Records</u> Repeal/*	21	NCAC	58C	.0310
<u>Instructional Delivery Methods</u> Repeal/*	21	NCAC	58C	.0311
<u>Exception for Persons with Disabilities</u> Repeal/*	21	NCAC	58C	.0312
<u>Notice of Scheduled Courses</u> Repeal/*	21	NCAC	58C	.0313
<u>Purpose and Applicability</u> Repeal/*	21	NCAC	58C	.0601
<u>Nature and Scope of Instructor Approval</u> Repeal/*	21	NCAC	58C	.0602
<u>Application and Criteria for Original Approval</u> Repeal/*	21	NCAC	58C	.0603
<u>Instructor Performance</u> Repeal/*	21	NCAC	58C	.0604
<u>Request for Examinations and Video Recordings</u> Repeal/*	21	NCAC	58C	.0605
<u>Postlicensing Course Reports</u> Repeal/*	21	NCAC	58C	.0606
<u>Expiration Renewal and Reinstatement of Approval</u> Repeal/*	21	NCAC	58C	.0607
<u>Denial or Withdrawal of Approval</u> Repeal/*	21	NCAC	58C	.0608

The rules in Subchapter 58E are the real estate continuing education rules both update and elective course components including rules dealing with update courses (.0100); update course instructors (.0200); elective courses, sponsors, and instructors (.0300); general sponsor requirements (.0400); course operational requirements (.0500); and broker-in-charge annual review (.0600).

<u>Purpose and Applicability</u> Repeal/*	21	NCAC	58E	.0101
<u>Update Course Component</u> Repeal/*	21	NCAC	58E	.0102
<u>Application for Original Approval</u> Repeal/*	21	NCAC	58E	.0103
<u>Criteria for Approval of Update Course Sponsor</u> Repeal/*	21	NCAC	58E	.0104
<u>Student Fee for Update Courses</u> Repeal/*	21	NCAC	58E	.0105
<u>Purpose and Applicability</u> Repeal/*	21	NCAC	58E	.0201
<u>Nature and Scope of Approval</u> Repeal/*	21	NCAC	58E	.0202
<u>Application and Criteria for Original Approval</u> Repeal/*	21	NCAC	58E	.0203
<u>Active and Inactive Status: Renewal of Approval</u> Repeal/*	21	NCAC	58E	.0204
<u>Denial or Withdrawal of Approval</u> Repeal/*	21	NCAC	58E	.0205

<u>Request for a Video Recording</u> Repeal/*	21	NCAC	58E	.0206
<u>Purpose and Applicability</u> Repeal/*	21	NCAC	58E	.0301
<u>Elective Course Component</u> Repeal/*	21	NCAC	58E	.0302
<u>Application for Original Approval</u> Repeal/*	21	NCAC	58E	.0303
<u>Criteria for Elective Course Approval</u> Repeal/*	21	NCAC	58E	.0304
<u>Elective Course Subject Matter</u> Repeal/*	21	NCAC	58E	.0305
<u>Elective Course Instructors</u> Repeal/*	21	NCAC	58E	.0306
<u>Elective Course Credit Hours</u> Repeal/*	21	NCAC	58E	.0307
<u>Student Fees for Elective Courses</u> Repeal/*	21	NCAC	58E	.0309
<u>Distance Education Courses</u> Repeal/*	21	NCAC	58E	.0310
<u>Purpose and Applicability</u> Repeal/*	21	NCAC	58E	.0401
<u>Sponsor Eligibility</u> Repeal/*	21	NCAC	58E	.0402
<u>Sponsor Name</u> Repeal/*	21	NCAC	58E	.0403
<u>Advance Approval Required</u> Repeal/*	21	NCAC	58E	.0404
<u>Continuing Education Coordinator</u> Repeal/*	21	NCAC	58E	.0405
<u>Course Completion Reporting</u> Repeal/*	21	NCAC	58E	.0406
<u>Change in Sponsor Ownership</u> Repeal/*	21	NCAC	58E	.0408
<u>Changes During Approval Period</u> Repeal/*	21	NCAC	58E	.0409
<u>Course Records</u> Repeal/*	21	NCAC	58E	.0410
<u>Renewal of Course and Sponsor Approval</u> Repeal/*	21	NCAC	58E	.0411
<u>Denial or Withdrawal of Approval</u> Repeal/*	21	NCAC	58E	.0412
<u>Purpose and Applicability</u> Repeal/*	21	NCAC	58E	.0501
<u>Scheduling</u> Repeal/*	21	NCAC	58E	.0502
<u>Minimum Class Size</u> Repeal/*	21	NCAC	58E	.0503
<u>Notice of Scheduled Courses</u> Repeal/*	21	NCAC	58E	.0504
<u>Advertising, Providing Course Information</u> Repeal/*	21	NCAC	58E	.0505



<u>Classes Open to All Licensees</u> Repeal/*	21	NCAC	58E	.0506
<u>Classroom Facilities</u> Repeal/*	21	NCAC	58E	.0507
<u>Student Check-In</u> Repeal/*	21	NCAC	58E	.0508
<u>Instructor Conduct and Performance</u> Repeal/*	21	NCAC	58E	.0509
<u>Monitoring Attendance</u> Repeal/*	21	NCAC	58E	.0510
<u>Student Participation Standards</u> Repeal/*	21	NCAC	58E	.0511
<u>Solicitation of Students</u> Repeal/*	21	NCAC	58E	.0512
<u>Cancellation and Refund Policies</u> Repeal/*	21	NCAC	58E	.0513
<u>Course Inspections by Commission Representative</u> Repeal/*	21	NCAC	58E	.0514
<u>Accommodations for Persons with Disabilities</u> Repeal/*	21	NCAC	58E	.0515

The rules in Subchapter 58G concern the administration of the Real Estate Commission.

<u>Location</u> Adopt/*	21	NCAC	58G	.0102
<u>Definitions</u> Adopt/*	21	NCAC	58G	.0103

The rules in Subchapter 58H concern real estate education including general rules (.0100); real estate schools (.0200); approved instructors (.0300); and continuing education (.0400).

<u>Definitions</u> Adopt/*	21	NCAC	58H	.0101
<u>Applicability</u> Adopt/*	21	NCAC	58H	.0201
<u>Application for Original Approval of a Public Real Estate...</u> Adopt/*	21	NCAC	58H	.0202
<u>Application for Original Licensure of a Private Real Esta...</u> Adopt/*	21	NCAC	58H	.0203
<u>School Director</u> Adopt/*	21	NCAC	58H	.0204
<u>Private Real Estate School Bulletin</u> Adopt/*	21	NCAC	58H	.0205
<u>Approval of Textbooks</u> Adopt/*	21	NCAC	58H	.0206
<u>School Advertising and Recruitment Activities</u> Adopt/*	21	NCAC	58H	.0207
<u>Prelicensing and Postlicensing Course Scheduling and Noti...</u> Adopt/*	21	NCAC	58H	.0208
<u>Prelicensing and Postlicensing Course Enrollment</u> Adopt/*	21	NCAC	58H	.0209

<u>Prelicensing and Postlicensing Course Completion Standards</u> Adopt/*	21	NCAC	58H	.0210
<u>Prelicensing and Postlicensing Roster Reporting</u> Adopt/*	21	NCAC	58H	.0211
<u>School Records</u> Adopt/*	21	NCAC	58H	.0212
<u>Evaluations of Instructor Performance</u> Adopt/*	21	NCAC	58H	.0213
<u>Expiration and Renewal of a School Approval or License</u> Adopt/*	21	NCAC	58H	.0214
<u>Denial, Withdrawal, or Termination of School Approval or ...</u> Adopt/*	21	NCAC	58H	.0215
<u>Prelicensing, Postlicensing, and Update Course Instructor...</u> Adopt/*	21	NCAC	58H	.0301
<u>Application and Criteria for Original Prelicensing, Postl...</u> Adopt/*	21	NCAC	58H	.0302
<u>Denial or Withdrawal of Instructor Approval</u> Adopt/*	21	NCAC	58H	.0303
<u>Instructor Conduct and Performance</u> Adopt/*	21	NCAC	58H	.0304
<u>Digital Video Recordings</u> Adopt/*	21	NCAC	58H	.0305
<u>Renewal and Expiration of Instructor Approval</u> Adopt/*	21	NCAC	58H	.0306
<u>Applicability</u> Adopt/*	21	NCAC	58H	.0401
<u>Application for Original Approval of Continuing Education...</u> Adopt/*	21	NCAC	58H	.0402
<u>Continuing Education Coordinator</u> Adopt/*	21	NCAC	58H	.0403
<u>Renewal of Sponsor Approval</u> Adopt/*	21	NCAC	58H	.0404
<u>Denial or Withdrawal of Sponsor Approval</u> Adopt/*	21	NCAC	58H	.0405
<u>Approval and Renewal of Elective Course</u> Adopt/*	21	NCAC	58H	.0406
<u>Continuing Education Elective Course Requirements</u> Adopt/*	21	NCAC	58H	.0407
<u>Commission Created Update Courses</u> Adopt/*	21	NCAC	58H	.0408
<u>Records and Commission Review</u> Adopt/*	21	NCAC	58H	.0409
<u>Continuing Education Course Scheduling and Notification</u> Adopt/*	21	NCAC	58H	.0410
<u>Continuing Education Course Attendance</u> Adopt/*	21	NCAC	58H	.0411
<u>Continuing Education Roster Reports and Certificates</u> Adopt/*	21	NCAC	58H	.0412
<u>Continuing Education Course Cost, Cancellation, and Refunds</u> Adopt/*	21	NCAC	58H	.0413
<u>Advertising</u> Adopt/*	21	NCAC	58H	.0414

**ADMINISTRATIVE HEARINGS, OFFICE OF**

The rules in Chapter 3 are from the Hearings Division and cover procedure (.0100); mediated settlement conferences (.0200); simplified procedures for medicaid applicant and recipient appeals (.0400); and electronic filing (.0500).

<u>Rights and Responsibilities of Parties</u>	26	NCAC	03	.0120
Amend/*				
<u>General</u>	26	NCAC	03	.0502
Amend/*				

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**CONTESTED CASE DECISIONS**

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

**OFFICE OF ADMINISTRATIVE HEARINGS**

*Chief Administrative Law Judge  
JULIAN MANN, III*

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

**ADMINISTRATIVE LAW JUDGES**

Melissa Owens Lassiter	A. B. Elkins II
Don Overby	Selina Brooks
J. Randall May	J. Randolph Ward
David Sutton	Stacey Bawtinheimer

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<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>DATE</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<b><u>ALCOHOLIC BEVERAGE CONTROL COMMISSION</u></b>			
NC Alcoholic Beverage Control Commission v. Osei Enterprises LLC T/A Osei Food and Beverage	15 ABC 08455	06/02/16	31:05 NCR 426
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	
NC Alcoholic Beverage Control Commission v. Cristina Miron Bello and Victor Giles Bello T/A La Poblanita	16 ABC 02166	05/25/16	
NC Alcoholic Beverage Control Commission v. Aaway Inc. T/A Jacks Tap	16 ABC 02702	06/01/16	
NC Alcoholic Beverage Control Commission v. B2 Inc. T/A Cadillac Ranch the Other Side	16 ABC 02703	06/02/16	
Club Hush Management Company LLC v. Alcoholic Beverage Control Commission	16 ABC 03310	11/14/16	31:15 NCR 1625
NC Alcoholic Beverage Control Commission v. Los Amigos of Shelby Inc. T/A Los Amigos of Shelby	16 ABC 03354	06/21/16	
NC Alcoholic Beverage Control Commission v. Susan Michelle Cloninger T/A Dallas Pub	16 ABC 07133	10/11/16	
<b><u>BOARD OF SOCIAL WORK</u></b>			
William B. Shannon v. NC Social Work Certification and Licensure Board	16 BSW 09247	10/17/16	
<b><u>DEPARTMENT OF PUBLIC SAFETY</u></b>			
Thomas Anthony Tyger v. Victim Services Janice Carmichael	15 CPS 08771	05/17/16	
George Dudley v. NC Department of Public Safety, Victim Services	16 CPS 01651	05/05/16	
Otero Lee Ingram v. NC Crime Victims Comp Commission	16 CPS 01656	06/09/16	
Sara Neomi Giron v. Department of Public Safety, Victim Services	16 CPS 07583	09/14/16	
Harvey Lewis v. Victim Crime NC	16 CPS 07832	09/16/16	
Lila McCallum v. Victims Compensation Commission	16 CPS 07897	09/14/16	
<b><u>DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES</u></b>			
For the Love of Dogs, Max and wife Della Fitz-Gerald v. Department of Agriculture and Consumer Services	15 DAG 09366	09/22/16	31:11 NCR 1147
<b><u>DEPARTMENT OF HEALTH AND HUMAN SERVICES</u></b>			
Agape Homes Inc. v. Department of Health and Human Services	12 DHR 11808	05/26/16	
Agape Homes Inc. v. Department of Health and Human Services	13 DHR 12398	05/26/16	
Harrold Associates II DDS Nickie Rogerson v. DHHS, DMA	15 DHR 01234	04/29/16	

**CONTESTED CASE DECISIONS**

WP-Beulaville Health Holdings LLC v. DHHS, Division of Health Service Regulation, Adult Care Licensure Section	15 DHR 02422	06/29/16	31:05 NCR 440
Lavonnie Simmons v. DHHS, Division of Health Service Regulations	15 DHR 05374	10/31/16	
Shanata Crawford, A Fulfilled Vision Home Health v. DHHS	15 DHR 06085	10/12/16	
East Cove Psychiatric Services PC, Dr. Joanna Wolicki-Shannon, and Dr. Walter Shannon v. DHHS, Division of Medical Assistance and its Agent, Eastpointe	15 DHR 06260	09/20/16	
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Michael A Placa v. Department of the Secretary of State	15 SOS 09334	08/10/16	
Jonathan's Outreach Network Services inc. (JONS) v. Department of the Secretary of State Charitable Solicitation Licensing	16 SOS 02557	09/29/16	
Donna Stroud v. Department of the Secretary of State NC Notary Enforcement Section	16 SOS 03468	08/23/16	
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