

NORTH CAROLINA REGISTER

VOLUME 31 • ISSUE 20 • Pages 1934 – 2062

April 17, 2017

I. EXECUTIVE ORDERS	
Executive Order No. 5	1934 – 1936
II. PROPOSED RULES	
Natural and Cultural Resources, Department of Department.....	1937
Health and Human Services, Department of Child Care Commission.....	1937 – 2017
Social Services Commission.....	2017 – 2037
III. RULES REVIEW COMMISSION	2038 – 2057
IV. CONTESTED CASE DECISIONS	
Index to ALJ Decisions	2058 - 2062

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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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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 th 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
31:15	02/01/17	01/10/17	02/16/17	04/03/17	04/20/17	06/01/17	05/2018	10/29/17
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

March 23, 2017

EXECUTIVE ORDER NO. 5

**TO FACILITATE EMPLOYEE ACCESS TO
STATE FACILITIES AND CABINET AGENCY LEADERS**

WHEREAS, regular communication and exchange of ideas between employees and managers is essential to addressing service delivery and achieving greater levels of efficiency and effectiveness in governmental operations; and

WHEREAS, ensuring an effective, accountable, reliable, and efficient state government requires the commitment, dedication and cooperation of all state employees in both managerial and non-managerial positions; and

WHEREAS, employee organizations that articulate the views, concerns, and ideas of state employees are important participants in improving the efficiency and quality of service delivery and government operations; and

WHEREAS, ensuring reasonable opportunities for public employees to communicate with the representatives of their employee organizations is in the interest of furthering effective dialog between state employees and managers; and

WHEREAS, the Office of State Human Resources is charged with ensuring that employees receive information about human resources programs and services.

NOW THEREFORE, as Governor of the State of North Carolina, I do hereby order and direct the Office of State Human Resources, which is charged with the administration of state human resources policies, and all agencies, managers, supervisors, and employees under the jurisdiction of the Governor, to take the following actions:

Section 1. Reasonable Access to Facilities

a. All heads of state institutions, departments, bureaus, agencies, or commissions subject to the authority of the Governor (hereinafter "executive branch agency") shall permit reasonable access to their facilities for the purposes of membership recruitment, distribution of educational materials related to membership, and consultation regarding membership with representatives of a domiciled employee association that has at least 5,000 members who are State employees (hereinafter "covered employee association").

b. A covered employee association desiring access to facilities under this Order must submit a request for access to the head of an executive branch agency at least two weeks prior to the requested date of access, unless a shorter time period is authorized by the head of the executive branch agency. A covered employee association's access under this Order shall be limited to two (2) times each year, as determined by the head of the executive branch agency.

Section 2. Meet and Confer

a. The representatives of each covered employee association shall have the opportunity to meet annually with representatives of the Governor and quarterly with the State Human Resources Director regarding issues of mutual concern.

b. Additionally, the representatives of a covered employee association whose membership includes at least 20 percent of the employees in an executive branch agency shall have the opportunity to meet at least quarterly with representatives of that agency to confer regarding areas of mutual concern. The head of an executive branch agency may authorize additional meetings as the executive branch agency head deems appropriate.

Section 3. Participation of Employees in Certain Association Activities

State employees who serve as elected officers or delegates of covered employee associations shall be allowed up to three (3) days of managerially approved leave to participate in the annual convention or annual conference of the covered employee association without a loss of the employees' personal leave time.

Section 4. Participation by Associations in this Order

Any domiciled employee association that desires to be included in the provisions of this Order shall provide to the Director of the Office of State Human Resources evidence that it meets the criteria under Section 1.a of this Order. Any domiciled employee association that desires to meet with an executive branch agency shall provide to the head of that agency evidence that it meets the criteria under Section 2.b of this Order.

Section 5. Employee and State Rights and Responsibilities Maintained

This Order is intended to encourage communication between employees and State leaders. The provisions of this Order shall not be construed or interpreted to diminish any rights, responsibilities, powers, or duties of individual employees in their service to the State or to require or prohibit any state employee's participation in a covered employee association. Further, the provisions of this Order shall not diminish or infringe upon any rights, responsibilities, powers, or duties conferred upon any state officer or agency by the Constitution or laws of the State of North Carolina.

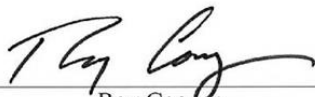
Section 6. Participation by Other State Entities

The Board of Governors of the University of North Carolina System, the State Board of Community Colleges, the State Board of Education, and each head of the Council of State agencies are encouraged and invited to participate in this Executive Order.

Section 7. Effect and Duration

This Executive Order shall be effective immediately and shall remain in effect until rescinded. All other Executive Orders or portions of Executive Orders inconsistent with this Order are hereby rescinded. This Order specifically rescinds Executive Order No. 84 signed on December 18, 2015.

IN WITNESS WHEREOF, I have hereunto signed by name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 23rd day of March in the year of our Lord two thousand and seventeen.



Roy Cooper
Governor

ATTEST:



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 07 – DEPARTMENT OF NATURAL AND CULTURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Natural and Cultural Resources intends to amend the rule cited as 07 NCAC 13B .0802.

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

Proposed Effective Date: August 1, 2017

Public Hearing:

Date: May 9, 2017

Time: 3:00 p.m.

Location: 109 E. Jones Street, Raleigh, NC 27601, 3rd Floor, Conference Room 308

Reason for Proposed Action: Paragraph (b) was deleted to coordinate with proposed rule changes from the Wildlife Resources Commission. Paragraph (a) was changed for clarification.

Comments may be submitted to: Ashley Snyder, 4601 Mail Service Center, Raleigh, NC 27699; email Ashley.snyder@ncdcr.gov

Comment period ends: June 16, 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 13 - PARKS AND RECREATION AREA RULES

SUBCHAPTER 13B - PARKS AND RECREATION AREAS

SECTION .0800 - HUNTING AND FISHING

07 NCAC 13B .0802 FISHING

(a) A person ~~may fish only in designated areas.~~ shall not fish in any swimming area, from any boat ramp, or in any area designated by signage as a non-fishing area. Any person fishing within a State Park shall comply with all applicable rules in 15A NCAC 03 and 15A NCAC 10C.

~~(b) A park fee and a special use permit as provided by Rule .0104 of this Subchapter, are required to fish in the "Bullhead — Special Catch and Release Stream" at Stone Mountain State Park.~~

~~(c)(b)~~ Live specimens to be used for fishing bait shall not be collected within any ~~state~~ State park.

Authority G.S. 143B-135.16(c)(2).

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the NC Child Care Commission intends to adopt the rules cited as 10A NCAC 09 .0608, .1101-.1104, .1707-.1714, .1725-.1730, .1801, .1804, .2102, .2214, .2215, .3017, amend the rule cited as 10A NCAC 09 .0607, readopt with substantive changes the rules cited as 10A NCAC 09 .0102, .0201, .0204, .0205, .0301, .0302, .0304, .0403, .0508-.0511, .0601-.0606, .0701-.0705, .0707, .0710, .0712-.0714, .0801-.0804, .0806, .0901-.0903, .1001-.1003, .1105, .1301-.1304, .1401-.1403, .1701-.1703, .1705, .1706, .1716, .1718-.1724, .1802, .1803, .1901, .1903, .2101, .2318, .2502-.2510, .2903, .3002, .3011-.3014, .3016, and readopt without substantive changes the rules cited as 10A NCAC 09 .0711, .1004, .1005, .1106, .2401-.2411, .2501, .2511, .2901, .2902, .2904, .2905, .3001, .3003, .3005-.3010, and .3015.

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.state.nc.us/ncac.asp>.

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://ncchildcare.dhhs.state.nc.us/general/whatsnew.asp>

Proposed Effective Date: September 1, 2017

Public Hearing:

Date: May 8, 2017

Time: 1:00 p.m.

Location: Dix Grill, Employee Center, 1101 Cafeteria Drive, Raleigh, NC 27603

Reason for Proposed Action: *The NC Child Care Commission proposes to readopt rules in 10A NCAC 09 in accordance with G.S. 150B-21.3A as part of the periodic review of rules process. The proposed rules promote the health, safety, and quality of child care for children enrolled in child care facilities, family child care homes, and special programs. The Commission also proposes to make permanent the temporary rules that became effective on September 23, 2016 to be in compliance with the Child Care and Development Block Grant Act of 2014 (CCDBG), 42 U.S.C. §9858. These requirements are needed to maintain federal funding for families with children in child care. The CCDBG requires states to establish educational, health, and safety standards in 11 specific areas for child care providers that receive this funding, as well as requirements for all providers in operation in a state that receive this funding.*

The Child Care and Development Fund (CCDF) is authorized by the CCDBG and provides federal funding for low-income families with children in child care who are working or continuing their education and training. These funds help families pay for child care services. The proposed rule changes required by the CCDF are anticipated to benefit children, parents, child care workers, and the State.

Also during its review of rules, the Commission proposes to reorganize the rules so that they are sequential and user friendly to the provider and the public. Please note the following rules will be transferred to a new rule number: .0501 to .1802, .0505 to .2511, .0512 to .1005, .0708 to .1105, .0709 to .1106, and .1801 to .1803.

Comments may be submitted to: Dedra Alston, 2201 Mail Service Center, Raleigh, NC 27699-2200; phone (919) 527-6502; fax (919) 715-0970; email Dedra.Alston@dhhs.nc.gov

Comment period ends: June 16, 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 09 - CHILD CARE RULES

SECTION .0100 - DEFINITIONS

10A NCAC 09 .0102 DEFINITIONS

The terms and phrases used in this Chapter are defined as follows except when the context of the rule requires a different meaning. The definitions prescribed in G.S. 110-86 also apply to these Rules.

- (1) "Activity area" means an identifiable space that is accessible to children and where related equipment and materials are kept in an orderly fashion.
- ~~(4)~~(2) "Agency" as used in Section .2200 of this Chapter means Division of Child Development and Early Education, Department of Health and Human Services located at 820 South Boylan Avenue, Raleigh, North Carolina 27603.
- ~~(2)~~(3) "Appellant" means the person or persons who request a contested case hearing.
- ~~(3)~~(4) "Basic School-Age Care" training (BSAC training) means the training on the elements of quality afterschool care for school-age children, developed by the North Carolina State University Department of 4-H Youth Development and subsequently revised by the North Carolina School-age Quality Improvement Project.
- (5) "Bio-contaminant" means blood, bodily fluids, or excretions that may spread infectious disease.
- (6) "Child Care Center" means an arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving child care.
- ~~(4)~~(7) "Child Care Program Facility" means a single center or home, or a group of centers or homes, or both, that are operated by one owner or supervised by a common entity. child care centers, family child care homes, and any other child care arrangement not excluded by G.S. 110-86(2), that provides child care, regardless of the time of day, wherever operated, and whether or not operated for profit.
- ~~(5)~~(8) "Child care provider" as defined by G.S. 440-90.2(a)(2) ~~a-110-90.2(a)(2)~~ and used in Section

- .2700 of this Chapter includes the following employees who have contact with the children in a child care program:
- (a) facility directors;
 - (b) administrative staff;
 - (c) teachers;
 - (d) teachers' aides;
 - (e) substitute providers;
 - (f) uncompensated providers;
 - ~~(e)(g)~~ cooks;
 - ~~(f)(h)~~ maintenance personnel; and
 - ~~(g)(i)~~ drivers.
- (6)(9) "Child Development Associate Credential" means the national early childhood credential administered by the Council for Early Childhood Professional Recognition.
- (7)(10) "Curriculum" means a curriculum that has been approved as set forth in these Rules by the NC Child Care Commission as comprehensive, evidenced-based, and with a reading component.
- (8)(11) "Developmentally appropriate" means suitable to the chronological age range and developmental characteristics of a specific group of children.
- (9)(12) "Division" means the Division of Child Development and Early Education within the Department of Health and Human Services.
- (13) "Domains" means the developmental areas of learning described in the North Carolina Foundations for Early Learning and Development © 2013, available on the Division's website at http://ncchildcare.nc.gov/providers/pv_foundations.asp. This instrument is incorporated by reference and does not include subsequent editions. The domains address children's emotional and social development, health and physical development, approaches to play and learning, language development, and communication and cognitive development.
- (10)(14) "Drop-in care" means a child care arrangement where children attend on an intermittent, unscheduled basis.
- (11)(15) "Early Childhood Environment Rating Scale - Revised Edition" (Harms, Clifford, and Cryer, 2005, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of children in the group are two and a half years old through five years old, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and ~~includes~~ does not include subsequent editions. A copy of the scale is available for purchase on the Teachers College Press website at <http://www.teacherscollegepress.com/assessm>
- ~~ent_materials.html~~. The cost of this scale in ~~February 2015-August~~ is ~~twenty-two-twenty-four~~ dollars and ninety-five cents ~~(\$22.95)-(\$24.95)~~. A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours. For the purposes of this Rule, "regular business hours" for the Division means 8 a.m. to 5 p.m. during weekdays, excluding state holidays.
- ~~(12)(16)~~ "Experience working with ~~school-aged-school-age~~ children" means working with school-age children as an administrator, program coordinator, group leader, assistant group leader, lead teacher, teacher or aide.
- ~~(13)(17)~~ "Family Child Care Environment Rating Scale – Revised Edition" (Harms, Cryer and Clifford, 2007, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by children in family child care homes to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and ~~includes~~ does not include subsequent editions. A copy of the scale is available for purchase on the Teachers College Press website at <http://www.teacherscollegepress.com/assessm> ent_materials.html. The cost of this scale in ~~February 2015-August~~ is ~~twenty-two-twenty-four~~ dollars and ninety-five cents ~~(\$22.95)-(\$24.95)~~. A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.
- (18) "Family Child Care Home" means a child care arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive child care. Family child care home operators must reside at the location of the family child care home.
- ~~(14)(19)~~ "First aid kit" is a collection of first aid supplies (such as bandages, tweezers, disposable nonporous gloves, micro shield or face mask, liquid soap, cold pack) for treatment of minor injuries or stabilization of major injuries.
- ~~(15)(20)~~ "Group" means the children assigned to a specific caregiver or caregivers, to meet the staff/child ratios set forth in G.S. 110-91(7) and in this Chapter, using space the Division has identified for each group.
- ~~(16)(21)~~ "Health care professional" means:
- (a) a physician licensed in North Carolina;
 - (b) a nurse practitioner approved to practice in North Carolina; or
 - (c) a licensed physician assistant.
- ~~(17)(22)~~ "Household member" means a person who resides in a family home as evidenced by

factors including maintaining clothing and personal effects at the household address, receiving mail at the household address, using identification with the household address, or eating and sleeping at the household address on a regular basis.

(18)(23) "If weather conditions permit" means:

- (a) temperatures that fall within the guidelines developed by the Iowa Department of Public Health and specified on the Child Care Weather Watch chart. These guidelines shall be used when determining appropriate weather conditions for taking children outside for outdoor learning activities and playtime. This chart may be downloaded free of charge from <http://www.idph.state.ia.us/hcci/commen/pdf/weatherwatch.pdf>, <http://idph.iowa.gov/Portals/1/Files/HCCI/weatherwatch.pdf>; and is incorporated by reference and includes subsequent editions and amendments;
- (b) following the air quality standards as set out in 15A NCAC 18A .2832(d). The Air Quality Color Guide can be found on the Division's web site at <https://xapps.ncdenr.org/aq/ForecastCenter> or call 1-888-RU4NCAIR (1-888-784-6224); and
- (c) no active precipitation. Caregivers may choose to go outdoors when there is active precipitation if children have appropriate clothing such as rain boots and rain coats, or if they are under a covered area.

(24) "Infant" means any child from birth through 12 months of age.

(19)(25) "Infant/Toddler Environment Rating Scale - Revised Edition" (Harms, Cryer, and Clifford, 2003, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of children in the group are younger than thirty months old, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and ~~includes~~ does not include subsequent editions. A copy of the scale is available for purchase on the Teachers College Press website at http://www.teacherscollegepress.com/assessment_materials.html. The cost of this scale in ~~February 2015-August~~ is twenty-two twenty-four dollars and ninety-five cents ~~(\$22.95).~~ (\$24.95). A copy of this instrument is on file at the Division at the address given in Item (1) of

this Rule and is available for public inspection during regular business hours.

~~(20)~~(26) "ITS-SIDS Training" means the Infant/Toddler Safe Sleep and SIDS Risk Reduction Training developed by the NC Healthy Start Foundation for the Division of Child Development and Early Education for caregivers of children ages 12 months and younger. Information regarding trainer and training availability can be found on the Division's website at http://ncchildcare.nc.gov/providers/pv_itssidsproject.asp.

(27) "Lead Teacher" means an individual who is responsible for planning and implementing the daily program of activities for a group of children in a child care facility. A lead teacher is counted in staff/child ratio, has unsupervised contact with children, and is monetarily compensated by the facility.

~~(21)~~(28) "Licensee" means the person or entity that is granted permission by the State of North Carolina to operate a child care facility. The owner of a facility is the licensee.

~~(22)~~(29) "Lockdown drill" means an emergency safety procedure in which occupants of the facility remain in a locked indoor space and is used when emergency personnel or law enforcement determine a dangerous person is in the vicinity.

~~(23)~~(30) "North Carolina Early Educator Certification (certification)" is an acknowledgement of an individual's verified level of educational achievement based on a standardized scale. The North Carolina Institute for Child Development Professionals certifies individuals and assigns a certification level on two scales:

- (a) the Early Care and Education Professional Scale (ECE Scale) in effect as of July 1, 2010; or
- (b) the School Age Professional Scale (SA Scale) in effect as of May 19, 2010.

Each scale reflects the amount of education earned in the content area pertinent to the ages of children served. The ECE Scale is designed for individuals working with or on behalf of children ages birth to five. The SA Scale is designed for individuals working with or on behalf of children ages 5 to 12 who are served in school age care settings. Information on the voluntary certification process can be found on the North Carolina Institute for Child Development Professionals website at

<http://ncicdp.org/certification-licensure/eec-overview/>.

~~(24)~~(31) "North Carolina Early Childhood Credential" means the state early childhood credential that

- is based on completion of required early childhood coursework taken at any NC Community College. Other post secondary curriculum coursework shall be approved as equivalent if the Division determines that the content of the other post secondary curriculum coursework offered is substantially equivalent to the NC Early Childhood Credential Coursework. A copy of the North Carolina Early Childhood Credential requirements is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection or copying at no charge during regular business hours. This information can be found on the Division's website at <http://ncchildcare.nc.gov/providers/credent.asp>.
- (32) "Operator" means the owner, director, or other person having primary responsibility for operation of a child care facility subject to licensing.
- (25)(33) "Owner" means any person with a five percent or greater equity interest in a child care facility; however, stockholders of corporations who own child care facilities are not subject to mandatory criminal history checks pursuant to G.S. 110-90.2 unless they are a child care provider.
- (26)(34) "Parent" means a child's parent, legal guardian, or full-time custodian.
- (27)(35) "Part-time care" means a child care arrangement where children attend on a regular schedule but on less than a full-time basis.
- (28)(36) "Passageway" means a hall or corridor.
- (29)(37) "Person" means any individual, trust, estate, partnership, corporation, joint stock company, consortium, or any other group, entity, organization, or association.
- (38) "Premises" means the entire child care building and grounds including but not limited to natural areas, outbuildings, dwellings, vehicles, parking lots, driveways and other structures located on the property.
- (30)(39) "Preschooler" or "preschool-age child" means any child who is at least three years of age and who does not fit the definition of school-age child in this Rule.
- (40) "Reside" refers to any person that lives at a child care facility location. Factors for determining residence include, but are not limited to:
- (a) use of the child care facility address as a permanent address for personal identification or mail delivery;
 - (b) use of the child care facility to store personal belongings such as furniture, clothing, and toiletry items; and
 - (c) names listed on official documents such as criminal records or property tax records.
- (34)(41) "School-Age Care Environment Rating Scale, Updated Edition" (Harms, Jacobs, and White, 1996, 2014, published by Teachers College Press) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of the children in the group are older than five years, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and ~~includes~~ does not include subsequent editions. A copy of the scale is available for purchase on the Teacher College Press website at http://www.teacherscollegepress.com/assessment_materials.html. The cost of this scale in ~~February 2015-August is twenty-two~~ four dollars and ninety-five cents ~~(\$22.95)~~ (\$24.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.
- (32)(42) "School-age child" means any child who is attending or who has attended a public or private grade school or kindergarten and meets age requirements as specified in G.S. 115C-364.
- (33)(43) "Seasonal Program" means a recreational program as set forth in G.S. 110-86(2)(b).
- (34) ~~"Section" means Division of Child Development and Early Education.~~
- (35)(44) "Shelter-in-Place drill" means staying in place to take shelter rather than trying to evacuate. It involves selecting a small interior room, with no or few windows, used when emergency personnel or law enforcement determine there is an environmental or weather related threat.
- (45) "Staff" or "staff member" as used in this Chapter includes child care providers, substitute providers, and uncompensated providers. Volunteers, as defined in this Rule, are not staff members.
- (36)(46) ~~"Substitute"~~ "Substitute provider" means any person who temporarily assumes the duties of a staff person for a time period not to exceed two consecutive months, months and may or may not be monetarily compensated by the facility. Any substitute provider shall be 18 years of age and literate.
- (47) "Teacher" means an individual who assists the Lead Teacher in planning and implementing the daily program of activities for a group of children in a child care facility. A teacher is counted in staff/child ratio, has unsupervised contact with children, and is monetarily compensated by the facility.
- (48) "Teacher's aide" or "Aide" means a person who assists the lead teacher or the teacher in planning and implementing the daily program.

- is monetarily compensated, shall be at least 16 years old and less than 18 years old, shall be literate, and shall not be counted in staff/child ratio or have unsupervised contact with children.
- (49) "Toddler" means any child ages 13 months to 3 years of age.
- (37)(50) "Track-Out Program" means any child care provided to school-age children when they are out of school on a year-round school calendar.
- (51) "Uncompensated provider" means a person who works in a child care facility and is counted in staff/child ratio or has unsupervised contact with children, but who is not monetarily compensated by the facility. Any uncompensated provider shall be 18 years of age and literate.
- (38)(52) "Volunteer" means a person who works in a child care facility and is not counted in staff/child ratio, does not have unsupervised contact with children, and is not monetarily compensated by the facility. A person who is at least 13 years of age, but less than 16 years of age, may work on a volunteer basis, as long as he or she is supervised by and works with a staff person who is at least 21 years of age and meets staff qualification requirements.

Authority G.S. 110-85; 110-88; 110-90.2; 143B-168.3.

SECTION .0200 - GENERAL REQUIREMENTS

10A NCAC 09 .0201 INSPECTIONS OF CHILD CARE FACILITIES

The Division shall periodically visit and inspect all child care centers/facilities to insure ensure compliance with North Carolina General Statutes and those rules and regulations adopted pursuant thereto. G.S. 110, Article 7 and 10A NCAC 09.

- (1) The Division shall make at least one unannounced visit annually to ensure compliance with the licensure statutes and rules.
- (2) The Division shall make an unannounced visit when the Division receives a complaint alleging a violation of licensure statutes, or rules or if the Division has probable cause to believe an emergency exists at the facility.
- (1)(3) ~~A representative of the~~ The Division shall conduct an announced visit prior to the initial issuance of ~~the a~~ license. The prospective or current licensee shall be notified in advance about the visit. ~~This Rule does not apply to the investigation of centers that are operating without a license in violation of the law.~~
- (2)(4) At the beginning of each fiscal year, the Division shall prepare a written plan explaining the guidelines for making announced and unannounced visits. ~~visits to licensed child care centers. The plan shall be dated and signed by~~

- ~~the Division director and shall be kept in a confidential file.~~
- (3) ~~A representative of the Division may make unannounced visits to any licensed center whenever the Division receives a complaint alleging violation of the licensing law or the rules in this Subchapter, or if a representative of the Division has reason to believe an emergency exists in the center.~~
- (5) This Rule does not apply to the investigation of child care facilities that are operating without a license in violation of the statute.

Authority G.S. 110-105; 143B-168.3.

10A NCAC 09 .0204 CHANGES REQUIRING ISSUANCE OF A NEW LICENSE (NWSPI)

- (a) ~~When the ownership of a child care center operator, as defined in Rule .0102, of a licensed child care center changes, the new operator must~~ prospective new owner shall apply for a new license at least 30 days ~~prior to assuming~~ before acquiring ownership of the center. A child care center license cannot be bought, sold, or transferred by one ~~operator person or entity~~ to another.
- (b) When a licensed child care center is to be moved from one location to another, the licensee ~~must shall~~ apply for and receive a license for the new physical location as ~~prescribed in Section .0300 of this Subchapter. The licensee must obtain the new license prior to occupying the new location. before the licensee provides~~ child care services at the new location. A child care center license is not transferable from one location to another.
- (c) When a licensee desires to change the licensed capacity of a center, the licensee ~~must shall~~ notify the Division.
 - (1) If the licensee wishes to increase the licensed capacity by using space not currently approved for child care, the licensee shall arrange for inspections of the unapproved space by the local health, building, and fire inspectors. the Division shall provide the licensee with appropriate forms to request approval. Once the licensee documents that the unlicensed space conforms to all applicable sanitation, building, and fire standards, the Division shall issue ~~additional space is approved, a new license shall be issued~~ to reflect the increase in licensed capacity.
 - (2) If a licensee wishes to increase the center's licensed capacity by using space that is already approved for child care, the Division shall, upon request, issue a new license showing the increase.
 - (3) If a licensee wishes to decrease the center's licensed capacity, the Division shall, upon request, issue a new license reflecting the decrease.
- (d) When a licensee decides to conform with requirements in order to remove a restriction on the age or number of children who can be served in the center, the licensee shall arrange for inspections of the center by the local health, building, and fire inspectors. Once the licensee submits documentation that the

center conforms to all applicable sanitation, building, and fire standards, the Division shall issue a new license without the restriction. ~~notify the Division. The Division shall supply forms for the licensee to use to obtain approval from the local inspectors, if necessary. When the Division is notified that the center conforms with all applicable requirements, a new license, without the restriction, shall be issued.~~

Authority G.S. 110-88(8); 110-93; 143B-168.3.

10A NCAC 09 .0205 PARENTAL ACCESS (NWSPI)

(a) ~~The parent parent, guardian or full time custodian of a child enrolled in any a child care center subject to regulation under Article 7 of Chapter 110 of the North Carolina General Statutes shall be allowed unlimited access to the center during its operating hours for the purposes of contacting the child or evaluating caregiving space at the center and the care provided by the center, center for the child. The parent parent, guardian or custodian shall notify the on-site administrator of his or her presence immediately upon entering the premises.~~

(b) Parents subject to court orders related to custody of a child enrolled in a child care center shall only be allowed access to the center in accordance with the court order.

(c) No person shall be allowed on the premises of a child care center who has been convicted of a "reportable conviction" as defined in G.S. 14-208.6(4).

Authority G.S. 110-85; 110-91; 143B-168.3.

SECTION .0300 - PROCEDURES FOR OBTAINING A LICENSE

10A NCAC 09 .0301 PRE-LICENSING REQUIREMENTS

(a) ~~Anyone who wishes to obtain a license to operate a child care center shall first request pre-licensing consultation from the Division. A prospective licensee who has not previously operated a child care facility in North Carolina shall attend a pre-licensing workshop provided by the Division before the Division schedules a pre-licensing visit. This includes persons seeking to operate a child care facility pursuant to a Notice of Compliance. A schedule of these workshops provided by the Division may be found online at~~

http://ncchildcare.dhhs.state.nc.us/pdf_forms/prelicworkshop.pdf

(e)(b) ~~The Division shall provide regularly scheduled licensing workshops for new and existing child care centers. A schedule of these workshops may be obtained from the Division at the address given in Rule .0102 of this Chapter. The operator of a child care center shall complete the licensing workshop provided by the Division prior to the Division issuing an initial license or an initial Notice of Compliance to the child care center. Prospective licensees shall download, complete, and submit the pre-licensing registration form to the Division. The pre-licensing form may be found~~ online ~~at~~

http://ncchildcare.dhhs.state.nc.us/pdf_forms/prelicworkshop.pdf

(c) Upon completion of the pre-licensing workshop and submission of an application to operate a child care facility, the prospective licensee shall request a pre-licensing consultation with the Division. The application can be found online at

http://ncchildcare.nc.gov/PDF_forms/FacilityProfileApp.pdf.

(b)(d) ~~Upon receiving a request a representative of receipt of the request, the Division shall schedule a consultation visit with the person requesting consultation, prospective licensee, unless the person requesting a consultation meets the criteria described may be denied a license for one or more of the reasons set forth in Rule .0302(e) of this Section. 10A NCAC 09 .2215. The Division shall furnish the forms required to be completed and submitted in order to apply for a license.~~

Authority G.S. 110-88(1); 110-88(5); 143B-168.3.

10A NCAC 09 .0302 APPLICATION FOR A LICENSE FOR A CHILD CARE FACILITY (NWSPI)

(a) ~~The prospective licensee of a child care center, including assuring compliance with the licensing law and standards, shall apply for a license for a child care center using the form provided by the Division. The form can be found on the Division's website at~~

http://ncchildcare.dhhs.state.nc.us/general/mb_customerservice.asp. If the operator will be a group, organization, or other entity, an officer of the entity shall complete and sign the application. The application shall be signed and submitted by:

(1) The individual who will be legally responsible for the operation of the center and for assuring compliance with G.S. 110, Article 7 and 10A NCAC 09; or

(2) If the applicant is not an individual an officer of the legal entity that will be legally responsible for the operation of the center, and for assuring compliance with the licensing statutes and rules. In this case, the application shall contain evidence that the officer is authorized to bind the applicant.

(b) The application shall be submitted on the form provided by the Division, which may be found online at http://ncchildcare.nc.gov/PDF_forms/FacilityProfileApp.pdf.

(c) The applicant shall submit the required criminal record check qualification letter as described in 10A NCAC 09 .2703.

(b)(d) ~~The applicant shall arrange for inspections of the center by the local health, building, and fire inspectors. The applicant shall provide to give the Division copies of inspection reports prepared pursuant to G.S. 110-91(1), (4), and (5). When a center does not conform with a building, fire, or sanitation standard, the inspector may submit a written explanation of how equivalent, alternative protection is provided. The Division shall accept the inspector's determination that equivalent, alternative protection is provided documentation in lieu of documentation of compliance with the standard. Nothing in this Rule precludes or interferes with the issuance of a provisional license pursuant to Section .0400 of this Chapter.~~

(e)(e) The applicant, applicant or the person operator as defined in G.S. 110-86(7) responsible for the day to day operation of the center, shall be able to describe the plans for the daily program, including room arrangement, staffing patterns, equipment, and supplies, in sufficient detail to show that the center shall comply with applicable requirements for activities, equipment, and staff-child ratios for the capacity of the center and type of license requested. The applicant shall make the following written

information available to the Division for review to verify compliance with provisions of ~~this Chapter and G.S. 110, Article 7; G.S. 110, Article 7 and 10A NCAC 09.~~

- (1) Emergency Preparedness and Response Plan;
- (2) emergency medical care plan;
- (3) activity plans;
- (4) discipline policy;
- (5) incident reports; and
- (6) incident logs.

~~(d)(f)~~ The applicant shall demonstrate to the Division that the following ~~is~~ will be available for review pursuant to 10A NCAC 09 .0304(f); .0304(g):

- ~~(1) staff records which include an application for employment and date of birth; documentation of education, training, and experience; medical and health records; documentation of participation in training and staff development activities; and required criminal history records check documentation;~~
 - (1) staff records that include:
 - (A) an application for employment and date of birth;
 - (B) documentation of education, training, and experience;
 - (C) medical and health records;
 - (D) documentation of staff orientation, participation in training, and staff development activities; and
 - (E) required criminal history records check documentation;
- (2) children's records ~~which that~~ include an application for ~~enrollment; enrollment,~~ medical and immunization ~~records; records,~~ and permission to seek emergency medical care;
- (3) daily attendance records;
- (4) daily records of arrival and departure times at the center for each child;
- (5) records of monthly fire drills documenting the date and time of each drill, the length of time taken to evacuate the building, and the signature of the person who conducted the drill as required by NC Fire Code 405.5; A copy of the form may be found on the Division's website at http://ncchildcare.nc.gov/pdf_forms/EPR_EmergencyDrillLog_Centers.pdf;
- (6) records of monthly playground inspections documented on a checklist provided by the Division; A copy of the form may be found on the Division's website at http://ncchildcare.nc.gov/pdf_forms/playground.pdf;
- (7) records of ~~medications administered; and administered medications;~~
- (8) records of lockdown or shelter-in-place drills as defined in 10A NCAC 09 .0102-.0102, giving the date each drill was held, the time of day, the length of time taken to get into designated locations and the signature of the person who conducted the drill. A copy of the form may be

found on the Division's website at http://ncchildcare.nc.gov/pdf_forms/EPR_EmergencyDrillLog_Centers.pdf; and

(9) a valid electronic mail address for the facility.

~~(e)(g)~~ In order to calculate licensed capacity pursuant to G.S 110-91(6), ~~the~~ The Division shall obtain accurate measurements of ~~measure~~ all rooms to be used for child care and ~~shall assure~~ ensure that an accurate sketch of the center's floor plan is part of the application packet. The Division shall enter the dimensions of each room to be used for child care, including ceiling height, and shall show the location of the bathrooms, doors, and required exits on the floor plan.

~~(f)(h)~~ The Division shall make one or more inspections of the center and premises to assess compliance with all applicable requirements as follows: licensure statutes and rules.

- (1) If if all applicable requirements of G.S. 110, Article 7 and this Section are met, the Division shall ~~issue the~~ issue a license; ~~or~~
- (2) If if all applicable requirements of G.S. 110, Article 7 and this Section are not met, the Division may ~~recommend issuance of either~~ issue a provisional license or deny the application in accordance with 10A NCAC 09 .2215. Section .0400 of this Chapter or the Division may recommend denial of the application in accordance with Paragraph (g) of this Rule.

~~(g)~~ The Secretary may deny an application for a license under the following circumstances:

- (1) ~~if any child care facility license previously held by the applicant has been denied, revoked, or summarily suspended by the Division;~~
- (2) ~~if the Division initiated denial, revocation, or summary suspension proceedings against any child care facility license previously held by the applicant and the applicant voluntarily relinquished the license;~~
- (3) ~~during the pendency of an appeal of a denial, revocation, or summary suspension of any other child care facility license held by the applicant;~~
- (4) ~~if the Division determines that the applicant has a relationship with an operator or former operator who held a license under an administrative action described in Subparagraphs (1), (2), or (3) of this Paragraph. As used in this Rule, an applicant has a relationship with a former operator if the former operator would be involved with the applicant's child care facility in one or more of the following ways:~~
 - (A) ~~would participate in the administration or operation of the facility;~~
 - (B) ~~has a financial interest in the operation of the facility;~~
 - (C) ~~provides care to children at the facility;~~
 - (D) ~~resides in the facility; or~~
 - (E) ~~would be on the facility's board of directors, be a partner of the~~

corporation, ~~or otherwise have responsibility for the administration of the business;~~

- (5) ~~based on the applicant's previous non-compliance as an operator with the requirements of G.S. 110, Article 7 or this Chapter;~~
- (6) ~~if abuse or neglect has been substantiated against the applicant pursuant to G.S. 7B-101 or G.S. 110-105.2 or~~
- (7) ~~if the applicant is a disqualified child care provider or has a disqualified household member residing in the center pursuant to G.S. 110-90.2.~~

(h) In determining whether denial of the application for a license is warranted pursuant to Paragraph (g) of this Rule, the Division shall consider:

- (1) ~~any documentation provided by the applicant that describes the steps the applicant will take to prevent reoccurrence of noncompliance issues that led to any prior administrative action taken against a license previously held by the applicant;~~
- (2) ~~training certificates or original transcripts for any coursework from a nationally recognized regionally accredited institution of higher learning related to providing quality child care, and that was taken subsequent to any prior administrative action against a license previously held by the applicant. "Nationally recognized" means that every state in this nation acknowledges the validity of the coursework taken at higher education institutions that meet the requirements of one of the accrediting bodies;~~
- (3) ~~proof of employment in a licensed child care facility and references from the administrator or licensee of the child care facility regarding work performance;~~
- (4) ~~documentation of collaboration or mentorship with a licensed child care provider to obtain additional knowledge and experience related to operation of a child care facility; and~~
- (5) ~~documentation explaining relationships with persons meeting the criteria listed in Subparagraph (g)(4) of this Rule.~~

Authority G.S. 110-85; 110-86; 110-88(2); 110-88(5); 110-91; 110-91(1),(4) and (5); 110-92; 110-93; 110-99; 143B-168.3.

10A NCAC 09 .0304 ON-GOING REQUIREMENTS FOR A LICENSE (NWSPI)

(a) Each operator shall schedule a fire inspection within 12 months of the center's previous fire inspection. The operator shall notify the local fire inspector when it is time for the center's annual fire inspection. The operator shall submit the original of the completed annual fire inspection report to the ~~Division~~ Division's representative within one week of the inspection visit on the form provided by the Division.

(b) Each center shall be inspected at least annually by an Environmental Health Specialist for compliance with applicable sanitation requirements adopted by the Commission for Public Health as described in 15A NCAC 18A .2800.

(c) A new building inspection is not required unless the operator plans to begin using space not previously approved for child care, has made renovations to the building, has added new construction, or wants to remove any restriction related to building codes currently on the permit.

(d) When the ~~Division~~ Division's representative documents noncompliance during a visit, the ~~representative shall;~~ Division may do any one or more of the following:

- (1) ~~Advise~~ require the operator to submit written verification ~~notify the Division in writing when that the noncompliance has been corrected;~~
- (2) ~~Return~~ return to the center for an unannounced visit at a later date to determine if ~~whether the noncompliance has been achieved;~~ corrected; or
- (3) ~~Recommend issuance of a provisional license in accordance with Section .0400 of this Chapter or recommend the revocation of the permit or administrative actions in accordance with Section .2200 of this Chapter. take any administrative action permitted by G.S. 110, Article 7 or 10A NCAC 09.~~

(e) The Division shall assess the compliance history of a center by evaluating the violations of requirements that have occurred. Demerits shall be assigned for each occurrence of violations of these requirements: The Division shall calculate the visit compliance score by taking the total possible points for items monitored at a visit and calculating the percentage of compliance based upon the actual points awarded. The compliance history of a center shall be calculated by averaging each visit compliance score over the previous 18 months. Points shall be awarded for compliance with items monitored as follows:

- (1) supervision of children ~~(6 points);~~ (6 points);
- (2) staff/child ratio ~~(6 points);~~ (6 points);
- (3) staff qualifications and training ~~(2 to 5 points);~~ (2 to 5 points);
- (4) health and safety practices ~~(3 to 6 points);~~ (3 to 6 points);
- (5) discipline ~~(6 points);~~ (6 points);
- (6) developmentally appropriate activities ~~(2 to 4 points);~~ (2 to 4 points);
- (7) adequate space ~~(6 points);~~ (6 points);
- (8) nutrition and feeding practices ~~(1 to 3 points);~~ (1 to 3 points);
- (9) program records ~~(1 to 3 points);~~ (1 to 3 points); and
- (10) transportation (1 to 3 points), if applicable. ~~The point value of each demerit shall be based on the potential detriment to the health and safety of children. A compliance history percentage shall be calculated each year by subtracting the total number of demerits from the total demerits possible and converting to a percentage. The yearly compliance history percentage shall be averaged over the specified time period as in~~

~~accordance with G.S. 110-90(4) for the compliance history percentage referenced in this Rule. A copy of the Division compliance history score sheet used to calculate the compliance history percentage is available for review at the address given in Rule .0102 of this Section.~~

(f) A sample of the Division's compliance history score sheet can be viewed online at http://ncchildcare.nc.gov/PDF_forms/Compliance_History_Sample_415.pdf.

~~(f)(g) Each center shall maintain accurate records and documents as described in Rule .0302(c) and (d) of this Section, and these records and documents shall be made available to the Division for review to verify compliance with provisions of this Chapter and the General Statute. Each center shall maintain accurate records as described in 10A NCAC 09 .0302(e) and (f) and shall make them available to the Division for review.~~

Authority G.S. 110-85; 110-88(5); 110-93; 143B-168.3; 150B-3.

SECTION .0400 - ISSUANCE OF PROVISIONAL AND TEMPORARY LICENSES

10A NCAC 09 .0403 TEMPORARY LICENSES FOR CENTERS (NWSPI)

~~(a) A temporary license may be issued in accordance with the provisions of G.S. 110-88(10) to the operator opening a new center or to the operator of a previously licensed center when a change in ownership or location occurs provided:~~

- ~~(1) the operator applied for a license, pursuant to Section .0300, or Rules .0204(a) or (b) of this Subchapter prior to the change in status; and~~
- ~~(2) the center has sufficient equipment and materials to operate for the number of children enrolled.~~

~~(a) When an operator proposes to open a new center or to change the ownership or location of an existing center, the Division shall issue the operator a temporary license upon the timely receipt of a license application pursuant to 10A NCAC 09 .0204 or .0302 and evidence that the operator has met the requirements of 10A NCAC 09 .0301 and .0302.~~

~~(b) The temporary license shall be posted in a prominent place in the center that parents are able to view daily.~~

~~(c) The temporary license shall expire after six months months, or upon the issuance of a star-rated license, license or provisional license license, or denial of a license to the operator, whichever is occurs earlier.~~

~~(d) An operator may obtain an administrative hearing on the denial of a temporary license in accordance with Section .2200 of this Subchapter.~~

Authority G.S. 110-88(10); 110-99; 143B-168.3.

SECTION .0500 - AGE AND DEVELOPMENTALLY APPROPRIATE ENVIRONMENTS FOR CENTERS

10A NCAC 09 .0508 ACTIVITY SCHEDULES AND PLANS

(a) All centers shall have a current schedule and activity plan for each group of children posted for easy reference by parents and by caregivers. The schedule and activity plan may be combined in a single document.

(b) For each group of children in care, the activity plan shall include activities intended to stimulate the following developmental domains, in accordance with North Carolina Foundations for Early Learning and Development, available on the Division's website at http://ncchildcare.nc.gov/providers/pv_foundations.asp:

- (1) emotional and social development;
- (2) health and physical development;
- (3) approaches to play and learning;
- (4) language development and communication;
and
- (5) cognitive development.

(c) When children are in care and weather conditions permit, there shall be outdoor time, either as part of a small group, a whole group, or individual activity, for no less than the following durations:

<u>Program Operating Hours</u>	<u>Ages of Children</u>	<u>Minimum Daily Outdoor Time</u>
<u>All Programs</u>	<u>Under 2 years</u>	<u>30 Minutes</u>
<u>Less than 5 hours</u>	<u>0-12 years</u>	<u>30 Minutes</u>
<u>5 to 6.5 hours</u>	<u>2 years and up</u>	<u>45 Minutes</u>
<u>More than 6.5 hours</u>	<u>2-12 years</u>	<u>60 minutes</u>

~~(b)(d)~~ When children ~~two~~ three years old or older are in care, the schedule shall include the following:

- (1) ~~Show blocks of time usually assigned to types of activities and shall include activities, including periods of time for both active play play, and quiet play play, or rest-rest;~~
- (2) ~~Show blocks of time that are scheduled for activities for indoor and outdoor areas.~~
- ~~(3)(2)~~ ~~Reflect times and activities that are developmentally appropriate for the children in care care; and~~
- ~~(4)(3)~~ ~~Reflect daily opportunities indoors and outdoors for free choice activities, teacher-directed activities, and a minimum total of one hour of outdoor time throughout the day, if weather conditions permit. When children are in care for four hours or less per day the center shall provide a minimum total of 30 minutes of outdoor time daily, if weather conditions permit.~~
daily opportunities indoors and outdoors for:
 - (A) free-choice activities; and
 - (B) teacher-directed activities.

~~(e)(e) When children under two years old are in care, the schedule shall include regular daily events such as arrival and departure, free choice times, outside time and teacher directed activities. Interspersed~~ For children under two years old, interspersed among the daily events shall be individualized caregiving routines such as eating, ~~napping~~ napping, and toileting. There shall be a minimum of 30 minutes of outdoor time throughout the day either as part of a small group, whole group, or individual activity, if weather conditions permit.

~~(d) All centers shall develop a written plan of developmentally appropriate activities designed to stimulate social, emotional, intellectual and physical development for each group of children in care.~~

- ~~(1) The activity plan shall always be current and accessible for easy reference by parents and caregivers.~~
- ~~(2) The activity plan shall include at least one daily activity for each developmental goal specified in this Paragraph. Activities which allow children to choose to participate with the whole group, part of the group, or independently shall be identified. The plan shall reflect that the children have at least four different activities daily, at least one of which is outdoors, if weather conditions permit.~~
- ~~(3) The activity plan shall also include a daily gross motor activity which may occur indoors or outdoors.~~

~~(f) When children under three years old are in care, the schedule shall include regular daily events such as the arrival and departure of the children, free-choice times, outside time, and teacher-directed activities.~~

~~(e)(g) The schedule and activity plan may be combined as one document that shall always be current and posted for easy reference by parents and caregivers. The activity plan shall:~~

- ~~(1) identify activities that allow children to choose to participate with the whole group, part of the group, or independent of the group;~~
- ~~(2) reflect that the children have at least four different activities daily, at least one of which is outdoors, if weather conditions permit, as listed in G.S. 110-91(12) as follows:~~
 - ~~(A) art and other creative play;~~
 - ~~(B) children's books;~~
 - ~~(C) blocks and block building;~~
 - ~~(D) manipulatives; and~~
 - ~~(E) family living and dramatic play; and~~
- ~~(3) include a daily gross motor activity that may occur indoors or outdoors.~~

Authority G.S. 110-85; 110-91(2),(12); 143B-168.3.

10A NCAC 09 .0509 LEARNING ENVIRONMENT

The learning environment consists of the indoor and outdoor area which encourages child initiated and teacher supported activities as follows:

- ~~(1) Each center shall have developmentally appropriate equipment and materials accessible on a daily basis.~~

~~(2) The materials and equipment indoors and outdoors shall be sufficient to provide a variety of play experiences which that promote the children's health; physical, social, and social emotional, intellectual and physical development. emotional approach to play and learning; and cognitive, language, and communication development;~~

~~(3) Teacher-made teacher-made and home-made equipment and materials may be used if they are safe and functional. Materials and equipment that are accessible to children shall not be coated or treated with, nor shall they contain, toxic materials such as creosote, pentachlorophenol, tributyl tin oxide, dislodgeable arsenic, or any finishes which that contain pesticides. pesticides; and~~

~~(4) Developmentally developmentally appropriate equipment and materials shall be provided for a variety of outdoor activities which that allow for vigorous play and large muscle development. Each child shall have the opportunity for outdoor play each day that weather conditions permit. The center shall provide space and time for vigorous indoor activities when children cannot play outdoors.~~

Authority G.S. 110-85; 110-91(2),(12); 143B-168.3.

10A NCAC 09 .0510 ACTIVITY AREAS

(a) For each group of children in care, the center shall provide daily at least four of the five activity areas listed in G.S. 110-91(12) as follows:

- (1) Centers with a licensed capacity of 30 or more children shall have at least four activity areas available in the space occupied by each group of children.
- (2) Centers with a licensed capacity of less than 30 children shall have at least four activity areas available. Separate groups of children may share use of the same activity areas.
- (3) Centers with a licensed capacity of 3 to 12 children located in a residence shall have at least four types of activities available.

(b) In addition to the activity areas that are available each day, each center shall have materials and equipment in sufficient quantity, as described in Subparagraph (d)(1) of this Rule, to ensure that activities are made available at least once per month in each of the five activity areas listed G.S. 110-91(12) as follows:

- (1) art and other creative play;
- (2) children's books;
- (3) blocks and block building;
- (4) manipulatives; and
- (5) family living and dramatic play.

(c) Each center shall provide materials and opportunities for each group of children at least weekly, indoors or outdoors for the following:

- (1) music and rhythm;

- (2) science and nature; and
- (3) sand and water play.
- (d) When preschool children three two-years old and older are in care the following apply:
- (1) the materials and equipment in an activity area shall be in sufficient quantity to allow at least three children to use the area regardless of whether the children choose the same or different activities; and
- (2) when screen time is provided on any electronic media device with a visual display, it shall be:
- (A) offered to stimulate a developmental domain in accordance with the North Carolina Foundations for Early Learning and Development as referenced in this Section;
- (B) limited to a maximum of 30 minutes per day and no more than a total of two and a half hours per week, per child; and
- (C) documented on a cumulative log or the activity plan that shall be available for review by the Division.
- (1) ~~Each center shall have equipment and materials available in activity areas on a daily basis. Centers with a licensed capacity of 3 to 12 children located in a residence are not required to have activity areas, but must have equipment and materials available daily both indoors and outdoors for the children in care.~~
- (2) ~~An activity area is an identifiable space which is accessible to the children and where related equipment and materials are kept in an orderly fashion.~~
- (3) ~~Each activity area shall contain enough materials to allow three related activities to occur at the same time. The materials and equipment be in sufficient quantity to allow at least three children to use the area regardless of whether the children choose the same or different activities.~~
- (4) ~~Each center shall make at least four of the activity areas listed in G.S. 110-91(12) available daily to preschool children two years or older as follows:~~
- (a) ~~Centers with a licensed capacity of 30 or more children shall have at least four activity areas available in the space occupied by each group of children.~~
- (b) ~~Centers with a licensed capacity of less than 30 children shall have at least four activity areas available daily. Separate groups of children may share use of the same activity areas.~~
- (c) ~~Centers with a licensed capacity of 3 to 12 children located in a residence shall have at least four types of activities available daily.~~
- (5) ~~In addition to the activity areas which are available each day, each center shall have materials and equipment in sufficient quantity, as described in Item (3) of this Rule, to ensure that activities are made available at least once~~
- ~~per month in each of the five activity areas listed G.S. 110-91(12).~~
- (6) ~~Each center shall provide materials and opportunities for music and rhythm, science and nature, and sand and water play for each group of children at least weekly, indoors or outdoors.~~
- (7) ~~When screen time, including television, videos, video games, and computer usage is provided, it shall be:~~
- (a) ~~Offered only as a free choice activity,~~
- (b) ~~Used to meet a developmental goal, and~~
- (c) ~~Limited to no more than a total of two and a half hours per week, per child.~~
- ~~Usage time periods may be extended for specific special events, projects, on site computer classes, or occasions such as a current event, holiday, or birthday celebration.~~
- (e) When children under three years old are in care the following apply:
- (1) each center shall have developmentally appropriate toys and activities for each child to promote the child's health, his or her physical, emotional, and social approach to play and learning, and his or her cognitive, language, and communication development, including:
- (A) books;
- (B) blocks;
- (C) dolls;
- (D) pretend play materials;
- (E) musical toys;
- (F) sensory toys; and
- (G) fine motor toys;
- (2) materials shall be kept in an identifiable space where related equipment and materials are kept in identifiable groupings and shall be made available to the children on a daily basis;
- (3) materials shall be offered in sufficient quantity to allow all children to use them at some time during the day and to allow for a range of choices, including duplicates of the most popular toys;
- (4) on a daily basis caregivers shall make provisions for the promotion of health and physical development that shall include varied, developmentally appropriate health and physical activities. A safe, clean, uncluttered area that allows freedom of movement shall be available, both indoors and outdoors, for infants and for toddlers;
- (5) hands-on experiences, including both familiar and new activities, shall be provided to enable the infant or toddler to learn about himself and the world both indoors and outdoors; and
- (6) each child under the age of 12 months shall be given supervised tummy time positioned on his or her stomach while awake and alert each day.
- (f) Screen time, including television, videos, video games, and computer usage, shall be prohibited for children under three years of age.

Authority G.S. 110-85; 110-91(6),(12); 143B-168.3.

10A NCAC 09 .0511 ACTIVITIES FOR CHILDREN UNDER TWO YEARS OF AGE

(a) For activities for children under two years of age the following apply:

- (1) ~~Each center shall have developmentally appropriate toys and activities for each child to promote the child's physical, emotional, intellectual and social well being including appropriate books, blocks, dolls, pretend play materials, musical toys, sensory toys, and fine motor toys. The following apply:~~
 - (A) ~~The materials shall be kept in an identifiable space where related equipment and materials are kept in identifiable groupings and must be made available to the children on a daily basis.~~
 - (B) ~~The materials shall be offered in sufficient quantity to allow all children to use them at some point during the day and to allow for a range of choices with duplicates of the most popular toys;~~
 - (C) ~~On a daily basis caregivers shall make provisions for the promotion of physical development which shall include varied, developmentally appropriate physical activities. A safe clean, uncluttered area that allows freedom of movement shall be available, both indoors and outdoors, for infants and for toddlers; and~~
 - (D) ~~Hands-on experiences, including both familiar and new activities, shall be provided to enable the infant or toddler to learn about himself and the world both indoors and outdoors.~~

(b)(a) The center shall provide time and space for sleeping, eating, toileting, diaper changing, and playing according to each child's individual ~~need~~ needs.

(c)(b) The caregivers shall interact in a positive manner with each child every day, ~~including the following ways:~~ as follows:

- (1) ~~Caregivers~~ caregivers shall respond promptly to an infant or toddler's physical and emotional needs, especially when indicated by ~~erying~~ crying, through actions such as feeding, diapering, holding, positive touching, smiling, ~~talking~~ talking, and eye ~~contact~~ contact;
- (2) ~~The~~ the caregiver shall recognize the special difficulties of infant and toddler separations and assist families, infants, and toddlers to make the transition from home to center as gently as possible, such as a phased-in orientation process to allow infants and toddlers to experience limited amounts of time at the center before becoming ~~fully integrated~~ integrated;

- (3) ~~A~~ a caregiver or team of caregivers shall be assigned to each infant or toddler as the primary caregiver(s) who is responsible for care the majority of the ~~time~~ time;
- (4) ~~The~~ the caregiver shall make provision for constructive guidance and ~~the setting of limits~~ that the child can understand ~~which and that~~ foster the infant's or toddler's ability to be self-disciplined, as appropriate to the child's age and ~~development~~ development; and
- (5) ~~In~~ in drop-in centers, effort shall be made to place an infant or ~~toddler~~ toddler who uses the center ~~frequently~~ frequently with the same caregiver.

(d) While awake, each child under the age of 12 months shall be given the opportunity each day to play while positioned on his or her stomach.

(e) Screen time, including television, videos, video games, and computer usage, is prohibited.

Authority G.S. 110-85; 110-91(2),(12); 143B-168.3.

SECTION .0600 - SAFETY REQUIREMENTS FOR CHILD CARE CENTERS

10A NCAC 09 .0601 SAFE ENVIRONMENT

- (a) A safe indoor and outdoor environment shall be provided for the children in care.
- (b) ~~All hazardous items, materials, and equipment shall be used by children only when adult supervision is provided. All equipment and furnishings shall be in good repair and shall be maintained in useable condition. All commercially manufactured equipment and furnishings shall be assembled and installed according to procedures specified by the manufacturer. The manufacturer's instructions shall be kept on file.~~
- (c) Equipment and furnishings shall be sturdy, stable, and free of hazards that may injure children including sharp edges, lead based or peeling paint, rust, loose nails, splinters, protrusions (excluding nuts and bolts on sides of fences), and pinch and crush points.
- (d) All broken equipment or furnishings referenced in Paragraph (c) of this Rule shall be removed from the premises immediately or made inaccessible to the children.
- (e)(e) Each child care center shall provide equipment and furnishings that are child-size or which can be adapted for safe and effective use by children. Chairs and tables shall be of proper height for the children who will be using them. ~~Outdoor play equipment shall be age and developmentally appropriate.~~
- (d) ~~Separate play areas or time schedules shall be provided for children under two years of age unless fewer than 15 children are in care. If a facility shares playground space with another facility that serves children, a separate play area or time schedule shall be provided for each facility.~~

Authority G.S. 110-85(2); 110-91(3),(6); 143B-168.3.

10A NCAC 09 .0602 CONDITION OF INDOOR EQUIPMENT AND FURNISHINGS

(a) ~~All equipment and furnishings shall be in good repair and shall be maintained in useable condition. All commercially~~

manufactured equipment and furnishings shall be assembled and installed according to procedures specified by the manufacturer.
 (b) Equipment and furnishings shall be sturdy, stable, and free of hazards that may injure children including sharp edges, lead based paint, loose nails, and splinters.
 (c) All broken equipment or furnishings shall be removed from the premises immediately or made inaccessible to the children.

Authority G.S. 110-91(6); 143B-168.3.

10A NCAC 09 .0603 OVERNIGHT FURNISHINGS

~~A safe and comfortable bed, crib, or cot, equipped with a firm waterproof mattress at least four inches thick will be provided for each child who remains in the center after midnight.~~

Authority G.S. 110-91(6); 143B-168.3.

10A NCAC 09 .0604 SAFETY REQUIREMENTS

- (a) In child care centers, potentially hazardous items, ~~such as archery equipment, hand and~~ including power tools, nails, chemicals, propane stoves, lawn mowers, and gasoline or kerosene, whether or not intended for use by children, shall be stored in locked areas, ~~or shall be removed from the premises~~ premises, or otherwise inaccessible to children.
- (b) Firearms and ammunition are prohibited in a licensed child care facility unless carried by a law enforcement officer.
- (c) ~~Electrical outlets not in use which are~~ When not in use, electrical outlets and power strips located in space used by the children shall have safety outlets or be covered with safety plugs unless located behind furniture or equipment that cannot be moved by a child.
- (d) Electric fans shall be mounted out of the reach of children or shall be fitted with a mesh guard to prevent access by children.
- (e) All electrical appliances shall be used only in accordance with the manufacturer's instructions. For appliances with heating elements, such as bottle warmers, crock pots, irons, coffee pots, or curling irons, neither the appliance nor any cord ~~the cord, if applicable,~~ shall be accessible to preschool-age children.
- (f) Electrical cords shall not be accessible to infants and toddlers. Extension cords, except as approved by the local fire inspector, shall not be used. Frayed or cracked electrical cords shall be replaced.
- (g) All materials used for starting fires, such as matches, matches and lighters, and accelerants shall be kept in locked storage. ~~storage or shall be stored out of the reach of children.~~
- (h) Smoking and the use of any product containing, made or derived from tobacco, including but not limited to e-Cigarettes, cigars, little cigars, smokeless tobacco, and hookah, is not permitted on the premises of the child care center, on vehicles used to transport children or during any off premise activities. Smoking is not permitted in space used by children when children are present. All smoking materials shall be kept in locked storage. ~~storage or out of the reach of children.~~
- (i) Signage regarding the smoking and tobacco restriction shall be posted at each entrance to the facility and on vehicles used to transport children.
- (j) The operator shall notify the parent of each child enrolled in the facility, in writing, of the smoking and tobacco restriction.

- (k) Fuel burning heaters, fireplaces, and floor ~~furnaces~~ furnaces, if applicable, shall be provided-fitted with a protective screen attached ~~securely~~ to supports to prevent access by children and to prevent objects from being thrown into them.
- (l) ~~Plants that are toxic shall not be in indoor or outdoor space that is used by or is accessible to children. Toxic plants shall be inaccessible to children. A list of toxic plants may be found on the Division's website at~~ http://ncchildcare.nc.gov/pdf_forms/form16b_bb.pdf.
- (m) Air conditioning units shall be located so that they are not accessible to children or shall be fitted with a mesh guard to prevent objects from being thrown into them.
- (n) Gas tanks and gas or charcoal grills shall be ~~located so they are not accessible-inaccessible~~ located so they are not accessible-inaccessible to the children or shall be in a protective enclosure. ~~enclosure or surrounded by a protective guard.~~
- (o) Cribs and playpens shall be placed so that the children occupying them shall not have access to cords or ropes, such as venetian blind cords.
- (p) Once a day, prior to initial use, the indoor and outdoor premises shall be checked for debris, vandalism, and broken equipment. Debris shall be removed and ~~disposed-disposed of~~.
- (q) Plastic bags, toys, and toy parts small enough to be swallowed, and materials that can be ~~easily torn apart-apart~~, such as foam rubber and styrofoam, shall not be accessible to children under three years of ~~age, except that age~~. However, styrofoam plates and larger pieces of foam rubber may be used for supervised art activities and styrofoam plates may be used for food service. Latex and rubber balloons-Jump ropes and rubber bands shall not be accessible to children under five years of ~~age~~ age without adult supervision. Balloons shall be prohibited for children of all ages.
- (r) When non-ambulatory children are in care, a crib or other device shall be available for evacuation in case of fire or other emergency. The crib or other device shall be fitted with wheels in order to be ~~easily~~ moveable, have a reinforced bottom, and shall be able to fit through the designated fire exit. For centers that do not meet NC Building Code for institutional occupancy, building code, and the exit is and have an exit more than eight inches above grade, the center shall develop a written plan to ensure a safe ~~and immediate~~ evacuation of the crib or other device. The North Carolina State Building Code is hereby incorporated by reference, inclusive of subsequent amendments. The current Code can be found online at http://www.ncdoi.com/OSFM/Engineering_and_Codes/Default.aspx?field1=Codes-Current_and_Past&user=State_Building_Codes. The operator shall physically demonstrate this written plan to the Division for review and approval. During the required fire, lockdown, or shelter-in-place drills, an evacuation crib or other device shall be used in the manner described in the Emergency Preparedness and Response Plan as defined in 10A NCAC 09 .0607(c).
- (s) A First Aid kit shall ~~always~~ be available on site-site and accessible to staff. Each staff member shall be aware of the location of the First Aid kit.
- (t) Fire drills shall be practiced monthly ~~in accordance with 10A NCAC 09 .0607(a) and records shall be maintained as required by 10A NCAC 09 .0302(d)(5)-.0302(f)(5).~~

~~(s)(u)~~ A "shelter in place drill" or "lockdown drill" as defined in 10A NCAC 09 .0102 shall be conducted at least every three months and records shall be maintained as required by 10A NCAC 09 .0302(8). ~~.0302(f)(8).~~

(v) Each center shall establish safe procedures for pick-up and delivery of children. These procedures shall be communicated to parents, and a copy shall be posted in the center where it can be seen by the parents.

(w) In child care centers, bio-contaminants shall be stored in locked areas, shall be removed from the premises or otherwise inaccessible to children.

Authority G.S. 110-88; 143B-168.3.

10A NCAC 09 .0605 OUTDOOR LEARNING ENVIRONMENT

~~(a) All equipment shall be in good repair and shall be maintained in useable condition. All commercially manufactured equipment shall be assembled and installed according to procedures specified by the manufacturer.~~

~~(b) Equipment shall be sturdy, stable, and free of hazards that are accessible to children during normal supervised play including sharp edges, lead based paint, loose nails, splinters, protrusions (excluding nuts and bolts on sides of fences), and pinch and crush points.~~

~~(c) All broken equipment shall be removed from the premises immediately or made inaccessible to the children.~~

(a) Outdoor play equipment shall be age and developmentally appropriate.

(b) Outdoor play structures purchased or installed on or after September, 2017 the provider shall maintain manufacturer's instructions on file or accessible.

(c) Separate play areas or time schedules shall be provided for children under two years of age unless fewer than 15 children are in care.

(d) If a facility shares playground space with another facility that serves children, a separate play area or time schedule shall be provided for each facility.

~~(d)(e)~~ Children shall not be allowed to play on outdoor equipment that is too hot to touch.

(f) Children shall not be allowed to be bare-footed while outdoors if equipment or surfacing is too hot to touch.

~~(e)(g)~~ Any openings in equipment, steps, decks, ~~and handrails~~ handrails, and fencing shall be smaller than 3 ½ inches or greater than 9 inches to prevent entrapment.

~~(f)(h)~~ All upright angles shall be greater than 55 degrees to prevent entrapment and entanglement.

~~(g)(i)~~ The outdoor play area shall be protected by a fence or other protection. The height shall be a minimum of four feet and the top of the fence shall be free of protrusions. The requirement disallowing protrusions on the tops of fences shall not apply to fences six feet high or above. The fencing shall exclude fixed bodies of water such as ditches, quarries, canals, excavations, and fish ponds. Gates to the fenced outdoor play area shall remain securely closed while children occupy the area.

~~(h)(j)~~ All stationary outdoor equipment more than 18 inches high shall be installed over protective surfacing. Footings which anchor equipment shall not be exposed. Loose surfacing material shall not be installed over concrete. Acceptable materials to be

used for surfacing include: wood mulch, double shredded bark mulch, uniform wood chips, fine sand, coarse sand, and pea gravel. ~~Other materials that have been certified by the manufacturer to be shock absorbing protective material in accordance with the American Society for Testing and Materials (ASTM) Standard F1292, may be used only if installed, maintained, and replaced according to the manufacturer's instructions.~~ Pea gravel shall not be used if the area will be used by children under three years of age. The depth of the surfacing that is required shall be based on the critical height of the equipment. The critical height is defined as the maximum height a child may climb, sit, or stand.

- (1) Equipment with a critical height of five feet or less shall have six inches of any of the surfacing materials listed.
- (2) Equipment with a critical height of more than five feet but less than seven feet shall have six inches of any of the surfacing materials listed, except for sand.
- (3) Equipment with a critical height of seven feet to 10 feet shall have nine inches of any of the surfacing materials listed, except for sand.
- (4) When sand is used as a surfacing material for equipment with a critical height of more than five feet, 12 inches is required.

(k) Other materials that have been certified by the manufacturer to be shock-absorbing protective material in accordance with the American Society for Testing and Materials (ASTM) Standard F1292, may be used only if installed, maintained, and replaced according to the manufacturer's instructions.

~~(i)(l)~~ The area required to have protective surfacing is the area under and around the equipment where the child is likely to fall and it is called the fall zone. The area for fall zones is as follows:

- (1) For stationary outdoor equipment used by children under two years of age, the protective surfacing shall extend beyond the external limits of the equipment for a minimum of three feet, except that protective surfacing is only required at all points of entrance and exit for any structure that has a protective barrier.
- (2) For stationary outdoor equipment used by children two years of age or older, the protective surfacing shall extend beyond the external limits of the equipment for a minimum of six feet.

~~(i)(m)~~ Exceptions to Paragraph ~~(i)(l)~~ of this Rule are as follows:

- (1) Fall zones may overlap around spring rockers, and around equipment that is more than 18 but less than 30 inches in height. If there are two adjacent structures and one is more than 18 but less than 30 inches in height, the protective surfacing shall extend a minimum of nine feet between the two structures.
- (2) Swings shall have protective surfacing that extends two times the length of the pivot point to the surface below. The surfacing shall be to the front and rear of the swing.
- (3) Tot swings shall have protective surfacing that extends two times the length of the pivot point

to the bottom of the swing seat. The surfacing shall be to the front and rear of the swing. Tot swings are defined as swings with enclosed seats.

- (4) Tire swings shall have protective surfacing that extends a distance of six feet plus the measurement from the pivot point to the swing seat and six feet to the side of the support structure.

~~(4)(n)~~ Swing seats shall be made of plastic or soft or flexible material.

~~(4)(o)~~ Elevated platforms shall have a guardrail or protective barrier, depending upon the height of the platform and the age of children that will have access to the piece of equipment. Guardrails shall prevent inadvertent or unintentional falls off the platform. The critical height for a platform with a guardrail is the top of the guardrail. Protective barriers shall prevent children from climbing over or through the barrier. The critical height for a platform with a protective barrier is the platform surface. All sides of platforms shall be protected except for the area which allows entry or exit. Measurements for the guardrails and protective barriers are stated below:

- (1) Equipment used exclusively by children under two years of age:

- (A) Protective Barriers – an elevated surface that is more than 18 inches above the underlying surface shall have a protective barrier or protective surfacing. The minimum height of the top surface of the protective barrier shall be 24 inches.

- (B) Maximum Height – the maximum height of a platform or elevated play surface shall be no greater than 32 inches.

- (2) Equipment used exclusively by children two years of age up to school age:

- (A) Guardrails - an elevated surface that is more than 20 inches and no more than 30 inches above the underlying surface shall have a guardrail. The minimum height of the top surface of the guardrail shall be 29 inches and the lower edge shall be no more than 23 inches above the platform.

- (B) Protective Barriers - an elevated surface that is more than 30 inches above the underlying surface shall have a protective barrier. The minimum height of the top surface of the protective barrier shall be 29 inches.

- (3) Equipment used by children two years of age and older:

- (A) Guardrails - an elevated surface that is more than 20 inches and no more than 30 inches above the underlying surface shall have a guardrail. The minimum height of the top surface of

the guardrail shall be 38 inches and the lower edge shall be no more than 23 inches above the platform.

- (B) Protective Barriers - an elevated surface that is more than 30 inches above the underlying surface shall have a protective barrier. The minimum height of the top surface of the protective barrier shall be 38 inches.

- (4) Equipment used exclusively by school-age children:

- (A) Guardrails - an elevated surface that is more than 30 inches and no more than 48 inches above the underlying surface shall have a guardrail. The minimum height of the top surface of the guardrail shall be 38 inches and the lower edge shall be no more than 26 inches above the platform.

- (B) Protective Barriers - an elevated surface that is more than 48 inches above the underlying surface shall have a protective barrier. The minimum height of the top surface of the protective barrier shall be 38 inches.

~~(m)(p)~~ Composite structures that were installed between January 1, 1989 and January 1, 1996 according to manufacturer's instructions that met existing safety standards for playground equipment at the time of installation and received approval from the Division, may continue to be used.

~~(m)(q)~~ Following completion of playground safety training as required by Rule .0705(e)-.1102(e) of this Chapter, a monthly playground inspection shall be conducted by ~~a trained individual~~ an individual trained in playground safety requirements. A trained administrator or staff person shall make a record of each inspection using a playground inspection checklist provided by the Division. The checklist shall be signed by the person who conducts the inspection and shall be maintained for 12 months in the center's files for review by a representative of the Division.

(r) Trampolines are prohibited.

(s) Inflatables are prohibited except when used during a special event such as a celebration, festival, party, or family engagement event. A qualified staff member shall be able to hear and see all children using inflatables at all times. For purposes of this Rule, an inflatable shall mean an air-filled structure designed to allow users to bounce, slide, or climb in. The inflatable device uses air pressure from one or more blowers to maintain its shape. Examples include but are not limited to bounce houses, moon walkers, giant slides, and bouncers.

Authority G.S. 110-85; 110-91(6); 143B-168.3.

10A NCAC 09 .0606 SAFE SLEEP PRACTICES

(a) Each center licensed to care for infants aged 12 months or younger shall ~~develop and adopt~~ develop, adopt, and comply with a written safe sleep policy that:

- (1) specifies that caregivers shall place infants aged 12 months or younger on their backs for sleeping, unless:
 - (A) for an infant aged six months or less, the center receives a written waiver of this requirement from a health care professional, or
 - (B) for an infant older than six months, the center receives a written waiver of this requirement from a health care professional, or a parent, or a legal guardian;
- (2) specifies ~~whether no pillows, wedges or other positioners, pillow-like toys, blankets, toys, bumper pads, quilts, sheepskins, loose bedding, towels and washcloths~~ or other objects may be placed with a sleeping infant aged 12 months or younger; ~~younger, and if so, specifies the number and types of allowable objects;~~
- (3) specifies that nothing shall be placed over the head or face of an infant aged 12 months or younger when the infant is laid down to sleep;
- (4) specifies that the temperature in the room where infants aged 12 months or younger are sleeping does not exceed 75° F;
- (5) specifies the means by which caregivers shall visually check on sleeping infants aged 12 months or younger;
- (6) specifies ~~the frequency with which that~~ caregivers shall visually check on sleeping infants aged 12 months or ~~younger; younger at least every 15 minutes;~~
- (7) specifies how caregivers shall document compliance with visually checking on sleeping infants aged 12 months or younger with such documents to be maintained for a minimum of one month; ~~and~~
- (8) specifies that pacifiers that attach to infant clothing shall not be used with sleeping infants;
- (9) specifies that infants aged 12 months or younger sleep alone in a crib, bassinet, mat, or cot;
- (10) specifies that infants aged 12 months or younger are prohibited from sleeping in sitting devices, including but not limited to, car safety seats, strollers, swings, and infant carriers. Infants that fall asleep in sitting devices shall be moved to appropriate sleep environments at the earliest time possible; and
- ~~(8)~~(11) specifies any other steps the center shall take to provide a safe sleep environment for infants aged 12 months or younger.

(b) The center shall post a copy of its safe sleep policy ~~or a~~ and poster about infant safe sleep practices in a prominent place in the infant room.

(c) A copy of the center's safe sleep policy shall be given and explained to the parents of an infant aged 12 months or younger on or before the first day the infant attends the center. The parent

shall sign a statement acknowledging the receipt and explanation of the policy. The acknowledgement shall contain:

- (1) the infant's name;
- (2) the date the infant first attended the center;
- (3) the date the center's safe sleep policy was given and explained to the parent; and
- (4) the date the parent signed the acknowledgement.

The center shall retain the acknowledgement in the child's record as long as the child is enrolled at the center.

(d) If a center amends its safe sleep policy, it shall give written notice of the amendment to the parents of all enrolled infants aged 12 months or younger at least 14 days before the amended policy is implemented. Each parent shall sign a statement acknowledging the receipt and explanation of the amendment. The center shall retain the acknowledgement in the child's record as long as the child is enrolled at the center.

~~(e) A health care professional's or parent's waiver of the requirement that all infants aged 12 months or younger be placed on their backs for sleeping as specified in Subparagraph (a)(1) of this Rule shall: A caregiver shall place a child age 12 months or younger on the child's back for sleeping, unless for a child age 6 months or younger, the operator obtains a written waiver from a health care professional; or for a child older than 6 months, the operator obtains a written waiver from a health care professional or parent. Waivers shall include the following:~~

- ~~(1) bear the infant's name and birth date;~~
- ~~(2) be signed and dated by the infant's health care professional or parent; and~~
- ~~(3) specify if a wedge is needed, why it is needed and how it should be used; and~~
- ~~(3)(4) specify the infant's authorized sleep positions; positions.~~

The center shall retain the waiver in the child's record as long as the child is enrolled at the center.

(f) For each infant with a waiver on file at the center as specified in Paragraph (e) of this Rule, a notice shall be posted for quick reference near the infant's crib, bassinet, ~~or play pen, pen, or mat~~ that shall include:

- (1) the infant's name;
- (2) the infant's authorized sleep position; and
- (3) the location of the signed waiver.

No confidential medical information, including an infant's medical diagnosis, shall be shown on the notice.

(g) A safe and comfortable bed, crib, or cot, equipped with a firm waterproof mattress at least four inches thick and a fitted sheet will be provided for each child who remains in the center after midnight. The top of bunk beds shall be used by school-age children only.

Authority G.S. 110-85; 110-91(15); 143B-168.3.

10A NCAC 09 .0607 EMERGENCY PREPAREDNESS AND RESPONSE

(a) For the purposes of this Rule, the Emergency Preparedness and Response in Child Care is a session training approved by the Division on creating an Emergency Preparedness and Response Plan and practicing, responding to and recovering from emergencies in child care facilities.

(b) Existing child care facilities shall have one person on staff who has completed the Emergency Preparedness and Response in Child Care training within two years from the effective date of this Rule and within four months of a trained person's last day of employment. New facilities must have a person on staff who has completed the Emergency Preparedness and Response in Child Care training within one year of the effective date of the initial license. Documentation of completion of the training shall be maintained in the individual's personnel ~~file~~ file or in a file designated for emergency preparedness and response plan documents.

(c) Upon completion of the Emergency Preparedness and Response in Child Care training, the trained staff shall develop the Emergency Preparedness and Response Plan. The Emergency Preparedness and Response Plan means a written plan that addresses how a child care facility will respond to both natural and man-made disasters, such as fire, tornado, flood, power failures, chemical spills, bomb threats, earthquakes, blizzards, nuclear disasters, or a dangerous person or persons in the vicinity, to ensure the safety and protection of the children and staff. This Plan must be on a template provided by the Division available at <https://rmp.nc.gov/portal/#>, and completed within four months of completion of the Emergency Preparedness and Response in Child Care training.

(d) The Emergency Preparedness and Response Plan shall include:

- (1) written procedures for accounting for all in attendance including:
 - (A) the location of the children, staff, volunteer and visitor attendance lists; and
 - (B) the name of the person(s) responsible for bringing the lists in the event of an emergency.
- (2) a description for how and when children shall be transported;
- (3) methods for communicating with parents and emergency personnel or law enforcement;
- (4) a description of how children's nutritional and health needs will be met;
- (5) the relocation and reunification process;
- (6) emergency telephone numbers;
- (7) evacuation diagrams showing how the staff, children, and any other individuals who may be present will evacuate during an emergency;
- (8) the date of the last revision of the plan;
- (9) specific considerations for non-mobile children and children with special needs; and
- (10) the location of a Ready to Go File. A Ready to Go File means a collection of information on children, staff and the facility, to utilize, if an evacuation occurs. The file shall include, but is not limited to, a copy of the Emergency Preparedness and Response Plan, contact information for individuals to pick-up children, each child's Application for Child Care, medication authorizations and instructions, any action plans for children with special health care needs, a list of any known food allergies of

children and staff, staff contact information, Incident Report forms, an area map, and emergency telephone numbers.

(e) The trained staff shall review the Emergency Preparedness and Response Plan annually, or when information in the plan changes, to ensure all information is current.

(f) All staff shall review the center's Emergency Preparedness and Response Plan during orientation and on an annual basis with the trained staff. Documentation of the review shall be maintained at the center in the individual's personnel file or in a file designated for emergency preparedness and response plan documents.

(g) All substitutes and volunteers counted in ratio who are present shall be informed of the child care center's Emergency Preparedness and Response Plan and its location. Documentation of this notice shall be maintained in the individual personnel ~~files~~ files or in a file designated for emergency preparedness and response plan documents.

Authority G.S. 110-85.

10A NCAC 09 .0608 PREVENTION OF SHAKEN BABY SYNDROME AND ABUSIVE HEAD TRAUMA

(a) Each child care center licensed to care for children up to five years of age shall develop and adopt policies to prevent shaken baby syndrome and abusive head trauma prior to licensure. The policy shall include the following:

- (1) How to recognize, respond to, and report the signs and symptoms of shaken baby syndrome and abusive head trauma. Signs and symptoms include: irritability, difficulty staying awake, difficulty breathing, inability to lift the head, seizures, lack of appetite, vomiting, and bruises;
- (2) Strategies to assist staff members in coping with a crying, fussing, or distraught child;
- (3) Strategies to assist staff members understand how to care for infants;
- (4) Strategies to ensure staff members understand the brain development of children up to five years of age;
- (5) A list of prohibited behaviors that staff members shall follow in order to care for children in a developmentally appropriate manner. Prohibited behaviors shall include, but not be limited to, shaking a child, tossing a child into the air or into a crib, chair, or car seat, and pushing a child into walls, doors, and furniture; and
- (6) Resources to assist staff members and families in preventing shaken baby syndrome and abusive head trauma.

(b) Within 30 days of adopting the policy, the child care center shall review the policy with parents of currently enrolled children up to five years of age. A copy of the policy shall be given and explained to the parents of newly enrolled children up to five years of age on or before the first day the child receives care at the center. The parent shall sign a statement acknowledging the receipt and explanation of the policy. The acknowledgement shall contain the following:

- (1) The child's name;
- (2) The date the child first attended the center;
- (3) The date the operator's policy was given and explained to the parent;
- (4) The parent's name;
- (5) The parent's signature; and
- (6) The date the parent signed the acknowledgment.

The child care center shall obtain the parent's signature and the acknowledgement shall be kept in the child's file.

(c) If a child care center changes the policy at any time, the child care center shall give written notice of the change to the child's parent 14 days prior to the implementation of the new policy and the parent shall sign a statement that attests that a copy of the new policy was given to and discussed with him or her. The center shall obtain the parent's signature and this statement shall be kept in the child's file.

(d) For purposes of this Rule, "staff" includes the operator, additional caregivers, substitute providers, and uncompensated providers.

(e) Within 30 days of adopting the policy, the child care center shall review the policy with existing staff members who provide care for children up to five years of age. Each child care center shall review the policy with new staff members prior to the individual providing care to children. The acknowledgement of this review shall contain:

- (1) The individual's name;
- (2) The date the center's policy was given and explained to the individual;
- (3) The individual's signature; and
- (4) The date the individual signed the acknowledgment.

The child care center shall retain the acknowledgement in the staff member's file.

(f) If a child care center changes the policy at any time, the child care center shall review the revised policy with staff members 14 days prior to the implementation of the new policy. The individual shall sign a statement that attests that a copy of the new policy was given to and discussed with him or her. This statement shall be kept in the staff member's file.

Authority G.S. 143B-168.3.

SECTION .0700 - STAFF QUALIFICATIONS

10A NCAC 09 .0701 HEALTH STANDARDS FOR CHILD CARE PROVIDERS, SUBSTITUTE PROVIDERS, VOLUNTEERS, AND UNCOMPENSATED PROVIDERS

(a) Health and emergency information shall be obtained for staff members as specified in the chart below:

<u>Required for:</u>	<u>Item:</u>	<u>Due Date:</u>
Child care providers and uncompensated providers who are not substitute providers or volunteers as	Medical Report A statement obtained within 12 months of employment and signed by a health	Within 60 days of employment.

defined in 10A NCAC 09 .0102, including the director.	care professional that indicates that the person is emotionally and physically fit to care for children.	
All staff, including the director and individuals who volunteer more than once per week.	Tuberculin (TB) Test or Screening The results indicating the individual is free of active tuberculosis shall be obtained within the 12 months prior to the date of employment.	On or before first day of work.
Child care providers, including the director, uncompensated providers, substitute providers, and volunteers.	Emergency Information Form This shall include the name, address, and telephone number of the person to be contacted in case of an emergency, the responsible party's choice of health care professional, any chronic illness, any medication taken for that illness, and any other information that has a direct bearing on ensuring safe medical treatment for the individual.	On or before the first day of work. The emergency information shall be updated as changes occur and at least annually.
All staff, including the director.	Health Questionnaire	Annually following the initial medical statement.
Substitute providers and volunteers.	Health Questionnaire	On or before first day of work and annually thereafter.

(b) The Division, or the director of the child care center, may request an evaluation of a staff member's emotional and physical fitness to care for children when there is reason to believe that there has been deterioration in the staff member's emotional or physical fitness to care for children.

(c) A copy of the forms in the chart in Paragraph (a) of this Rule may be found on the Division's website at http://ncchildcare.nc.gov/providers/pv_provideforms.asp.

(d) Staff medical statements, proof of a tuberculosis test or screening, and completed health questionnaires shall be included in the staff member's individual personnel file in the center.

~~(a) All personnel, employed by a child care center, including the director, shall have on file within 60 days of the date of employment, a statement signed by a health care professional that indicates that the person is emotionally and physically fit to care for children. When submitted the medical statement shall not be older than 12 months.~~

~~(b) The Division, or the director of the child care center, may request another evaluation of an employee's emotional and physical fitness to care for children when there is reason to believe that there has been deterioration in the person's emotional or physical fitness to care for children.~~

~~(c) A test showing each employee, including the director, to be free of active tuberculosis is required prior to employment. The results indicating the individual is free of active tuberculosis shall be obtained within the 12 months prior to the date of employment.~~

~~(d) Each employee, including the director, shall also annually submit a medical statement from a health care professional, or must complete a health questionnaire giving information about the status of his/her health on a form provided by the Division.~~

~~(e) Staff medical statements, proof of a tuberculosis test, and completed health questionnaires shall be included in the employee's individual personnel file in the center.~~

~~(f) Emergency medical care information shall be on file for each individual staff person. That information shall include the name, address, and telephone number of the person to be contacted in case of an emergency, the responsible party's choice of health care professional, and preferred hospital; any chronic illness the individual has and any medication taken for that illness; and any other information that has a direct bearing on assuring safe medical treatment for the individual. This emergency medical care information shall be on file in the center on the staff person's first day of employment and shall be updated as changes occur and at least annually.~~

Authority G.S. 110-85; 110-91(1),(8),(9); 143B-168.3.

10A NCAC 09 .0702 STANDARDS FOR SUBSTITUTES, VOLUNTEERS

~~(a) In child care centers the substitute staff and volunteers who are counted in the child care staff/child ratio shall comply with the health standards contained in this Section.~~

~~(b) All substitutes and volunteers not included in the child care staff/child ratio shall complete the health questionnaire described in Rule .0701 of this Section prior to the first day of work and complete a health questionnaire annually thereafter as long as they continue to work in the center.~~

~~(c) A test showing each substitute and volunteer is free of active tuberculosis is required prior to the first day of work. The results of the test shall be obtained within the 12 months prior to employment or the beginning of the volunteer activity. This Paragraph applies only to individuals who volunteer more than once per week.~~

~~(d) The age of substitute staff and volunteers shall be verified prior to the first day of work by documenting the substitute staff or volunteer's date of birth in the individual's record. Any substitute teacher shall be at least 18 years old and literate.~~

~~(e) Emergency medical care information as described in Rule .0701(f) of this Section shall be on file for all substitutes and volunteers on the person's first day of work and shall be updated as changes occur and at least annually.~~

Authority G.S. 110-85; 110-91(1),(8),(9); 143B-168.3.

10A NCAC 09 .0703 GENERAL STATUTORY REQUIREMENTS

~~(a) Staff—Child care providers, substitute providers and uncompensated providers counted toward meeting the staff/child ratio requirements set forth in Rules .0712 and Rule .0713 of this Section shall meet the requirements of G.S. 110-91(8). No one under 18 years of age shall have full responsibility for or be left in charge of a group of children.~~

~~(b) Anyone who is at least 13 years of age, but less than 16 years of age, may work in a child care center on a volunteer basis, as long as he or she is supervised by and works with a required staff person who is at least 21 years of age, and also meets the health standards for volunteers found in Rule .0702 of this Section. No one younger than 16 years old shall be left alone with children nor counted toward meeting the required staff/child ratio.~~

(b) On or before the first day of work, the operator shall verify the age of substitute providers and volunteers and documentation of the substitute provider or volunteer's date of birth shall be maintained in the individual's personnel file in the center.

~~(c) The provisions of G.S. 110-90.2 which exclude persons with certain criminal records or personal habits or behavior which may be harmful to children from operating or being employed in a child care center are hereby incorporated by reference—reference, and shall also apply to any person on the premises with the operator's permission when the children are present. This exclusion does not include parents or other persons who enter the center only for the purpose of performing parental responsibilities; nor does it include persons who enter the center for brief periods for the purpose of conducting business with the operator and who are not left alone with the children.~~

~~(d) Within six months of an individual assuming lead teacher or child care administrator duties, each center shall maintain the following information in the individual's staff record:~~

- ~~(1) a copy of the credential certificate;~~
- ~~(2) a copy of notification from the Division that the individual meets the equivalency or that the individual does not meet the equivalency and must enroll in coursework;~~
- ~~(3) a dated copy of the request submitted by the individual to the Division for the assessment of equivalency status; status or the opportunity to test out of the credential coursework; or~~
- ~~(4) documentation of enrollment in credential coursework.~~

(e) If the individual does not yet meet the staff qualifications required by G.S. 110-91(8) when assuming lead teacher or administrative duties, the individual shall submit the following information to the Division within six months of assuming the duties: to the Division an application for equivalency on the lead teacher or child care administrator form provided by the Division, with documentation of completion of the coursework or credential to be considered for equivalency within six months of assuming

the duties. A copy of the form for lead teacher may be found on the Division's website at http://ncchildcare.nc.gov/pdf_forms/dcd-0169.pdf and for child care administrators at http://ncchildcare.nc.gov/pdf_forms/dcd-0173.pdf.

- (1) ~~a request to test out of credential coursework on a form provided by the Division; or~~
- (2) ~~application for equivalency on a form provided by the Division, with documentation of completion of the coursework or credential to be considered for equivalency as required by the Division.~~

(f) For centers with a licensed capacity of ~~three~~ 3 to 12 children, when an individual has responsibility both for administering the child care program and for planning and implementing the daily activities of a group of children, the requirements for lead teacher in this Section shall apply to this individual. If the program has more than one group of children, the requirement regarding lead teacher shall apply to each group of children.

Authority G.S. 110-85; 110-91(8); 143B-168.3.

10A NCAC 09 .0704 PRESERVICE REQUIREMENTS FOR CHILD CARE ADMINISTRATORS

(a) A child care administrator who has not met the staff qualifications required by G.S. 110-91(8) shall meet the requirements in this Rule prior to exercising any child caring responsibilities. ~~responsibilities as follows:~~

- (1) Have either a high school diploma or its equivalent; and
- (2) Have two years of full-time verifiable work experience in a child care center or early childhood work experience; or an undergraduate, graduate, or associate degree, with at least 12 semester hours in child development, child psychology, early childhood education or directly related field; or a Child Development Associate Credential; or completion of a community or technical college curriculum program in the area of child care or early childhood; or one year of full-time verifiable child care or early childhood work experience and a North Carolina Early Childhood Credential; and
- (3) Have verification of having successfully completed, or be currently enrolled in, two semester credit hours, or 32 clock hours, of training in the area of early childhood program administration; or, have one year experience performing administrative responsibilities; or

(b) ~~An~~ A child care administrator who does not meet the requirements of Paragraph (a) of this Rule may share the requirements in Paragraph (a) of this Rule with another individual, provided that prior to exercising child caring responsibilities, the individual who is responsible for planning and implementing the daily program at the center to comply with Sections .0500 and .0600 of this Subchapter Chapter shall be a full-time staff person member on-site who meets Subparagraphs (a)(1) and (2) of this

Rule, and the other individual shall meet Subparagraph (a)(3) of this Rule and be either on-site or off-site.

(c) Any person who is at least 21 years old and literate who was employed as an on-site child care administrator in a child care program on or before September 1, 1986, shall be exempt from the provisions of Paragraphs (a) and (b) of this Rule, as long as the person is employed by the same operator.

Authority G.S. 110-85; 110-91(8); 143B-168.3.

10A NCAC 09 .0705 SPECIAL TRAINING REQUIREMENTS

~~(a) At least one staff member shall be knowledgeable of and able to recognize common symptoms of illness.~~

~~(b) Staff who have completed a course in basic first aid, shall be present at all times children are present. First aid training shall be renewed on or before expiration of the certification or every three years, whichever is less. The number of staff required to complete the course is based on the number of children present as shown in the following chart:~~

Number of children present	Number of staff trained in first aid required
1-29	1 staff
30-79	2 staff
80 and above	3 staff

~~Verification of each required staff person's completion of this course shall be maintained in the person's individual personnel file in the center. The basic first aid course shall address principles for responding to emergencies, and techniques for handling common childhood injuries, accidents and illnesses such as choking, burns, fractures, bites and stings, wounds, scrapes, bruises, cuts and lacerations, poisoning, seizures, bleeding, allergic reactions, eye and nose injuries and sudden changes in body temperature.~~

~~(c) A first aid information sheet shall be posted in a prominent place for quick referral. An acceptable form may be requested free of charge from the North Carolina Child Care Health and Safety Resource Center.~~

~~(d) Each child care center shall have at least one person on the premises at all times, and at least one person who accompanies the children whenever they are off the premises, who has successfully completed certification in a cardiopulmonary resuscitation (CPR) course provided by either the American Heart Association or the American Red Cross or other organizations approved by the Division. Other organizations shall be approved if the Division determines that the courses offered are substantially equivalent to those offered by the American Red Cross. CPR training shall be renewed on or before the expiration of the certification or every two years, whichever is less. Successfully completed is defined as demonstrating competency, as evaluated by the instructor, in performing CPR. The course shall provide training in CPR appropriate for the ages of children in care. Documentation of successful completion of the course from the American Heart Association, the American Red Cross, or other organization approved by the Division shall be on file in the center.~~

~~(e) Staff shall complete at least four clock hours of training in safety. This training shall address playground safety hazards,~~

playground supervision, maintenance and general upkeep of the outdoor area, and age and developmentally appropriate playground equipment. Staff counted to comply with this Rule shall have six months from the date of employment, or from the date a vacancy occurs, to complete the required safety training. The number of staff required to complete this training shall be as follows:

- (1) In centers with a licensed capacity of less than 30 children, at least one staff person shall complete this training.
- (2) In centers with a licensed capacity of 30 or more children, at least two staff, including the administrator, shall complete this training.

(f) In centers that are licensed to care for infants ages 12 months and younger, the center director and any child care provider scheduled to work in the infant room, including volunteers counted in staff/child ratios, shall complete ITS SIDS training. ITS SIDS training shall be completed within four months of the individual assuming responsibilities in the infant room or as an administrator, and shall be completed again every three years from the completion of previous ITS SIDS training. Completion of ITS SIDS training may be included once every three years in the number of hours needed to meet annual in-service training requirements in Section .0700 of this Chapter. Prior to an individual assuming responsibility for the care of an infant, the center's safe sleep policy for infants shall be reviewed with the individual as required by Rule .0707(a) of this Section.

Authority G.S. 110-88; 110-91(1),(8); 143B-168.3.

10A NCAC 09 .0707 IN-SERVICE AND ORIENTATION TRAINING REQUIREMENTS

(a) Each center shall assure that each new employee who is expected to have contact with children receives a minimum of 16 clock hours of on-site training and orientation within the first six weeks of employment. This training and orientation shall include:

- (1) training in the recognition of the signs and symptoms of child abuse or neglect and in the employee's duty to report suspected abuse and neglect pursuant to G.S. 7B-301;
- (2) review of the center's operational policies, including the center's safe sleep policy for infants, the Emergency Preparedness and Response Plan, and the emergency medical care plan;
- (3) adequate supervision of children in accordance with 10A NCAC 09 .0714(f);
- (4) first-hand observation of the center's daily operations;
- (5) instruction in the employee's assigned duties;
- (6) instruction in the maintenance of a safe and healthy environment;
- (7) review of the center's purposes and goals;
- (8) review of the center's personnel policies;
- (9) review of the child care licensing law and rules;
- (10) an explanation of the role of State and local government agencies in the regulation of child care, their impact on the operation of the center, and their availability as a resource; and

- (11) an explanation of the employee's obligation to cooperate with representatives of State and local government agencies during visits and investigations.

(b) As part of the training required in Paragraph (a) of this Rule, each new employee shall complete, within the first two weeks of employment, six clock hours of the training referenced in Subparagraphs (a)(1), (a)(2), and (a)(3) of this Rule.

(c) The child care administrator and any staff who have responsibility for planning and supervising a child care facility, as well as staff who work directly with children, shall participate in in-service training activities annually, as follows:

- (1) persons with a four-year degree or higher advanced degree in a child care related field of study from a regionally accredited college or university shall complete five clock hours of training;
- (2) persons with a two-year degree in a child care related field of study from a regionally accredited college or university, or persons with a North Carolina Early Childhood Administration Credential or its equivalent shall complete eight clock hours of training;
- (3) persons with a certificate or diploma in a child care related field of study from a regionally accredited college or university, or persons with a North Carolina Early Childhood Credential or its equivalent shall complete 10 clock hours of training;
- (4) persons with at least 10 years documented, professional experience as a teacher, director, or caregiver in a licensed child care arrangement shall complete 15 clock hours of training; or
- (5) shall complete 20 clock hours of training.

(d) For staff listed in Subparagraphs (c)(1), (c)(2), (c)(3) and (c)(4) of this Rule, basic cardiopulmonary resuscitation (CPR) training required in Rule .0705 of this Section shall not be counted toward meeting annual in-service training. First aid training may be counted once every three years.

(e) If a child care administrator or lead teacher is enrolled in coursework to meet the staff qualification requirements in G.S. 110-91(8), the individual may choose to apply for completed coursework toward meeting the annual in-service training requirement.

(f) Any staff working less than 40 hours per week may choose the option for 20 hours of in-service training, or the training requirement may be prorated as follows:

WORKING HOURS PER WEEK	CLOCK HOURS REQUIRED
0-10	5
11-20	10
21-30	15
31-40	20

Authority G.S. 110-88; 110-91(11); 143B-168.3.

10A NCAC 09 .0710 PRESERVICE REQUIREMENTS FOR LEAD TEACHERS, TEACHERS AND AIDES

(a) If an individual already has a North Carolina Early Childhood Credential or its equivalent, none of the requirements of this Rule shall apply. If an individual does not have a North Carolina Early Childhood Credential or its equivalent, the requirements of this Rule shall be met.

(b) A lead teacher or a teacher shall be at least 18 years of age, have a high school diploma or its equivalent, and have at least one of the following:

- (1) One year of verifiable child care experience working in a child care center or two years of verifiable experience as a licensed family child care home operator; or
- (2) Successful completion of a two year high school program of Early Childhood Education in Family and Consumer Sciences Education; or

(3) Twenty hours of training in child development, which could include the North Carolina Early Childhood Credential coursework, within the first six months of employment in addition to the number of ~~annual inservice~~ on-going training hours required in Rule ~~.0707~~ .1103 of this ~~Section~~ Chapter.

~~(c) An aide is a person who assists the lead teacher or the teacher in planning and implementing the daily program, and shall be at least 16 years old and literate.~~

~~(d)(c)~~ Individuals employed prior to July 1, 1998 are exempted from the requirements of this Rule, as long as they remain employed by the same operator.

Authority G.S. 110-85; 110-91(8); 143B-168.3.

10A NCAC 09 .0711 PRESERVICE REQUIREMENTS FOR OTHER STAFF (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 09 .0712 STAFF/CHILD RATIOS FOR CENTERS WITH A LICENSED CAPACITY OF LESS THAN 30 CHILDREN

~~(a) The staff/child ratios and group sizes for a child care center with a licensed capacity of less than 30 children are as follows:~~

<u>Age of Children</u>	<u>Ratio Staff/Children</u>
0 to 12 Months	1/5 preschool children plus three additional school aged children
12 to 24 Months	1/6 preschool children plus two additional school aged children
2 to 13 Years	1/10
3 to 13 Years	1/12
All school aged	1/15

~~(1) When only one caregiver is required to meet the staff/child ratio, and children under two years of age are in care, that person shall not concurrently perform food preparation or other duties which are not direct child care responsibilities.~~

~~(2) When only one caregiver is required to meet the staff/child ratio, the operator shall select one of the following options for emergency relief:~~

- ~~(A) The center shall post the name, address, and telephone number of an adult who has agreed in writing to be available to provide emergency relief and who can respond within a reasonable period of time; or~~
- ~~(B) There shall be a second adult on the premises who is available to provide emergency relief.~~

~~(b) The staff/child ratios for a center located in a residence with a licensed capacity of three to 12 children when any preschool aged child is enrolled, or with a licensed capacity of three to 15 children when only school aged children are enrolled are as follows:~~

<u>Age of Children</u>	<u>Ratio Staff/Children</u>
0 to 12 Months	1/5 preschool children plus three additional school aged children
12 to 24 Months	1/6 preschool children plus two additional school aged children
2 to 13 Years	1/10
3 to 13 Years	1/12
All school aged	1/15

~~(c) The staff/child ratio applicable to a classroom shall be posted in that classroom in an area that parents are able to view at all times.~~

Authority G.S. 110-91(7); 143B-168.3.

10A NCAC 09 .0713 STAFF/CHILD RATIOS FOR CENTERS

(a) The staff/child ratios and group sizes for single-age groups of children in centers with a licensed capacity of 30 or more children shall be as follows:

<u>Age of Children</u>	<u>Ratio Staff/Children</u>	<u>Maximum Group Size</u>
0 to 12 Months	1/5	10
12 to 24 Months	1/6	12
2 to 3 Years	1/10	20
3 to 4 Years	1/15	25
4 to 5 Years	1/20	25

5 Years and Older	1/25	25
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- (b)(1) In any multi-age group situation, the staff/child ratio for the youngest child in the group shall be maintained for the entire ~~group-group~~ group;
- (c)(2) Children younger than two years old may be cared for in groups with older children for the first and last operating hour of the ~~day-day~~ day, provided the staff/child ratio for the youngest child in the group is ~~maintained-maintained~~ maintained;
- (d)(3) A child two years of age and older may be placed with children under one year of age when a physician certifies that the developmental age of the child makes this placement ~~appropriate-appropriate~~ appropriate;
- (e)(4) When determined to be developmentally appropriate by the operator and parent, a child age two or older may be placed one age level above his or her chronological age without affecting the staff/child ratio for that group. This provision shall be limited to one child per ~~group-group~~ and
- (f)(5) Except as provided in Paragraphs (c) and (d) Subparagraphs (2) and (3) of this Rule, Paragraph, children under one year of age shall be kept separate from children two years of age and over.
- (g) ~~Children between the ages of 12 months and 24 months shall not be grouped with older children unless all children in the group are less than three years old.~~
- (h)(6) When only one caregiver is required to meet the staff/child ~~ratio-ratio~~ and no children under two years of age are in care, that ~~person-caregiver~~ person may concurrently perform food preparation or other duties ~~which-that~~ are not direct child care responsibilities as long as supervision of the children as specified in ~~Rule .0714(f) of this Section-10A NCAC 09 .1801~~ is maintained.
- (i)(7) When only one caregiver is required to meet the staff/child ratio, the operator shall select one of the following options for emergency relief:
- (1)(A) ~~The-the~~ center shall post the name, address, and telephone number of an adult who has agreed in writing to be available to provide emergency relief and who can respond within a reasonable period of time; or
- (2)(B) ~~There-there~~ shall be a second adult on the premises who is available to provide emergency relief.
- (j)(8) Except as provided in Paragraph (h) Subparagraph (6) of this Rule, Paragraph, staff members and child care administrators who are counted in meeting the staff/child ratios as stated in this Rule shall not concurrently perform food preparation or other duties ~~which-that~~ are not direct child care responsibilities.
- (k) ~~The staff/child ratio applicable to a classroom shall be posted in that classroom in an area that parents are able to view at all times.~~

(b) The staff/child ratios for a center located in a residence with a licensed capacity of 3 to 12 children when any preschool-age child is enrolled, or with a licensed capacity of 3 to 15 children when only school-age children are enrolled, are as follows:

Age of Children	Ratio Staff/Children
0 to 12 Months	1/5 preschool children plus three additional school-age children
12 to 24 Months	1/6 preschool children plus two additional school-age children
2 to 13 Years	1/10
3 to 13 Years	1/12
All school-age	1/15

- (c)(c) The staff/child ratio applicable to a classroom shall be posted in that classroom in an area that parents are able to view at all times.
- (d) When only one caregiver is required to meet the staff/child ratio, and children under two years of age are in care, that person shall not concurrently perform food preparation or other duties that are not direct child care responsibilities.
- (e) When only one caregiver is required to meet the staff/child ratio, the operator shall select one of the following options for emergency relief:
- (1) the center shall post the name, address, and telephone number of an adult who has agreed in writing to be available to provide emergency relief and who can respond within a reasonable period of time; or
- (2) there shall be a second adult on the premises who is available to provide emergency relief.

Authority G.S. 110-85; 110-91(7); 143B-168.3.

10A NCAC 09 .0714 OTHER STAFFING REQUIREMENTS

- (a) Each child care center shall have ~~an a~~ a child care administrator on site on a regular basis. The child care administrator shall be responsible for monitoring the program and overseeing administrative duties of the center. This requirement may be met by having one or more persons on site who meet the requirements for ~~an a~~ a child care administrator according to the licensed capacity of the center. The following hourly requirements are based on ~~an the~~ the child care administrator's normal working schedule and may include times when the child care administrator may be off site due to administrative duties, illness, or ~~vacation-vacation~~ vacation;
- (1) Each center with a licensed capacity of less than 30 children shall have an administrator on site for at least 20 hours per week.
- (2) Each center with a licensed capacity of 30 to 79 children shall have an administrator on site for at least 25 hours per week.
- (3) Each center with a licensed capacity of 80 to 199 children shall have an administrator on site for at least 30 hours per week.

- (4) ~~Each center with a licensed capacity of 200 or more children shall have an administrator on site for at least 40 hours per week.~~

Licensed Capacity	Weekly On-Site Hours
<u>Less than 30 children</u>	<u>20</u>
<u>30-79 children</u>	<u>25</u>
<u>80-199 children</u>	<u>30</u>
<u>200 or more children</u>	<u>40</u>

(b) At least one person who meets the requirements for ~~an a child care~~ administrator or lead teacher as set forth in this Section shall be on site during the center's operating ~~hours~~ hours, except that a person who is at least 18 years old with at least a high school diploma or its equivalent and who has a minimum of one year's experience working with children in a child care center may be on duty at the beginning or end of the operating day provided that:

- (1) No more than 10 children are ~~present~~ present;
- (2) The staff person has worked in that center for at least three ~~months~~ months; and
- (3) The staff person knows and can apply the information received during the orientation training required in Rule .1101 of this Section. ~~center's operating policies and emergency procedures.~~

(c) At least one person who meets the requirements for a lead teacher shall be responsible for each group of children ~~as defined in Rule .0102 of this Chapter~~ except as provided in Paragraph (b) of this Rule. This requirement may be met by having one or more persons who meet the requirements for a lead teacher responsible for the same group of children. Each lead teacher shall be responsible for only one group of children at a time. Each group of children shall have a lead teacher in attendance for at least two-thirds of the total daily hours of operation, based on a normal working ~~schedule~~ schedule, and may include times when the lead teacher may not be in attendance due to circumstances such as illness or vacation.

~~(d) A teacher is a person who is responsible to the lead teacher and assists with planning and implementing the daily program.~~

~~(e)(d)~~ No aide or aides shall have responsibility for a group of children except as provided in Paragraph (b) of this Rule.

~~(f) Children shall be adequately supervised at all times. Adequate supervision shall mean that:~~

- ~~(1) Staff must be positioned in the indoor and outdoor environment to maximize their ability to hear or see the children at all times and render immediate assistance;~~
- ~~(2) Staff must interact with the children while moving about the indoor or outdoor area;~~
- ~~(3) Staff must know where each child is located and be aware of children's activities at all times;~~
- ~~(4) Staff must provide supervision appropriate to the individual age, needs and capabilities of each child; and~~
- ~~(5) All of the conditions in this Paragraph shall apply except when emergencies necessitate that direct supervision is impossible for brief periods of time. Documentation of emergencies~~

~~shall be maintained and available for review by Division representatives upon request.~~

~~(g)(e)~~ Nothing contained in this Rule Chapter shall be construed to preclude a "qualified person with a disability," as defined by G.S. 168A-3(9), or a "qualified individual with a disability," as defined by the Americans With Disabilities Act at 42 U.S.C. 12111(8), from working in a licensed child care facility.

~~(h) For groups of children aged two years or older, the staff/child ratio during nap time is considered in compliance if at least one person is either in each room or is visually supervising all the children and if the total number of required staff are on the premises and within calling distance of the rooms occupied by children.~~

~~(i) When a child is sleeping, bedding or other objects shall not be placed in a manner that covers the child's face.~~

Authority G.S. 110-85(1); 110-91(7),(8); 143B-168.3.

SECTION .0800 - HEALTH STANDARDS FOR CHILDREN

10A NCAC 09 .0801 APPLICATION FOR ENROLLMENT

(a) Each child in care shall have an individual application for enrollment completed and signed by the child's parent, as defined in 10A NCAC 09 .0102. ~~legal guardian, or full time custodian.~~ The completed, signed application shall be on file in the center on the first day the child attends and shall include the following information:

- ~~(1) The completed, signed application shall be on file in the center on the first day the child attends and shall remain on file until the child is no longer attending.~~
- ~~(2) The completed application shall include emergency medical information as specified in Rule .0802(b) of this Section.~~
- ~~(3) The completed application shall give the child's full name and indicate the name the child is to be called. In addition, the application shall include the child's date of birth and any allergies, particular fears, or unique behavior characteristics that the child has.~~
- ~~(4) The application shall include the names of individuals to whom the center may release the child as authorized by the person who signs the application.~~
- (1) emergency medical information as set forth in Rule .0802(b) of this Section;
- (2) the child's full name and the name the child is to be called;
- (3) the child's date of birth;
- (4) any allergies and the symptoms and type of response required for allergic reactions;
- (5) any health care needs or concerns, symptoms of and the type of response required for these health care needs or concerns;
- (6) particular fears or unique behavior characteristics that the child has; and

(7) the names of individuals to whom the center may release the child, as authorized by the person who signs the application.

(b) For any child with health care needs such as allergies, asthma, or other chronic conditions that require specialized health services, a medical action plan shall be attached to the application. The medical action plan shall be completed by the child's parent or a health care professional and may include the following:

- (1) a list of the child's diagnosis or diagnoses including dietary, environmental, and activity considerations that are applicable;
- (2) contact information for the health care professional(s);
- (3) medications to be administered on a scheduled basis; and
- (4) medications to be administered on an emergency basis with symptoms, and instructions.

The medical action plan shall be updated on an annual basis. Sample medical action plans may be found on the Division's website at

http://ncchildcare.nc.gov/providers/pv_provideforms.asp;

(c) Center administrators and staff shall release a child only to an individual listed on the application;

(d) The information contained in Subparagraphs (a)(1) through (a)(7) and Paragraph (b) of this Rule, shall be accessible to caregiving staff during the time the child is in care.

(e) Center administrators and staff shall use the information provided on the application to ensure that each individual child's needs are met during the time the child is in care.

Authority G.S. 110-88; 143B-168.3.

10A NCAC 09 .0802 EMERGENCY MEDICAL CARE

(a) Each child care center shall have a written plan which assures that emergency medical care is available or can be obtained for children. that sets forth in detail the steps to follow in the event of a child medical emergency. The plan shall be reviewed with all staff annually and whenever the plan is revised, during staff orientation with new staff and with all staff at least twice each year. This plan shall give the procedures to be followed to assure ensure that any child who becomes ill or is injured and requires medical attention while in care at the center center, or while participating in any activity provided or sponsored by the center, receives appropriate medical attention. The following information shall be included in the center's emergency medical care plan:

- (1) The name, address, and telephone number of a health care professional, community clinic, or local health department that is available to provide medical consultation;
- (2) The name, address, and telephone number of the emergency room to be used when the parent's or family's health care professional cannot be reached or when transporting the ill or injured child to the person's preferred hospital could result in serious delay in obtaining medical attention;

~~(3) Designation of a means of transportation always available for use in the event of a medical emergency;~~

~~(4)(1) The name of the person, person and his or her at least one alternate, at the center, responsible for determining which of the following is needed, carrying out that plan of action, and assuring ensuring that appropriate medical care is given; given, and determining which of the following is needed:~~

~~(A) Simple simple pediatric first aid given at the center for an injury or illness needing only minimal attention; and~~

~~(B) Advice from previously identified medical consultant in order to decide if care is to be given at the center or if the ill or injured child is to be transported to a designated medical resource; or~~

~~(C)(B) Immediate transportation of the child to a designated medical resource for appropriate treatment; calling 911 in accordance with pediatric CPR or pediatric First Aid training recommendations.~~

~~(5)(2) The name of the person and at least one alternate, person(s) at the center responsible for:~~

~~(A) Assuring ensuring that the signed authorization described in Paragraph (c)(d) of this Rule is taken with the ill or injured child to the medical facility;~~

~~(B) Accompanying accompanying the ill or injured child to the medical facility;~~

~~(C) Notifying notifying a child's parents or emergency contact person about the illness or injury and where the child has been taken for treatment;~~

~~(D) Notifying the medical facility about the ill or injured child being transported for treatment; and~~

~~(E)(D) Obtaining obtaining substitute staff, if needed, to maintain required staff/child ratio and adequate supervision of children who remain in the center; and~~

~~(6)(3) A statement giving the location of the telephone located on the premises which is in good working condition and is always available for use in case of emergency. Telephone numbers for the fire department, law enforcement office, emergency medical service, and poison control center shall be posted within sight of the telephone. A telephone located in an office in the center that is sometimes locked during the time the children are present shall not be designated for use in an emergency.~~

(b) At least one person identified as the person or alternate responsible for carrying out the plan of action and ensuring that appropriate medical care is given shall:

- (1) be on the premises at all times; and
- (2) accompany children for off premise activities.

~~(b)(c)~~ Emergency medical care information shall be on file for each individual child. That information shall include the name, address, and telephone number of the parent or other person to be contacted in case of an emergency, and the responsible party's choice of health care professional; professional and preferred hospital; any chronic illness ~~the individual has~~ and any medication taken for that illness; and any other information that has a direct bearing on ~~assuring~~ ensuring safe medical treatment for the child. This emergency medical care information shall be on file in the center on the child's first day of attendance and shall be updated as changes occur and at least annually.

~~(c)(d)~~ Each child's parent, legal guardian, or full-time custodian shall sign a statement authorizing the center to obtain medical attention for the child in an emergency. That statement shall be on file on the first day the child attends the center. It shall be easily accessible to staff so that it can be taken with the child whenever emergency medical treatment is necessary.

~~(d)(e)~~ The child care provider shall complete an A incident report shall be completed each time a child is injured or receives medical treatment by a health care professional, community clinic, or local health department, as a result of an incident occurring while the child is ~~at the child care center.~~ in care. This incident report shall include:

- (1) the child's name, date and time of incident, part of body injured, type of ~~injury,~~ injury;
- (2) the names of adult witnesses to ~~incident,~~ incident;
- (3) a description of how and where incident ~~occurred,~~ occurred;
- (4) the piece of equipment involved ~~(if any),~~ (if any);
- (5) any treatment ~~received,~~ received; and
- (6) the steps taken to prevent reoccurrence.

This report shall be signed by the person completing it and by the parent, and maintained in the child's file. When medical treatment is required a A copy of the incident report shall be mailed to a representative of the Division within seven calendar days after ~~treatment.~~ the incident. A copy of the form may be found on the Division's _____ website _____ at http://ncchildcare.nc.gov/pdf_forms/DCDEE-0058.pdf.

~~(e)(f)~~ An incident log shall be completed any time an incident report is completed. This log shall be cumulative and maintained in a separate file and shall be available for review by a representative of the Division. This log shall be completed on a form provided by the Division. A copy of the log may be found on the Division's website at http://ncchildcare.nc.gov/pdf_forms/incident_log_i.pdf.

(g) A pediatric First Aid information sheet shall be posted in a prominent place for quick referral. An acceptable form may be requested free of charge from the North Carolina Child Care Health and Safety Resource Center at 1-800-367-2229.

Authority G.S. 110-85; 110-91(1),(9); 143B-168.3.

10A NCAC 09 .0803 ADMINISTERING MEDICATION

The following provisions apply to the administration of medication in child care centers:

- (1) No prescription or over-the-counter medication and no topical, non-medical ointment, repellent, lotion, ~~cream~~ cream, fluoridated toothpaste, or powder shall be administered to any child:
 - (a) without written authorization from the child's parent;
 - (b) without written instructions from the child's parent, physician or other health professional;
 - (c) in any manner not authorized by the child's parent, physician or other health professional;
 - (d) after its expiration date; ~~or~~
 - (e) for non-medical reasons, such as to induce ~~sleep,~~ sleep; or
 - (f) with a known allergy to the medication.
- (2) Prescribed medications:
 - (a) shall be stored in the original containers in which they were dispensed with the pharmacy labels specifying:
 - (i) the child's name;
 - (ii) the name of the medication or the prescription number;
 - (iii) the amount and frequency of dosage;
 - (iv) the name of the prescribing physician or other health professional; and
 - (v) the date the prescription was filled; or
 - (b) if pharmaceutical samples, shall be stored in the manufacturer's original packaging, shall be labeled with the child's name, and shall be accompanied by written instructions specifying:
 - (i) the child's name;
 - (ii) the names of the medication;
 - (iii) the amount and frequency of dosage;
 - (iv) the signature of the prescribing physician or other health professional; and
 - (v) the date the instructions were signed by the physician or other health professional; ~~and~~
 - (c) shall be administered only to the child for whom they were ~~prescribed,~~ prescribed; and
 - (d) shall be administered according to the prescription, using amount and

- frequency of dosage specified on the label.
- (3) A parent's written authorization for the administration of a prescription medication described in Item (2) of this Rule shall be valid for the length of time the medication is prescribed to be taken.
- (4) Over-the-counter medications, such as cough syrup, decongestant, acetaminophen, ibuprofen, topical antibiotic cream for abrasions, or medication for intestinal disorders shall be stored in the manufacturer's original packaging on which the child's name is written or labeled and shall be accompanied by written instructions specifying:
- (a) the child's name;
 - (b) the names of the authorized over-the-counter medication;
 - (c) the amount and frequency of the ~~dosages;~~ dosages, which shall not exceed the amount and frequency of the dosages on the manufacturer's label;
 - (d) the signature of the parent, physician or other health professional; and
 - (e) the date the instructions were signed by the parent, physician or other health professional.
- The permission to administer over-the-counter medications is valid for up to 30 days at a time, except as allowed in Items (6), (7), (8) and (9) of this Rule. Over-the-counter medications shall not be administered on an "as needed" basis, other than as allowed in Items (6), (7), (8) and (9) of this Rule.
- (5) When questions arise concerning whether any medication should be administered to a child, the caregiver may decline to administer that medication without signed, written dosage instructions from a licensed physician or authorized health professional.
- (6) A parent may give a caregiver standing authorization for up to six months to administer prescription or over-the-counter medication to a child, when needed, for chronic medical ~~conditions~~ conditions, such as asthma, and for allergic reactions. The authorization shall be in writing and shall contain:
- (a) the child's name;
 - (b) the subject medical conditions or allergic reactions;
 - (c) the names of the authorized over-the-counter medications;
 - (d) the criteria for the administration of the medication;
 - (e) the amount and frequency of the dosages;
 - (f) the manner in which the medication shall be administered;
 - (g) the signature of the parent;
 - (h) the date the authorization was signed by the parent; and
 - (i) the length of time the authorization is valid, if less than six months.
- (7) A parent may give a caregiver standing authorization for up to 12 months to apply over-the-counter, topical ointments, topical teething ointment or gel, insect repellents, lotions, creams, fluoridated toothpaste, and powders --- such as sunscreen, diapering creams, baby lotion, and baby powder --- to a child, when needed. The authorization shall be in writing and shall contain:
- (a) the child's name;
 - (b) the names of the authorized ointments, repellents, lotions, creams, fluoridated toothpaste, and powders;
 - (c) the criteria for the administration of the ointments, repellents, lotions, creams, fluoridated toothpaste, and powders;
 - (d) the manner in which the ointments, repellents, lotions, creams, fluoridated toothpaste, and powders shall be applied;
 - (e) the signature of the parent;
 - (f) the date the authorization was signed by the parent; and
 - (g) the length of time the authorization is valid, if less than 12 months.
- (8) A parent may give a caregiver standing authorization to administer a single weight-appropriate dose of acetaminophen to a child in the event the child has a fever and a parent cannot be reached. The authorization shall be in writing and shall contain:
- (a) the child's name;
 - (b) the signature of the parent;
 - (c) the date the authorization was signed by the parent; and
 - (d) the date that the authorization ends or a statement that the authorization is valid until withdrawn by the parent in writing.
- (9) A parent may give a caregiver standing authorization to administer an over-the-counter medication as directed by the North Carolina State Health Director or designee, when there is a public health emergency as identified by the North Carolina State Health Director or designee. The authorization shall be in writing, may be valid for as long as the child is enrolled, and shall contain:
- (a) the child's name;
 - (b) the signature of the parent;
 - (c) the date the authorization was signed by the parent; and

- (d) the date that the authorization ends or a statement that the authorization is valid until withdrawn by the parent in writing.
- (10) Pursuant to G.S. 110-102.1A, a caregiver may administer medication to a child without parental authorization in the event of an emergency medical condition when the child's parent is unavailable, providing the medication is administered with the authorization and in accordance with instructions from a bona fide medical care provider.
- (11) A parent may withdraw ~~his or her~~ written authorization for the administration of medications at any time in writing.
- (12) Any medication remaining after the course of treatment is completed or after authorization is withdrawn shall be returned to the child's parents. Any medication the parent fails to retrieve within 72 hours of completion of treatment, or withdrawal of authorization, shall be discarded.
- (13) Any time prescription or over-the-counter medication is administered by center personnel to children receiving care, the following information shall be recorded: including any time medication is administered in the event of an emergency medical condition without parental authorization as permitted by G.S. 110-102.1A,
- (a) the child's ~~name~~, name;
 - (b) the ~~date~~, date the medication was given;
 - (c) the time the medication was given; ~~time~~;
 - (d) the amount and the type of medication given; ~~given~~; and
 - (e) the name and signature of the person administering the medication. ~~medication shall be recorded.~~
- This information shall be noted on a medication permission slip, or on a separate form developed by the provider which includes the required information. This information shall be available for review by a representative of the Division during the time period the medication is being administered and for at least six months after the medication is administered. No documentation shall be required when items listed in Item (7) of this Rule are applied to children.
- (14) If medication is administered in error, whether administering the wrong dosage, giving to the wrong child, or giving the incorrect type of medicine, the child care facility shall:
- (a) call 911 in accordance with pediatric CPR or pediatric First Aid training recommendations;
 - (b) notify the center director;
 - (c) contact the child's parent immediately;
 - (d) observe the child closely; and
 - (e) document the medication error in writing, including:
 - (i) the child's name and date of birth;
 - (ii) the type and dosage of medication administered;
 - (iii) the name of the person who administered the medication;
 - (iv) the date and time of the error;
 - (v) the signature of the child care administrator, the parent and the staff member who administered the medication;
 - (vi) the actions taken by the center following the error; and
 - (vii) the actions that will be taken by the center to prevent a future error.
- This documentation shall be maintained in the child's file.

Authority G.S. 110-85; 110-91(1),(9); 143B-168.3.

10A NCAC 09 .0804 INFECTIOUS AND CONTAGIOUS DISEASES

(a) Centers may provide care for a mildly ill child who has a Fahrenheit temperature of less than 100 degrees axillary, or 101 degrees orally, and who remains capable of participating in routine group activities; so long as and the child ~~shall~~ does not have any of the following:

- (1) the sudden onset of diarrhea characterized by an increased number of bowel movements compared to the child's normal pattern and with increased stool water;
- (2) two or more episodes of vomiting within a 12 hour period;
- (3) a red eye with white or yellow eye discharge, until 24 hours after treatment has started;
- (4) scabies or lice;
- (5) known chicken pox or a rash suggestive of chicken pox;
- (6) tuberculosis, until a health professional states that the child is not infectious;
- (7) strep throat, until 24 hours after treatment has started;
- (8) pertussis, until five days after treatment has started;
- (9) hepatitis A virus infection, until one week after onset of illness or jaundice;
- (10) impetigo, until 24 hours after treatment has started; or
- (11) a physician's or other health professional's written order that the child be separated from other children.

(b) Centers that choose to provide care for mildly ill children shall:

- (1) follow all procedures to prevent the spread of communicable diseases described in 15A NCAC 18A .2800, "Sanitation of Child Care Centers", as adopted by the Commission for Public Health;
- (2) separate from the other children any child who becomes ill while in care or who is suspected of having a communicable disease or condition other than as described in Paragraph (a) of this Rule until the child leaves the center;
- (3) notify all parents at enrollment that the center will be providing care for mildly ill children;
- (4) notify the parent of any child who becomes ill or who is suspected of being ill with a communicable condition other than as described in Paragraph (a) of this Rule that the child is ill and shall leave the center;
- (5) notify the parent of any ~~sick~~ mildly ill child in care if the child's condition worsens while the child is in care.

(c) A copy of "Caring for Our Children: Appendix A" shall be located in the child care facility for referral regarding common signs and symptoms of illness. The book is incorporated by reference, including subsequent amendments and editions, and is available free of charge online at <http://cfoc.nrckids.org/>.

Authority G.S. 110-85; 110-91(1); 143B-168.3.

10A NCAC 09 .0806 TOILETING, CLOTHING AND LINENS

- (a) Diapers ~~will~~ shall be changed whenever they become soiled or wet and not on a shift basis.
- (b) ~~There must be~~ The center shall ensure that clean clothes are available in the event that a child's clothes become wet or soiled, so that when the clothes worn by a child becomes wet or soiled the child has clean clothes to put on. The change of clothing may be provided by the center or by the child's parents.
- (c) A supply of clean linen must be on hand so that linens can be changed whenever they become soiled or wet.
- (d) Staff shall not force children to use the toilet and staff shall consider the developmental readiness of each ~~individual~~ child during when toilet training.
- (e) Staff shall provide assistance to each child to ensure proper hygiene, as needed.

Authority G.S. 110-85; 110-91(1); 143B-168.3.

SECTION .0900 - NUTRITION STANDARDS

10A NCAC 09 .0901 GENERAL NUTRITION REQUIREMENTS

- (a) Meals and snacks served to children in a child care center shall comply with the Meal Patterns for Children in Child Care Programs from the United States Department of Agriculture (USDA) which are based on the recommended nutrient intake judged by the National Research Council to be adequate for maintaining good nutrition. The types of food, number and size of servings shall be appropriate for the ages and developmental levels of the children in care. The Meal Patterns for Children in

Child Care Programs are incorporated by reference and include subsequent amendments. A copy of the Meal Patterns for Children in Child Care Programs is available free of charge from the Division at the address in 10A NCAC 09 .0102(2). Rule .0102(1) of this Chapter.

- (b) Menus for nutritious meals and snacks shall be planned at least one week in advance. At least one dated copy of the current week's menu shall be posted where it can be seen easily by parents and food preparation staff when food is prepared or provided by the ~~center, center, except in centers with a licensed capacity of 3 to 12 children located in a residence.~~ A variety of food shall be included in meals and snacks. Any substitution shall be of comparable food value and shall be recorded on the ~~menu, menu~~ prior to the meal or snack being served.

(c) When children bring their own food for meals or snacks to the center, if the food does not meet the nutritional requirements specified in Paragraph (a) of this Rule, the center must provide additional food necessary to meet those requirements. ~~requirements unless the child's parent or guardian opts out of the supplemental food provided by the center as set forth in G.S. 110-91(2)h.1. A statement acknowledging the parental decision to opt out of the supplemental food provided by the center signed by the child's parent or guardian shall be kept on file at the center. Opting out means that the center will not provide any food or drink so long as the child's parent or guardian provides all meals, snacks, and drinks scheduled to be served at the center's designated times. If the child's parent or guardian has opted out but does not provide all food and drink for the child, the center shall provide supplemental food and drink as if the child's parent or guardian had not opted out of the supplemental food program.~~

(d) A child's parent may opt out of the supplemental food provided by the center as set forth in G.S. 110-91(2)h.1. When a child's parent opts out of the supplemental food provided by the center, a signed statement acknowledging the parental decision shall be kept in the child's file at the center and a copy provided to the parent. For purposes of this Rule, opting out means that:

- (1) the center shall not provide any food or drink so long as the child's parent or guardian provides all meals, snacks, and drinks scheduled to be served at the center's designated times;
- (2) the ability to opt out of specific meals or days based on menu options is not available;
- (3) if a child requests specific foods being served to other children, but the parent has opted out, the center shall not serve supplemental food; and
- (4) if the child's parent or guardian has opted out but does not provide all meals and snacks for the child, the center shall replace the missing meal or snack as if the child's parent or guardian had not opted out of the supplemental food program.

~~(d)~~(e) Drinking water must be freely available to children of all ages. Drinking fountains or individual drinking utensils shall be provided. When a private water supply is used, it must be tested by and meet the requirements of the Commission for Public Health.

~~(e)~~(f) The child care provider ~~will provide~~ shall serve only the following beverages:

- (1) ~~breast milk;~~ milk, as specified in Paragraph (k) of this Rule;
- (2) formula;
- (3) water;
- (4) unflavored whole milk, for children ages 12-24 months;
- (5) unflavored skim or lowfat milk for children ~~two years and older; or~~ 25 months through five years old;
- (6) flavored or unflavored skim or low-fat milk for children older than five years; or
- ~~(6)(7)~~ 100 percent fruit juice, limited to 6 ounces per ~~day.~~ day, for all ages.

~~(f)(g)~~ Children's special diets or food allergies shall be posted where it can be easily seen in the food preparation area and in the child's eating area.

~~(g)(h)~~ The food required by special diets for medical, ~~religious~~ religious, or cultural reasons, or parental preferences, may be provided by the center or may be brought to the center by the parents. If the diet is prescribed by a health care professional, a statement signed by the health care professional shall be on file at the center and written instructions shall be provided by the child's parent, health care professional, or a licensed dietitian/nutritionist. If the diet is not prescribed by a health care professional, written instructions shall be provided by the child's parent and shall be on file at the center.

~~(h)(i)~~ Food that does not meet the nutritional requirements specified in Paragraph (a) of this Rule, such as ~~cookies, chips, cupcakes, cakes, donuts, etc.,~~ shall ~~be available only be offered~~ for special occasions such as holidays, birthdays, and other celebrations.

~~(i)(j)~~ Staff shall role model appropriate eating behaviors by consuming only food or beverages that meet the nutritional requirements specified in Paragraph (a) of this Rule in the presence of children in care.

~~(j)(k)~~ Parents shall be allowed to provide breast milk for their children. Accommodations for breastfeeding mothers shall be provided that include seating and an electrical outlet in a place

other than a bathroom that is shielded from view by staff and the public which may be used by mothers while they are breastfeeding or expressing milk.

Authority G.S. 110-85; 110-91(2); 143B-168.3.

10A NCAC 09 .0902 GENERAL NUTRITION REQUIREMENTS FOR INFANTS

(a) The parent or health care provider of each child under 15 months of age shall provide the center an individual written feeding ~~schedule plan~~ for the child. This ~~schedule plan~~ must be followed at the center. This ~~schedule plan~~ must include the child's name, be signed by the parent or health care provider, and be dated when received by the center. Each infant's ~~schedule plan~~ shall be modified in consultation with the child's parent or health care provider to reflect changes in the child's needs as he or she develops. The feeding instructions for each infant shall be posted for quick reference by the caregivers. ~~caregivers, except in centers licensed for three to 12 children located in a residence.~~

(b) Each infant will be held for bottle feeding until able to hold his or her own bottle. Bottles will not be propped. Each child will be held or placed in feeding chairs or other age-appropriate seating apparatus to be fed. The feeding chair or other seating apparatus shall be easily disassembled for cleaning purposes.

(c) Infants shall not be served juice in a bottle without a prescription or written statement on file from a health care professional or licensed dietitian/nutritionist.

(d) Each infant shall be served only bottles labeled with their individual name.

Authority G.S. 110-85; 110-91(2); 143B-168.3.

10A NCAC 09 .0903 REQUIREMENTS FOR CHILDREN AGED 24 MONTHS AND OLDER

Meals and snacks shall be planned according to the number of hours a child is in the center. Children shall be provided a meal or snack a minimum of every four hours. These rules apply in all situations except during sleeping hours and nighttime care:

<u>Hours Child Is In Care</u>	<u>Age of Child</u>	<u>Snack and Meal Requirement</u>
<u>At least 2 hours but less than 4 hours</u>	<u>Preschool-age children</u>	<u>1 snack, unless child is present during the time a meal is being served</u>
<u>Any hours in care</u>	<u>School-age children</u>	<u>1 snack, unless child is present during the time a meal is being served</u>
<u>At least 4 hours but less than 6 hours</u>	<u>All Children</u>	<u>1 meal equal to at least 1/3 of the child's daily food needs</u>
<u>At least 6 hours but less than 12 hours</u>	<u>All Children</u>	<u>2 meals and 1 snack OR 2 snacks and 1 meal equal to at least 1/2 of the child's daily food needs</u>
<u>More than 12 hours</u>	<u>All Children</u>	<u>2 snacks and 2 meals equal to at least 2/3 of the child's daily food needs</u>
<u>Second Shift (approximately 3:00 p.m. to 11:00 p.m.)</u>	<u>All Children</u>	<u>1 meal</u>

- (1) ~~For preschool aged children in the center at least two hours but less than four hours, and for all school aged children, one snack shall be provided unless the child is present during the~~

- ~~time the center is serving a meal, in which case, a meal shall be provided.~~
- (2) ~~For children in the center at least four hours, but less than six hours, one meal shall be provided~~

- equal to at least one third of the child's daily food needs.
- (3) ~~For children in the center at least six hours, but less than twelve hours, two meals and one snack or two snacks and one meal shall be provided equal to at least one half of the child's daily food needs.~~
 - (4) ~~For children in the center more than twelve hours, two snacks and two meals shall be provided which are equal to at least two thirds of the child's daily food needs.~~
 - (5) ~~No child shall go more than four hours without a meal or a snack being provided.~~
 - (6) ~~A nutritious evening meal must be provided to each child who receives second shift care (from approximately 3:00 p.m. to 11:00 p.m.) and who is present when the regularly scheduled evening meal is served.~~

Authority G.S. 110-85; 110-91(2); 143B-168.3.

SECTION .1000 - TRANSPORTATION STANDARDS

10A NCAC 09 .1001 SEAT AND CHILD SAFETY SEATS

- (a) ~~Each~~ When the vehicle is in motion, each adult and child shall be restrained with an individual seat belt or ~~appropriate child restraint device when the vehicle is in motion.~~ child safety seat appropriate to the child's age or weight in accordance with North Carolina Department of Public Safety requirements located at <https://www.ncdps.gov/Index2.cfm>.
- (b) Only one person shall occupy each seat belt or ~~child restraint device.~~ safety seat.
- (c) Children shall not occupy the front seat if the vehicle is equipped with an operational passenger side airbag.
- (d) Except for when children under two years of age are transported, the restraint requirements in this Rule do not apply to vehicles not required by federal or state law to be equipped with ~~seat restraints, child safety seats or seatbelts, unless those vehicles are equipped with such restraints.~~

Authority G.S. 110-85; 110-91; 110-91(13); 143B-168.3.

10A NCAC 09 .1002 SAFE VEHICLES

- (a) ~~All vehicles~~ Vehicles used to transport children shall be in good repair, safe, and free of hazards such as torn upholstery that allows children to remove the interior padding or hurt themselves, broken windows, ~~and~~ holes in the floor or ~~roof~~ roof, or tire treads of less than 2/32 of an inch.
- (b) Vehicles used to transport children shall comply with all applicable State and federal laws and regulations.
- ~~(b)(c)~~ (c) Vehicles shall be insured for liability as required by State laws governing transportation of passengers.
- ~~(c)(d)~~ (d) Vehicles used to transport children in snowy, icy, and other hazardous weather conditions must be equipped with snow tires, chains, or other safety equipment as appropriate.

Authority G.S. 110-85; 110-91; 110-91(13); 143B-168.3.

10A NCAC 09 .1003 SAFE PROCEDURES

- (a) The driver or other adult in the vehicle shall assure that all children are transferred to a responsible person who is indicated on the child's application as specified in Rule ~~.0801(a)(4)~~ .0801(a)(7) of this Chapter or as authorized by the parent.
- (b) Each center shall establish safe procedures for pick-up and delivery of children. These procedures shall be communicated to parents, and a copy shall be posted in the center where they can be seen by the parents. ~~Centers licensed for three to 12 children located in a residence are not required to post these procedures.~~
- (c) A ~~first aid~~ pediatric First Aid kit and fire extinguisher shall be located in each vehicle used ~~on a regular basis~~ to transport children. The ~~first aid~~ pediatric First Aid kit and fire extinguisher shall be firmly mounted or secured if kept in the passenger compartment.
- (d) For each child being transported, ~~emergency and identifying information~~ information, including the child's name, photograph, emergency contact information, a copy of the emergency medical care information form required by Rule .0802(c) of this Chapter, and seating chart shall be in the vehicle.
- (e) The driver shall:
 - (1) be 21 years old or a licensed bus driver;
 - (2) have a valid driver's license of the type required under North Carolina Motor Vehicle Law for the vehicle being driven or comparable license from the state in which the driver resides; and
 - (3) have no convictions of Driving While Impaired (DWI) or any other impaired driving offense within the previous three years.
- (f) Each person in the vehicle shall be seated in the manufacturer's designated areas. No child shall ride in the load carrying area or floor of a vehicle.
- (g) Children shall not be left in a vehicle unattended by an adult.
- (h) Children shall be loaded and unloaded from curbside or in a safe, off-street area, out of the flow of traffic, so that they are protected from all traffic hazards.
- (i) Before children are transported, written permission from a parent shall be obtained that shall include when and where the child is to be transported, expected time of departure and arrival, and the transportation provider.
- (j) Parents may give standing permission, valid for up to 12 months, for routine transport of children to and from the center.
- (k) When children are transported, staff in each vehicle shall have a functioning cellular telephone or other functioning two-way voice communication device with them for use in an emergency. Staff shall not use cellular telephones or other functioning two-way voice communication devices except in the case of an emergency and only when the vehicle is parked in a safe location.
- (l) For routine transport of children to and from the center, staff shall have a list of the children being transported. Staff members shall use this list to ~~check~~ document attendance as children board the vehicle and as they depart the vehicle. A list of all children being transported shall also be available at the center.

Authority G.S. 110-85; 110-91; 110-91(13); 143B-168.3.

10A NCAC .1004 STAFF/CHILD RATIOS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

**10A NCAC .0512-1005 OFF PREMISE ACTIVITIES
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .1100 – CONTINUING EDUCATION AND
PROFESSIONAL DEVELOPMENT**

**10A NCAC 09 .1101 NEW STAFF ORIENTATION
REQUIREMENTS**

(a) Each center shall ensure that each new employee who is expected to have contact with children receives a minimum of 16 clock hours of on-site orientation within the first six weeks of employment. As part of this orientation, each new employee shall complete six clock hours of orientation within the first two weeks of employment.

(b) New staff orientation shall include an overview of the following topics, specifically focusing on the operation of the facility:

<u>Within first two weeks of employment</u>	<u>Within first six weeks of employment</u>
<u>Information regarding recognizing, responding to, and reporting child abuse, neglect, or maltreatment pursuant to G.S. 110-105.4 and G.S. 7B-301</u>	<u>Firsthand observation of the center's daily operations</u>
<u>Review of the center's operational policies, including the center's safe sleep policy for infants, the Emergency Preparedness and Response Plan, and the emergency medical care plan</u>	<u>Instruction in the employee's assigned duties</u>
<u>Adequate supervision of children in accordance with 10A NCAC 09 .1801</u>	<u>Instruction in the maintenance of a safe and healthy environment</u>
<u>Information regarding prevention of shaken baby syndrome and abusive head trauma and child maltreatment</u>	<u>Instruction in the administration of medication to children in accordance with 10A NCAC 09 .0803</u>
<u>Prevention and control of infectious diseases, including immunization</u>	<u>Review of the center's purposes and goals</u>
	<u>Review of the child care licensing law and rules</u>
	<u>An explanation of the role of State and local government agencies in the regulation of child care, their impact on the operation of the center, and their availability as a resource</u>
	<u>An explanation of the employee's obligation to cooperate with representatives of State and local government agencies during visits and investigations</u>
	<u>Prevention of and response to emergencies due to food and allergic reactions</u>
	<u>Review of the center's handling and storage of hazardous materials and the appropriate disposal of bio-contaminants</u>

Authority G.S. 110-85; 110-91(11); 143B-168.3.

**10A NCAC 09 .1102 HEALTH AND SAFETY
TRAINING REQUIREMENTS**

(a) Child care administrators and staff members shall complete health and safety training within one year of employment, unless the staff member has completed the training within the year prior to beginning employment. Health and safety training shall be in addition to the new staff orientation requirements set forth in Rule .1101 of this Section.

(b) The health and safety training shall include the following topic areas:

- (1) Prevention and control of infectious diseases, including immunization;
- (2) Administration of medication, with standards for parental consent;
- (3) Prevention of and response to emergencies due to food and allergic reactions;
- (4) Building and physical premises safety, including identification of and protection

from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;

- (5) Emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused event;
- (6) Handling and storage of hazardous materials and the appropriate disposal of bio-contaminants;
- (7) Precautions in transporting children, if applicable;
- (8) Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;
- (9) Pediatric CPR and Pediatric First Aid training as required in Paragraphs (c) and (d) of this Rule;
- (10) Recognizing and Responding to Suspicions of Child Maltreatment as required in Paragraph (g) of this Rule; and

(11) Prevention of sudden infant death syndrome and use of safe sleeping practices.

(c) All staff who provide direct care or accompany children when they are off premises shall successfully complete certification in pediatric First Aid. The training shall be completed within 90 days of employment. Distance learning is not permitted for pediatric First Aid training. At all times when children are in care at least one staff member present must have successfully completed pediatric First Aid training, as evidenced by a certificate or card from an approved training organization. Pediatric First Aid training shall be renewed on or before expiration of the certification. "Successfully completed" is defined as demonstrating competency, as evaluated by the instructor. Verification of each required staff member's completion of this course from an approved training organization shall be maintained in the staff member's file in the center. The Division shall post a list of approved training organizations on its website at http://ncchildcare.nc.gov/providers/pv_sn2_ov_pd.asp.

(d) All staff who provide direct care or accompany children when they are off premises shall successfully complete certification in a pediatric cardiopulmonary resuscitation (CPR) course. At all times when children are in care at least one staff member present must have successfully completed pediatric CPR training. The training shall be completed within 90 days of employment. Distance learning is not permitted for pediatric CPR training. Pediatric CPR training shall be renewed on or before the expiration of the certification. Verification of each staff member's completion of this course from an approved training organization shall be maintained in the staff member's file in the center. The Division shall post a list of approved training organizations on its website at http://ncchildcare.nc.gov/providers/pv_sn2_ov_pd.asp.

(e) At least one staff member shall complete training in playground safety. This training shall address playground safety hazards, playground supervision, maintenance and general upkeep of the outdoor learning environment, and age and developmentally appropriate playground materials and equipment. Distance learning is not permitted for playground safety training. Completion of playground safety training shall be included in the number of hours needed to meet annual on-going training requirements in this Section. Staff counted to comply with this Rule shall have six months from the date of employment, or from the date a vacancy occurs, to complete the required safety training. A certificate of each designated staff member's completion of this course shall be maintained in the staff member's file in the center.

(f) In centers that are licensed to care for infants, the child care administrator and any child care provider scheduled to work in the infant room shall complete ITS-SIDS training. ITS-SIDS training shall be completed within two months of an individual assuming responsibilities in the infant room and every three years thereafter. Child care administrators, as defined in G.S. 110-86(2a), shall complete ITS-SIDS training within 90 days of employment and every three years thereafter. Completion of ITS-SIDS training shall be included once every three years in the number of hours needed to meet on-going training requirements in this Section. At all times, at least one child care provider who has completed ITS-SIDS training shall be present in the infant room while children

are in care. A certificate of each staff member's completion of this course shall be maintained in the staff member's file in the center.
(g) The child care administrator and all staff members shall complete Recognizing and Responding to Suspicions of Child Maltreatment training within 90 days of employment and every three years thereafter. Completion of Recognizing and Responding to Suspicions of Child Maltreatment training shall be included once every three years in the number of hours needed to meet on-going training requirements in this Section. Recognizing and Responding to Suspicions of Child Maltreatment training is available at <https://www.preventchildabusenc.org/services/trainings-and-professional-development/rccourse>. A certificate of each staff member's completion of this course shall be maintained in the staff member's file in the center.

Authority G.S. 110-85; 110-91(1),(8),(11); 143B-168.3.

10A NCAC 09 .1103 ON-GOING TRAINING REQUIREMENTS

(a) After the first year of employment, all child care administrators and staff members shall complete 18 hours of on-going training activities annually. The training hours shall include:

- (1) Ten hours of child development related training annually as set forth in G.S. 110-91(11); and
- (2) Eight hours of health and safety training annually so that every three years, all of the topic areas set forth in 10A NCAC 09 .1102(b) will have been covered.
- (3) A combination of college coursework, Continuing Education Units (CEU's) or clock hours shall be used to complete this requirement.

(b) Upon the request of an operator or staff member, coursework appropriate to job responsibilities taken at a regionally accredited college or university shall be counted toward on-going training requirements. For purposes of this Rule, "regionally accredited" means a college or university accredited by one of the following accrediting bodies:

- (1) Middle States Association of Colleges and Schools;
- (2) New England Association of School and Colleges;
- (3) North Central Association of Colleges and Schools;
- (4) Northwest Accreditation Commission;
- (5) Southern Association of Colleges and Schools;
- or
- (6) Western Association of Schools and Colleges.

Authority G.S. 110-85; 110-91(11); 143B-168.3.

10A NCAC 09 .1104 PROFESSIONAL DEVELOPMENT PLAN

All center administrators and staff members shall complete a professional development plan within one year of employment and every three years thereafter. The plan shall:

- (1) document the individual's professional development goals;
- (2) be appropriate for the ages of children in their care;
- (3) include the continuing education, coursework or training that the individual will be responsible for completing within the three year time frame of the plan; and
- (4) be maintained in their personnel file.

Sample professional development plan templates may be found on the Division's website at http://ncchildcare.nc.gov/providers/pv_provideforms.asp. Another form may be used other than the sample templates provided by the Division as long as the form includes the information set forth in this Rule.

Authority G.S. 110-85; 110-91(9).

10A NCAC 09 .0708-1105 TRAINING APPROVAL

Staff may meet the ~~in-service~~ on-going training requirements by attending child-care workshops, conferences, seminars, or courses, provided each training activity satisfies the following criteria:

- (1) Prior approval from the Division is not required for training offered by a college or university with nationally recognized regional accreditation, a government agency, or a state, or international professional organization or its affiliates, provided the content complies with G.S. 110-91(11). Government agencies or state or national professional organizations who provide training shall submit an annual training plan ~~on a form provided by the division~~ for review by the Division. The plan is not required for any state, national, or international conferences sponsored by a professional child care organization.
- (2) Prior approval from the Division is required for any agencies, organizations, or individuals not specified in Item (1) of this Rule who wish to provide training for child care operators and staff. To obtain such approval, the agency, organization, or individual ~~shall~~ shall:
 - (a) ~~complete and submit the in-service on-going training approval forms provided by the Division at least 20 business days prior to the training event.~~ event;
 - (b) ~~A training roster listing submit a training roster, to the Division, listing the attendees' name, the county of employment, and day time phone number shall be submitted to the Division no later than 15 days after the training event.~~ event;
 - (c) ~~The event sponsor shall provide training evaluations to be completed by attendees and shall attendees; and~~

- (d) keep the training rosters and evaluations on file for ~~two~~ three years.
- (3) Distance learning is permitted from trainers approved by the Division or offered by an accredited post-secondary institution, as listed on the United States Department of Education's Database of Accredited Post-Secondary Institutions and Programs at <http://ope.ed.gov/accreditation/>. Distance learning is not permitted for pediatric Cardiopulmonary Resuscitation (CPR), pediatric First Aid, and playground safety training.

~~(3)(4) Prior approval shall be determined upon:~~ The Division shall approve training based upon the following factors:

- (a) The trainer's education, training, and experience relevant to the training topic;
- (b) Best practice in adult learning principles;
- (c) Content that is in compliance with G.S. 110-91(11); and
- (d) Contact hours reasonable for the proposed content and scope of the training session.

~~(4)(5) The Division shall not approve:~~ deny approval of training to:

- (a) Agencies, organizations, or individuals not meeting the standards listed in this Rule and in G.S. 110-91(11); and
- (b) Agencies, organizations, or individuals who intentionally falsify any information submitted to the Division.

~~(6) Agencies, organizations, or individuals who intentionally falsify any information submitted to the Division pursuant to this Rule shall be permanently ineligible to apply for approval of training.~~

~~(7) Denial of approval of training or a determination of falsification is appealable pursuant to G.S. 110-94 and the North Carolina Administrative Procedure Act, G.S. 150B-23.~~

Authority G.S. 110-85; 110-91(11); 143B-168.3.

10A NCAC 09 .0709-1106 DOCUMENTATION OF IN-SERVICE TRAINING (READOPTATION WITHOUT SUBSTANTIVE CHANGES)

SECTION .1300 - BUILDING CODE REQUIREMENTS FOR CHILD CARE CENTERS

10A NCAC 09 .1301 BUILDING CODE REQUIREMENTS FOR CENTERS (NWSPI)

~~For the purpose of carrying out the provisions of G.S. 110-91(4), the North Carolina Building Code standards for child care centers~~

~~in operation prior to April 1, 1972 developed by the Building Code Council are hereby incorporated by reference by the Child Care Commission and do not include any subsequent amendments. This Rule does not apply to small group facilities described in Rule .1303 of this Section. A copy of the North Carolina Building Code standards is on file at the Division of Child Development located at the address given in Rule .0102 of this Subchapter and will be available for public inspection during regular business hours. The North Carolina State Building Code standards for child care facilities is hereby incorporated by reference, including subsequent amendments and editions. The current Code may be found online at http://www.ncdoi.com/OSFM/Engineering_and_Codes/Default.aspx?field1=Codes - Current and Past&user=State Building Codes.~~

Authority G.S. 110-91(4); 143B-168.3.

10A NCAC 09 .1302 BUILDING CODE REQUIREMENTS FOR CHILD CARE CENTERS (NWSPI)

~~For the purpose of carrying out the provision of G.S. 110-91(4), the North Carolina Building Code standards for child care centers originally in operation on or after April 1, 1972 developed by the Building Code Council are hereby incorporated by reference by the Child Care Commission and include subsequent amendments. This Rule does not apply to small group facilities described in Rule .1303 of this Section. A copy of the North Carolina Building Code standards is on file at the Division of Child Development located at the address given in Rule .0102 of this Subchapter and will be available for public inspection during regular business hours.~~

Authority G.S. 110-91(4); 143B-168.3.

10A NCAC 09 .1303 BUILDING CODE REQUIREMENTS FOR SMALL GROUP FACILITIES LICENSED PRIOR TO 7/1/88 (NWSPI)

~~For the purpose of carrying out the provisions of G.S. 110-91(4), the North Carolina Building Code standards for small group day care facilities (6-15 children) licensed prior to July 1, 1988 developed by the Building Code Council are hereby incorporated by reference by the Child Care Commission and do not include any subsequent amendments. A copy of the North Carolina Building Code standards is on file at the Division of Child Development located at the address given in Rule .0102 of this Subchapter and will be available for public inspection during regular business hours.~~

Authority G.S. 110-91(4); 143B-168.3.

10A NCAC 09 .1304 REQUIREMENTS FOR CHILD CARE CENTERS LICENSED IN A RESIDENCE (NWSPI)

~~Licensed child care centers in an occupied residence shall comply with the North Carolina Building Code developed by the Building Code Council Code, which are hereby incorporated by reference and include subsequent amendments. For purposes of this Rule, licensed child care centers in an occupied residence include centers that are licensed for three to 12 children when any preschool aged children are in care, or for three to 15 children~~

~~when only school aged children are in care. A copy of the North Carolina Building Code standards is on file at the Division of Child Development located at the address given in Rule .0102 of this Subchapter and will be available for public inspection during regular business hours.~~

Authority G.S. 110-91(4); 143B-168.3.

SECTION .1400 - SPACE REQUIREMENTS

10A NCAC 09 .1401 INDOOR SPACE

~~(a) Indoor space on which licensed capacity is based will be referred to as "primary space". The licensing consultant will measure all primary space that will routinely be used by children who attend the center, except that the following will not be included: closets, hallways, storage areas, kitchens, bathrooms, utility areas; thresholds, foyers, space or rooms used for administrative activities or space occupied by adult sized desks, cabinets, file cabinets, etc.; single use rooms, including music rooms, isolation/sick rooms, gymnasiums, dining rooms, sleep rooms; any floor space occupied by or located under equipment, furniture, or materials not used by children; and any floor space occupied by or located under built in equipment or furniture.~~

- ~~(1) Any single use room used by the children for sleeping only, either during nap time or any other time, will also be measured by the Division's representative to assure that the available floor space provides 200 cubic feet of air space per child for the maximum number of children who will sleep in that room at any time.~~
- ~~(2) All measurements will be rounded off to the nearest inch.~~
- ~~(3) Total space on which the licensed capacity is based will be the sum of the measurements of all primary space to be used by the children. However, no room will routinely be occupied by more children than the primary space in that room will accommodate at 25 square feet of space per child. This is not meant to preclude grouping children together periodically for special activities, such as to view films or slides; for special presentations, such as puppet or magic shows, a special story teller, a discussion of safety practices by a fireman or nurse, etc. However, care must be taken to assure that during such special activities, the room used is not so overcrowded that the children and staff would be endangered in case of a fire or other emergency necessitating evacuation of the center.~~

~~(b) For centers with a licensed capacity of three to 12 children located in a residence, the dining area of a kitchen may be counted if it is routinely used for children's activities in addition to eating.~~

~~(c) Paragraph (a) of this Rule shall apply only to child care centers initially licensed on or after February 1, 1985.~~

~~(a) As used in this Rule, the term "Primary Space" means the indoor space designated by the operator that will be used routinely by children who attend the center. It shall be used to calculate a center's licensed capacity.~~

(b) The Division shall calculate the total area of the Primary Space by measuring the Primary Space or by reviewing current drawings of the space that have been signed and sealed by an architect or engineer licensed to practice in the State of North Carolina.

(c) All measurements of the Primary Space shall be rounded to the nearest inch.

(d) For centers in a residence with a licensed capacity of 3 to 12 children, the dining area of a kitchen may be counted as Primary Space if it is routinely used for children's activities in addition to eating.

(e) The following spaces shall not be included in the designation or measurement of Primary Space:

- (1) closets;
- (2) hallways;
- (3) storage areas;
- (4) kitchens;
- (5) bathrooms;
- (6) utility areas;
- (7) thresholds;
- (8) foyers;
- (9) space used for administrative activities;
- (10) space occupied by adult-sized desks, cabinets, file cabinets, and other office equipment;
- (11) any floor space occupied by or located under structures, equipment, and furniture not used by children; and
- (12) any floor space occupied by or located under built-in equipment or furniture.

(f) No room may be occupied by more than one child per 25 square feet of floor space, provided that a room may be occupied by a larger group of children for special activities so long as such occupancy does not violate the State fire code.

(g) During rest periods any room used by children shall have no less than 200 cubic feet of air space per child.

(h) Paragraphs (a) through (c) and (e) through (g) of this Rule shall only apply to centers initially licensed on or after February 1, 1985.

Authority G.S. 110-91(6); 143B-168.3.

10A NCAC 09 .1402 OUTDOOR SPACE

(a) When a center is licensed for ~~six to twenty-nine~~ 6 to 29 children, inclusive, there shall be 75 square feet per child outdoor play area for the outdoor play area shall be no smaller than 75 square feet times the total number of children for which the center is licensed. In addition, the total number of children on the playground shall not exceed the number the space will accommodate at 75 square feet per child.

(b) When a center is licensed for 30 or more children, the outdoor play area shall be no smaller than 75 square feet times one-half of the total number of children for which the center is licensed or shall be 2,250 square feet, whichever is larger. ~~there shall be 75 square feet per child of outdoor play area for at least one-half of the total number for which the center is licensed, provided that the minimum amount of space on the outdoor play area shall be enough to accommodate at least 30 children.~~

(c) Paragraphs (a) and (b) of this Rule apply only to child care centers initially licensed after April 1, 1984.

(d) The outdoor play area shall provide an area that is shaded by a building, awnings, trees, or other methods.

(e) The outdoor area shall be designed so that staff ~~are~~ is able to see and easily adequately supervise the entire ~~area~~. area in accordance with 10A NCAC 09 .1801(a).

Authority G.S. 110-85(1),(2); 110-91(6); 143B-168.3.

10A NCAC 09 .1403 ACTIVITIES INVOLVING WATER

~~(a) This Rule applies to children and staff in child care centers that participate in aquatic activities.~~

~~(b)(a)~~ The requirements in this Rule apply to aquatic activities, "aquatic activities," which are defined as activities that take place in, on, or around a body of water such as swimming, swimming instruction, wading, and visits to water parks, parks, and boating. Aquatic activities do not include water play activities such as water table play, slip and slide activities, or playing in sprinklers.

(b) Aquatic activities involving the following are prohibited:

- (1) hot tubs;
- (2) spas;
- (3) saunas or steam rooms;
- (4) portable wading pools; and
- (5) natural bodies of water and other unfiltered, nondisinfected containments of water.

(c) For every 25 children in care participating in aquatic activities, there shall be at least one person who has a life guard training certificate issued by the Red Cross or other training determined by the Division to be equivalent to the Red Cross training, appropriate for both the type of body of water and type of aquatic activities. activity. These lifeguards shall not be counted in the required staff-child ratios referenced in Paragraph ~~(d)~~(e) of this Rule.

(d) Children under the age of three shall not participate in aquatic activities ~~except~~, except to the extent necessary, necessary to implement any child's Individualized Family Service Plan (IFSP) or Individualized Education Program (IEP).

(e) The following staff-child ratios shall be maintained whenever children participate in aquatic activities:

Age of Children	Ratio Staff/Children
3 to 4 Years	1/8
4 to 5 Years	1/10
5 Years and Older	1/13

Notwithstanding the staff-child ratios, at no time shall there be fewer than two staff members supervising the aquatic activity.

(f) Children shall be adequately supervised by center staff at all times while participating in aquatic activities. Adequate supervision "Adequate supervision" means that half of the center staff needed to meet the staff-child ratios in Paragraph ~~(d)~~(e) of this Rule is in the water and the other half is out of the water. If an uneven number of staff are needed to meet the required staff-child ratios, the majority shall be in the ~~pool~~ water. Staff shall be stationed in pre-assigned areas that will enable them at all times to hear, see, and respond quickly to the children ~~who are in the water and children who are~~ whether in or out of the water. Children shall not enter the water before center staff are stationed in their pre-assigned areas. Center staff shall devote their full attention to supervising the children in their pre-assigned areas of

coverage and shall communicate with one another about children moving from one area to another area.

(g) Prior to children participating in aquatic activities, the center shall develop policies that address the following:

- (1) aquatic safety hazards;
- (2) pool and aquatic activity area supervision including restroom or changing room use;
- (3) how discipline is will be handled during aquatic activities; ~~and~~
- (4) the facility's specific field trip and transportation policies and ~~procedures.~~ procedures; and
- (5) that children shall be directed to exit the water during an emergency.

(h) Before staff first supervise children on an aquatic activity, and annually thereafter, staff shall sign and date statements that they have reviewed:

- (1) the center policies as specified in Paragraph ~~(f)~~(g) of this Rule;
- (2) any specific guidelines provided by the pool operator or other off-site aquatic facility; and
- (3) the requirements of this Rule.

The current statement shall be maintained in the staff person's personnel file for one year or until it is superseded by a new statement.

(i) Parents must provide written permission for participation in aquatic activities. The written permission shall include a statement that parents are aware of the center's aquatic policies specified in Paragraph (g) of this Rule. The center shall maintain copies of written parental permission in each child's file.

~~(j)(j)~~ Any outdoor swimming pool ~~which is~~ located on the child care facility premises shall be enclosed by a fence that is at least four feet high, and shall be separated from the remaining outdoor play area by that fence, fence, and locked and inaccessible to children when not in use.

~~(j)(k)~~ Swimming pool safety rules shall be posted ~~in a prominent place and~~ visible to children and staff for any swimming pool located on the child care facility premises. These rules shall state:

- (1) the location of a ~~first aid~~ First Aid kit;
- (2) that only water toys are permitted;
- (3) that children ~~shall be~~ are not allowed to run or push one another;
- (4) that swimming is allowed only when at least two adults are an adult is present; and
- (5) that glass objects are not allowed.

~~(k)(l)~~ All swimming pools used by children shall meet the "Rules Governing Public Swimming Pools" in accordance with 15A NCAC 18A .2500 which are incorporated by reference, including subsequent amendments. A copy of these Rules can be found at <http://ehs.ncpublichealth.com/docs/rules/294306-9-2500.pdf> and is available at no charge. A copy of these Rules is on file with the Division of Child Development, Development and Early Education, 319 Chapanoke Road, 820 South Boylan Avenue, Raleigh, NC 27603, or may be obtained at no cost by writing the North Carolina Division of Environmental Health, 1630 Mail Service Center, Raleigh, NC 27699 1630.

(m) Educational activities, such as observing tadpoles, exploring mud, or learning about rocks and vegetation are permitted around bodies of water. However, if children will be in the water for any

part of the activity, Paragraphs (a) through (i) of this Rule shall apply.

~~(4)(n)~~ Boating, rafting, and canoeing activities are permitted. Prior to participating in recreational activities conducted on the water, children shall wear an age or size appropriate personal flotation device approved by the United States Coast Guard. This personal flotation device shall be worn for the duration of the activity. ~~Children shall wear an age or size appropriate life jacket whenever they participate in boating, rafting or canoeing activities.~~

Authority G.S. 110-85; 110-88(5); 110-91(1),(6); 143B-168.3.

SECTION .1700 – FAMILY CHILD CARE HOME REQUIREMENTS

10A NCAC 09 .1701 GENERAL PROVISIONS RELATED TO LICENSURE OF HOMES

~~(a) All family child care homes shall comply with the standards for licensure set forth in this Section. A one star rated license shall be issued to a family child care home operator who complies with the minimum standards for a license contained in this Section and G.S. 110-91.~~

~~(b) An individual who provides care for five hours or more in a week, during planned absences of the operator, shall: be at least 21 years old, have a high school diploma or GED, have completed a first aid and cardiopulmonary resuscitation (CPR) course as described in Rule .1705, Subparagraphs (a)(3), (a)(4), (b)(2), and (b)(3) of this Section, have completed a health questionnaire, have proof of negative results of a tuberculosis test completed within 12 months prior to the first day of providing care, submit criminal records check forms as required in 10A NCAC 09 .2702, and annual in service training as described in Rule .1705(b)(5) of this Section. While the individual provides care at a family child care home, copies of required information shall be on file in the home available for review by the Division.~~

~~(c) An individual who provides care for less than five hours in a week, during planned absences of the operator shall meet all requirements listed in Paragraph (b) of this Rule, except the requirements for annual in service training and a high school diploma or GED. The individual shall be literate.~~

~~(d) The operator shall review the appropriate requirements found in this Chapter, including the Emergency Preparedness and Response Plan, and in G.S. Chapter 110, Article 7 with any individuals who are providing care prior to the individual's assuming responsibility for the children. The operator and individual providing care shall sign and date a statement which attests that this review was completed. This statement shall be kept on file in the home available for review by the Division.~~

~~(e) An individual who provides care during unplanned absences of the operator, such as medical emergencies, shall be at least 18 years old and submit criminal records check forms as required in 10A NCAC 09 .2702, Paragraph (j). The children of an emergency caregiver shall not be counted in the licensed capacity for the first day of the emergency caregiver's service.~~

~~(f) The provisions of G.S. 110-90.2 which exclude persons with certain criminal records or personal habits or behavior which may be harmful to children from operating or being employed in a family child care home are hereby incorporated by reference and shall also apply to any person on the premises with the operator's~~

permission when the children are present. This exclusion shall not apply to parents or other persons who enter the home only for the purpose of performing parental responsibilities; nor does it include persons who enter the home for brief periods for the purpose of conducting business with the operator and who are not left alone with the children.

(g) The parent of a child enrolled in any family child care home subject to regulation under G.S. 110, Article 7 shall be allowed unlimited access to the home during its operating hours for the purposes of contacting the child or evaluating the home and the care provided by the operator. The parent shall notify the operator of his or her presence immediately upon entering the premises.

(h) An operator licensed to care for children overnight may sleep during the nighttime hours when all the children are asleep, provided:

- (1) the operator and the children in care, excluding the operator's own children, are on ground level;
- (2) the operator can hear and respond quickly to the children if needed; and
- (3) a battery operated smoke detector or an electrically operated (with a battery backup) smoke detector is located in each room where children are sleeping.

(i) Each operator shall develop and adopt a written plan of care for completing routine tasks (including running errands, meeting family and personal demands, and attending classes) to ensure that routine tasks shall not interfere with the care of children during hours of operation. The plan shall:

- (1) specify typical times for completing routine tasks and include those times on the written schedule, or specify that routine tasks will not occur during hours of operation;
- (2) specify the names of any individuals, such as additional caregivers or substitutes, who will be responsible for the care of children when the operator is attending to routine tasks;
- (3) specify how the operator shall maintain compliance with transportation requirements specified in 10A NCAC 09 .1723 if children are transported;
- (4) specify how parents will be notified when children accompany the operator off premises for routine tasks not specified on the written schedule;
- (5) specify any other steps the operator shall take to ensure routine tasks will not interfere with the care of children; and
- (6) be given and explained to parents of children in care on or before the first day the child attends the home. Parents shall sign a statement acknowledging the receipt and explanation of the plan. Parents shall also give written permission for their child to be transported by the operator for specific routine tasks that are

included on the written schedule. The acknowledgment and written parental permission shall be retained in the child's record as long as the child is enrolled at the home and a copy of each document shall be maintained on file for review by the Division.

(j) If the operator amends the written plan, the operator shall give written notice of the amendment to parents of all enrolled children at least 30 days before the amended plan is implemented. Each parent shall sign a statement acknowledging the receipt and explanation of the amendment. The operator shall retain the acknowledgement in the child's records as long as the child is enrolled in the home and a copy shall be maintained on file for review by the Division.

Authority G.S. 110-85; 110-86(3); 110-88(1); 110-91; 110-99; 110-105; 143B-168.3.

10A NCAC 09 .1702 APPLICATION FOR A LICENSE FOR A FAMILY CHILD CARE HOME

(a) Any person who plans to operate a family child care home (FCCH) shall apply for a license using a form provided by the Division. Only one licensed family child care home shall operate at the location address of any home. The form can be found on the Division's website at http://ncchildcare.dhhs.state.nc.us/general/mb_customerservice.asp. http://ncchildcare.nc.gov/pdf_forms/FacilityProfileApp.pdf. The applicant shall submit the completed application, to the Division that complies with the following:

- (1) only one licensed family child care home shall operate at the location address of any home; and
- (2) the applicant shall list each location address where a licensed family child care home will operate.

(b) If a family child care home operates at more than one location address by cooperative arrangement among two or more families, the following procedures apply:

- (1) one parent whose home is used as a location address shall be designated the coordinating parent and shall co-sign the application with the applicant; and
- (2) the coordinating parent shall know the current location address at all times and shall provide the information to the Division upon request.

(c) The applicant shall ensure that the family child care home complies with the following requirements:

- (1) single wide manufactured homes are limited to a maximum of three preschool age children (not more than two may be two years of age or less) and two school age children;
- (2) all children are kept on the ground level with an exit at grade;
- (3) all homes are equipped with an electrically operated (with a battery backup) smoke detector, or one electrically operated and one battery operated smoke detector located next to each other;

- (4) ~~all homes are provided with at least one five pound 2 A: 10 B: C type extinguisher for every 2,500 square feet of floor area;~~
- (5) ~~heating appliances shall be installed and maintained according to NC Building Code Chapter 603.5.3;~~
- (6) ~~all indoor areas used by children are heated when the temperature is below 65 degrees and ventilated when the temperature is above 85 degrees; and~~
- (7) ~~pipes or radiators that are hot enough to be capable of burning children and are accessible to the children are covered or insulated.~~

~~(d)(b)~~ The applicant shall also submit supporting documentation with the application for a license to the Division. The supporting documentation shall include:

- (1) a copy of a non-expired qualification letter in accordance with 10A NCAC 09 .2702;
- (2) a copy of documentation of completion of a first aid pediatric First Aid and pediatric cardiopulmonary resuscitation (CPR) course;
- (3) a copy of documentation of completion of ITS-SIDS training;
- ~~(3)(4)~~ proof of negative results of the applicant's tuberculosis test completed within the past 12 months;
- ~~(4)(5)~~ a completed health questionnaire; a copy of the health questions can be found on the Division's website at http://ncchildcare.nc.gov/pdf_forms/emergency_information_health_questionnaire_i.pdf;
- ~~(5)(6)~~ a copy of ~~current~~ non-expired pet vaccinations for any pet in the home;
- ~~(6)(7)~~ if a home has a private well, a negative well water bacteriological analysis; analysis if the home has a private well;
- ~~(7)(8)~~ copies of any inspections required by local ordinances; and
- ~~(8)(9)~~ any other documentation required by the Division according to the rules in this Section to support the issuance of a license.

~~(e)(c)~~ Upon receipt of a complete application and supporting documentation, a Division representative shall make an announced visit to each home. An announced visit is not required by a Division representative if the applicant is subject to the circumstances in Paragraph (g) of this Rule, 10A NCAC 09 .2214. The issuance of a license applies as follows:

- (1) if all applicable requirements of G.S. 110, Article 7 and this Section are met, a six month temporary license shall be issued;
- (2) a one- star rated license shall be issued to a family child care home operator who complies with the minimum standards for a license contained in this Section and G.S. 110-91 at the end of the six month temporary time period;
- (3) a two- through five- star rated license shall be issued to a family child care home operator who complies with minimum and voluntary standards for a license contained in this Section.

Section .2800 of this Chapter and G.S. 110-91, at the end of the six month temporary time period;

~~(2)(4)~~ if the applicable requirements of G.S. 110, Article 7 and this Section are not met, ~~but the applicant has the potential to comply;~~ the Division representative shall establish with the applicant a time period for the home to achieve compliance. If the Division representative determines that all applicable requirements of G.S. 110, Article 7 and this Section are met within the established time period, a license shall be issued; or

~~(3)(5)~~ if all applicable requirements of G.S. 110, Article 7 and this Section are not met or cannot be met within the established time, the Division shall deny the application.

~~(f)(d)~~ The Division shall allow the applicant to operate prior to the Division representative's visit described in Paragraph (e) of this Rule when the applicant is currently licensed as a family child care home operator, needs to relocate and notifies the Division of the relocation, and the Division representative is unable to visit before the relocation occurs. A family child care home operator shall notify the Division no later than 30 calendar days prior to relocation of a family child care home. The operator must apply for a license for the new physical location as described in 10A NCAC 09 .1702(a). An applicant operator requesting relocation of the family child care home shall not operate until he or she has received a license from the Division for the new location, either temporary permission to operate or a license.

~~(g)~~ The Secretary may deny the application for the license under the following circumstances:

- (1) ~~if any child care facility license previously held by the applicant has been denied, revoked, or summarily suspended by the Division;~~
- (2) ~~if the Division initiated denial, revocation, or summary suspension proceedings against any child care facility license previously held by the applicant and the applicant voluntarily relinquished the license;~~
- (3) ~~during the pendency of an appeal of a denial, revocation, or summary suspension of any other child care facility license held by the applicant;~~
- (4) ~~if the Division determines that the applicant has a relationship with an operator or former operator who previously held a license under an administrative action described in Subparagraphs (g)(1), (2), or (3) of this Rule. As used in this Rule, an applicant has a relationship with a former operator if the former operator would be involved with the applicant's child care facility in one or more of the following ways:~~
 - (A) ~~would participate in the administration or operation of the facility;~~
 - (B) ~~has a financial interest in the operation of the facility;~~
 - (C) ~~provides care to the children at the facility;~~

- (D) ~~resides in the facility; or~~
- (E) ~~would be on the facility's board of directors, be a partner of the corporation, or otherwise have responsibility for the administration of the business;~~
- (5) ~~based on the applicant's previous non-compliance as an operator with the requirements of G.S. 110, Article 7 or this Chapter;~~
- (6) ~~if abuse or neglect has been substantiated against the applicant or a household member; or~~
- (7) ~~if the applicant is a disqualified child care provider or has a disqualified household member residing in the FCCH.~~

(h) In determining whether denial of the application for a license is warranted pursuant to Paragraph (g) of this Rule, the Division shall consider:

- (1) ~~any documentation provided by the applicant which describes the steps the applicant will take to prevent recurrence of noncompliance issues that led to any prior administrative action taken against a license previously held by the applicant;~~
- (2) ~~training certificates or original transcripts for any coursework from a nationally recognized regionally accredited institution of higher learning related to providing quality child care, and that was taken subsequent to any prior administrative action against a license previously held by the applicant. "Nationally recognized" means that every state in this nation acknowledges the validity of the coursework taken at higher education institutions that meet the requirements of one of the accrediting bodies;~~
- (3) ~~proof of employment in a licensed child care facility and references from the administrator or licensee of the child care facility regarding work performance;~~
- (4) ~~documentation of collaboration or mentorship with a licensed child care provider to obtain additional knowledge and experience related to operation of a child care facility; and~~
- (5) ~~documentation explaining relationships with persons meeting the criteria listed in Subparagraph (g)(4) of this Rule.~~

~~(i)(e)~~ The license shall not be bought, sold, or transferred from one individual to another.

~~(j)(f)~~ The license is shall be valid only for the location address listed on it.

~~(k)(g)~~ The license ~~must~~ shall be returned to the Division in the event of termination, revocation, suspension, or summary suspension.

~~(l)(h)~~ A licensee shall notify the Division in writing if a change occurs that affects the information shown on the license. The Division shall issue a new license upon verification of the operator's compliance with all applicable requirements for the change. This includes the following:

- (1) decreasing the capacity of the family child care home;
- (2) increasing the capacity of the family child care home;
- (3) changes to shifts of care;
- (4) requests to change the age range of the family child care home;
- (5) requests to remove a restriction from the license, including documentation of steps taken by the operator to comply with requirements which resulted in the licensure restriction; and
- (6) changes to the operator's legal name.

(i) The license shall be posted in a prominent place in the home that parents are able to view daily.

Authority G.S. 110-86; 110-88(5); 110-91; 110-93; 110-99; 143B-168.3.

10A NCAC 09 .1703 CAREGIVER INTERACTIONS

(a) Caregivers shall relate to interact with children in positive ways by helping them feel welcome and comfortable, treating them with respect, listening to what they say, responding to them with acceptance and appreciation and participating in many activities with the children. For example, caregivers shall:

- (1) Make eye contact when speaking to a child;
- (2) ~~Actively engage~~ Engage children in conversation to share experiences, ideas and opinions;
- (3) Help children develop problem-solving skills; and
- (4) Facilitate learning by providing positive reinforcement, encouraging efforts and recognizing accomplishments.

(b) Caregivers shall respond promptly to an infant or toddler's physical and emotional needs, especially when indicated by crying through actions such as feeding, diapering, holding, positive touching, smiling, talking and eye contact.

(c) The caregiver shall recognize the special difficulties of infant and toddler separations and assist families, infants, and toddlers to make the transition from home to the program as gently as possible.

Authority G.S. 110-85; 110-91(8),(11); 143B-168.3.

10A NCAC 09 .1705 ON-GOING REQUIREMENTS FOR FAMILY CHILD CARE HOME OPERATORS

(a) After receiving a license, an operator shall:

- (1) Update the health questionnaire annually. The Division may request an evaluation of the operator's emotional and physical fitness to care for children when there is reason to believe that there has been a deterioration in the operator's emotional or physical fitness to care for children. The Division may require the operator to obtain written proof that he or she is free of active tuberculosis;
- (2) Renew pediatric First Aid training on or before expiration of the certification;

- (3) Renew pediatric CPR course on or before the expiration of the certification;
- (4) Renew ITS-SIDS training every three years from the completion of previous ITS-SIDS training; and
- (5) Complete Recognizing and Responding to Suspicions of Child Maltreatment training within 90 days of licensure and every three years thereafter. Completion of Recognizing and Responding to Suspicions of Child Maltreatment training shall be included once every three years in the number of hours needed to meet on-going training requirements in Paragraph (c) of this Rule. Recognizing and Responding to Suspicions of Child Maltreatment training is available at <https://www.preventchildabusenc.org/>.

(b) Operators and staff members shall complete health and safety training within one year of employment, unless the operator or staff member has completed the training within the year prior to beginning employment. Health and safety training shall be in addition to the new staff orientation requirements set forth in Rules .1708(c)(6) and .1729(c) of this Section.

(c) The health and safety training shall include the following topic areas:

- (1) Prevention and control of infectious diseases, including immunization;
- (2) Administration of medication, with standards for parental consent;
- (3) Prevention of and response to emergencies due to food and allergic reactions;
- (4) Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
- (5) Emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused event;
- (6) Handling and storage of hazardous materials and the appropriate disposal of bio-contaminants;
- (7) Precautions in transporting children, if applicable;
- (8) Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;
- (9) Pediatric CPR and Pediatric First Aid training as required in Rule .1102(c) and (d) of this Chapter;
- (10) Recognizing and Responding to Suspicions of Child Maltreatment as required in Rule .1102(g) of this Chapter; and
- (11) Prevention of sudden infant death syndrome and use of safe sleeping practices.

(d) After the first year of employment, the operator and staff members shall complete 18 hours of on-going training activities annually. The training hours shall include:

- (1) Ten hours of child development related training annually as set forth in G.S. 110-91(11); and

- (2) Eight hours of health and safety training annually so that every three years, all of the topic areas set forth in Paragraph (c) of this Rule will have been covered.

- (3) A combination of college coursework, Continuing Education Units (CEU's) or clock hours shall be used to complete this requirement.

(e) Upon the request of an operator or staff member, coursework appropriate to job responsibilities taken at a regionally accredited college or university shall be counted toward on-going training requirements. For purposes of this Rule, "regionally accredited" means a college or university accredited by one of the following accrediting bodies:

- (1) Middle States Association of Colleges and Schools;
- (2) New England Association of School and Colleges;
- (3) North Central Association of Colleges and Schools;
- (4) Northwest Accreditation Commission;
- (5) Southern Association of Colleges and Schools;
- or
- (6) Western Association of Schools and Colleges.

(f) The operator and staff members shall complete a professional development plan within one year of employment and every three years thereafter. The plan shall:

- (1) document the individual's professional development goals;
- (2) be appropriate for the ages of children in their care;
- (3) include the continuing education, coursework or training that the individual will be responsible for completing within the three year time frame of the plan; and
- (4) be maintained in their personnel file.

Sample professional development plan templates may be found on the Division's website at http://ncchildcare.nc.gov/providers/pv_provideforms.asp. Another form may be used other than the sample templates provided by the Division as long as the form includes the information set forth in this Rule.

(g) Each operator shall have a record of training activities in which each staff member participates, including copies of training certificates or official documentation provided by the trainer. That record shall include the subject matter, topic area in G.S. 110-91(11), training provider, date provided, hours, and name of staff who completed the training. This documentation shall be on file and current.

(h) The operator and staff members may meet on-going training requirements by attending child-care workshops, conferences, seminars, or courses, provided each training activity satisfies the following criteria:

- (1) Prior approval from the Division is not required for training offered by a college or university with nationally recognized regional accreditation, a government agency, or a state, or international professional organization or its affiliates, provided the content complies with

G.S. 110-91(11). Government agencies or state or national professional organizations who provide training shall submit an annual training plan for review by the Division. The plan is not required for any state, national, or international conferences sponsored by a professional child care organization.

(2) Prior approval from the Division is required for any agencies, organizations, or individuals not specified in Subparagraph (1) of this Paragraph who wish to provide training for child care operators and staff. To obtain such approval, the agency, organization, or individual shall:

(A) complete and submit on-going training approval forms provided by the Division at least 20 business days prior to the training event;

(B) submit a training roster, to the Division, listing the attendees' name, the county of employment, and day time phone number no later than 15 days after the training event;

(C) provide training evaluations to be completed by attendees; and

(D) keep the training rosters and evaluations on file for two years.

(3) Distance learning is permitted from trainers approved by the Division or offered by an accredited post-secondary institution, as listed on the United States Department of Education's Database of Accredited Post-Secondary Institutions and Programs at <http://ope.ed.gov/accreditation/>. Distance learning is not permitted for pediatric Cardiopulmonary Resuscitation (CPR) and pediatric First Aid.

(i) The Division shall approve training based upon the following factors:

(1) The trainer's education, training, and experience relevant to the training topic;

(2) Best practice in adult learning principles;

(3) Content that is in compliance with G.S. 110-91(11); and

(4) Contact hours reasonable for the proposed content and scope of the training session.

(j) The Division shall deny approval of training to:

(1) Agencies, organizations, or individuals not meeting the standards listed in this Rule and in G.S. 110-91(11); and

(2) Agencies, organizations, or individuals who intentionally falsify any information submitted to the Division.

(k) Agencies, organizations, or individuals who intentionally falsify any information submitted to the Division pursuant to this Rule shall be permanently ineligible to apply for approval of training.

(l) Denial of approval of training or a determination of falsification is appealable pursuant to G.S. 110-94 and the North Carolina Administrative Procedure Act, G.S. 150B-23.

~~(a) Prior to receiving a license, each family child care home operator shall:~~

~~(1) Complete and keep on file a health questionnaire which attests to the operator's physical and emotional ability to care for children. The Division may require a written statement or medical examination report signed by a licensed physician or other authorized health professional if there is reason to believe that the operator's health may adversely affect the care of the children based upon observations and complaints made to the Division.~~

~~(2) Obtain written proof that he or she is free of active tuberculosis. The results indicating the individual is free of active tuberculosis shall be obtained within 12 months prior to applying for a license.~~

~~(3) Complete within 12 months prior to applying for a license a basic first aid course that shall address principles for responding to emergencies, and techniques for handling common childhood injuries, accidents and illnesses such as choking, burns, fractures, bites and stings, wounds, scrapes, bruises, cuts and lacerations, poisoning, seizures, bleeding, allergic reactions, eye and nose injuries and sudden changes in body temperature.~~

~~(4) Successfully complete within 12 months prior to applying for a license a course by the American Heart Association or the American Red Cross or other organizations approved by the Division in cardiopulmonary resuscitation (CPR) appropriate for the ages of children in care. Other organizations shall be approved if the Division determines that the courses offered are substantially equivalent to those offered by the American Red Cross. Successfully completed is defined as demonstrating competency, as evaluated by the instructor, in performing CPR. Documentation of successful completion of the course from the American Heart Association, the American Red Cross, or other organization approved by the Division shall be on file in the home.~~

~~(b) After receiving a license, an operator shall:~~

~~(1) Update the health questionnaire referenced in Paragraph (a) of this Rule annually. The Division may require the operator to obtain written proof that he or she is free of active tuberculosis.~~

~~(2) Complete a first aid course as referenced in Paragraph (a) of this Rule. First aid training shall be renewed on or before expiration of the certification or every three years, whichever is less.~~

~~(3) Successfully complete a CPR course as referenced in Paragraph (a) of this Rule. CPR training shall be renewed on or before the~~

- expiration of the certification, or every two years, whichever is less.
- (4) ~~If licensed to care for infants ages 12 months and younger, complete ITS SIDS training within four months of receiving the license, and complete it again every three years from the completion of previous ITS SIDS training. Completion of ITS SIDS training may be included once every three years in the number of hours needed to meet the annual in-service training requirement in Paragraph (b)(5) of this Rule.~~
- (5) ~~Complete 12 clock hours of annual in-service training in the topic areas required by G.S. 110-91(11), except that persons with at least 10 years work experience as a caregiver in a child care arrangement regulated by the Division of Child Development and Early Education shall complete eight clock hours of annual in-service training. Only training which has been approved by the Division as referenced in Rule .0708 of this Chapter shall count toward the required hours of annual in-service training. The operator shall maintain a record of annual in-service training activities in which he or she has participated. The record shall include the subject matter, the topic area in G.S. 110-91(11) covered, the name of the training provider or organization, the date training was provided and the number of hours of training completed. First aid training may be counted no more than once every three years.~~
- (6) ~~Within one year of the effective date of the license, complete the Emergency Preparedness and Response in Child Care training. For the purposes of this Rule, the Emergency Preparedness and Response in Child Care is a training approved by the Division on creating an Emergency Preparedness and Response Plan and practicing, responding to, and recovering from emergencies in child care facilities. Existing operators have two years as of the effective date of this Rule to complete the Emergency Preparedness and Response in Child Care training. Documentation of completion of the training shall be maintained in the operator's personnel file.~~
- (7) ~~Upon completion of the Emergency Preparedness and Response in Child Care training, develop the Emergency Preparedness and Response Plan. The Emergency Preparedness and Response Plan means a written plan that addresses how a child care facility will respond to both natural and man-made disasters, such as fire, tornado, flood, power failures, chemical spills, bomb threats, earthquakes, blizzards, nuclear disaster, or a dangerous person in the vicinity, to ensure the safety and protection of the children and additional caregivers. This Plan must be on a template provided by the Division available at <https://rmp.nc.gov/portal/#>, completed within four months of completion of the Emergency Preparedness and Response in Child Care training, and available for review. The Plan shall include the following:~~
- ~~(A) written procedures for accounting for all in attendance, including the location of the children, staff, volunteer and visitor attendance lists and the name of the person(s) responsible for bringing the lists in the event of an emergency;~~
 - ~~(B) a description for how and when children shall be transported;~~
 - ~~(C) methods for communicating with parents and emergency personnel or law enforcement;~~
 - ~~(D) a description of how children's nutritional and health needs will be met;~~
 - ~~(E) the relocation and reunification process;~~
 - ~~(F) emergency telephone numbers;~~
 - ~~(G) evacuation diagrams showing how the operator, family members, children and any other individuals who may be present will evacuate during an emergency;~~
 - ~~(H) the date of the last revision of the plan;~~
 - ~~(I) specific considerations for non mobile children and children with special needs; and~~
 - ~~(J) the location of the Ready to Go File. A Ready to Go File means a collection of information on children, additional caregivers and the facility, to utilize, if an evacuation occurs. The file shall include, but is not limited to, a copy of the Emergency Preparedness and Response Plan, contact information for individuals to pick up children, each child's Application for Child Care, medication authorizations and instructions, any action plans for children with special health care needs, a list of any known food allergies of children and additional caregiver, additional caregiver contact information, Incident Report forms, an area map, and emergency telephone numbers.~~
- (8) ~~Review the Emergency Preparedness and Response Plan annually or when information in the plan changes, to ensure all information is current.~~
- (9) ~~Review the Family Child Care Home's Emergency Preparedness and Response Plan~~

~~with additional caregivers during orientation and on an annual basis.~~

Authority G.S. 110-85; 110-88; 110-91; 143B-168.3.

10A NCAC 09 .1706 NUTRITION STANDARDS

(a) Meals and snacks served to children in a Family Child Care Home shall comply with the Meal Patterns for Children in Child Care Programs from the United States Department of Agriculture (USDA) which are based on the recommended nutrient intake judged by the National Research Council to be adequate for maintaining good nutrition. The types of food, number and size of servings shall be appropriate for the ages and developmental levels of the children in care. The Meal Patterns for Children in Child Care Programs are incorporated by reference and include subsequent amendments. A copy of the Meal Patterns for Children in Child Care Programs is available free of charge from the Division at the address in Rule ~~.0102(1)~~ .0102(2) of this Chapter.

(b) Menus for nutritious meals and snacks shall be planned at least one week in advance. At least one dated copy of the current week's menu shall be posted where it can be seen easily by parents and the operator. A variety of food shall be included in meals and snacks. Any substitution shall be of comparable food value and shall be recorded on the menu prior to the meal or snack being served.

~~(b)(c)~~ (c) When children bring their own food for meals and snacks to the program, if the food does not meet the nutritional requirements specified in Paragraph (a) of this Rule, the operator must provide ~~the~~ additional food necessary to meet those requirements. ~~requirements unless the child's parent or guardian opts out of the supplemental food provided by the operator as set forth in G.S. 110-91(2) h.1. A statement acknowledging the parental decision to opt out of the supplemental food provided by the operator signed by the child's parent or guardian shall be on file at the home. Opting out means that the operator will not provide any food or drink so long as the child's parent or guardian provides all meals, snacks, and drinks scheduled to be served at the program's designated times. If the child's parent or guardian has opted out but does not provide all food and drink for the child, the program shall provide supplemental food and drink as if the child's parent or guardian had not opted out of the supplemental food program.~~

(d) A child's parent may opt out of the supplemental food provided by the operator as set forth in G.S. 110-91(2) h.1. When a child's parent opts out of the supplemental food provided by the

center, a signed statement acknowledging the parental decision shall be on file at the home and a copy provided to the parent. For purposes of this Rule, opting out means that:

- (1) the operator shall not provide any food or drink so long as the child's parent or guardian provides all meals, snacks, and drinks scheduled to be served at the program's designated times;
- (2) the opt out ability is not available for specific meals or days based on menu options;
- (3) if a child requests specific foods being served to other children, but the parent has opted out, the operator shall not serve supplemental food; and
- (4) If the child's parent has opted out but does not provide all meals and snacks for the child, the operator shall replace the missing meal or snack as if the child's parent or guardian had not opted out of the supplemental food program.

~~(e)(e)~~ (e) The food required by special diets for medical, religious or cultural reasons, or parental preferences, may be provided by the operator or may be brought to the program by the parents. If the diet is prescribed by a health care professional, a statement signed by the health care professional shall be on file at the program and written instructions must be provided by the child's parent, health care professional or a licensed dietitian/nutritionist. If the diet is not prescribed by a health care professional, written instructions shall be provided by the child's parent and shall be on file at the program.

(f) Children's special diets or food allergies shall be posted in the food preparation area and in the child's eating area.

~~(d)(g)~~ (g) Food that does not meet the nutritional requirements specified in Paragraph (a) of this Rule, such as ~~cookies, chips, cupcakes, cakes, donuts; etc.~~ shall ~~be available~~ only be offered for special occasions such as holidays, birthdays and other celebrations.

(h) The operator, additional caregivers, and substitute providers shall role model appropriate eating behaviors by consuming only food or beverages that meet the nutritional requirements specified in Paragraph (a) of this Rule in the presence of children in care.

~~(e)(i)~~ (i) Meals and snacks shall be planned according to the number of hours a child is in care. For children ages 24 months and older a meal or snack must be provided at least every four hours. These Rules shall apply in all situations except during sleeping hours and nighttime care:

<u>Hours Child Is in Care</u>	<u>Age of Child</u>	<u>Snack and Meal Requirement</u>
<u>At least 2 hours but less than 4 hours</u>	<u>Preschool-age children</u>	<u>1 snack, unless child is present during the time a meal is being served</u>
<u>Any hours in care</u>	<u>School-age children</u>	<u>1 snack, unless child is present during the time a meal is being served</u>
<u>At least 4 hours but less than 6 hours</u>	<u>All Children</u>	<u>1 meal equal to at least 1/3 of the child's daily food needs</u>
<u>At least 6 hours but less than 12 hours</u>	<u>All Children</u>	<u>2 meals and 1 snack OR 2 snacks and 1 meal equal to at least 1/2 of the child's daily food needs</u>
<u>More than 12 hours</u>	<u>All Children</u>	<u>2 snacks and 2 meals equal to at least 2/3 of the child's daily food needs</u>

<u>Second Shift</u> <u>(approximately 3:00 p.m. to</u> <u>11:00 p.m.)</u>	<u>All Children</u>	<u>1 meal</u>
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~~(f)(j)~~ The parent or health care professional of each child under 15 months of age shall provide the operator an individual written feeding schedule plan for the child. This schedule plan shall be followed at the home. This schedule plan shall include the child's name, be signed by the parent or health care professional, and be dated when received by the operator. Each infant's schedule plan shall be modified in consultation with the child's parent or health care professional to reflect changes in the child's needs as he or she develops. The feeding plans for each infant shall be available for quick reference by the operator.

~~(g)(k)~~ Parents shall be allowed to provide breast milk for their children. Accommodations for breastfeeding mothers ~~are~~ shall be provided that include seating and an electrical outlet, in a place other than a bathroom, that is shielded from view by staff and the public, which may be used by mothers while they are breastfeeding or expressing milk.

~~(h)(l)~~ Each infant shall be held for bottle feeding until able to hold his or her own bottle. Bottles shall not be propped. Each child shall be held or placed in feeding chairs or other age-appropriate seating apparatus to be fed. The feeding chair or other seating apparatus shall be easily disassembled for cleaning purposes.

(m) Breast milk, formula and other bottled beverages sent from home shall be fully prepared, dated, and labeled with individual child names. All beverages shall be returned to the child's parent or discarded at the end of each day.

(n) Frozen breast milk that is sent from home may be stored frozen for up to seven days. Frozen breast milk shall be labeled with the date received, date thawed for use and individual child name. Once thawed, the breast milk shall be refrigerated for no more than 24 hours. Thawed breast milk shall not be refrozen. The thawed breast milk shall be returned to the child's parent or discarded at the end of each day.

~~(j)(o)~~ Any formula which is prepared by the operator shall be prepared according to the instructions on the formula package or label, or according to written instructions from the child's health care professional.

(p) Baby food, snack items and meal items sent from home shall be dated and labeled with individual child names.

(q) Microwaves shall not be used to thaw or warm breast milk, baby food, formula or other bottled beverages. Bottle warming equipment and power cords shall be inaccessible to children when in use. Bottle warming equipment shall be emptied and cleaned daily.

~~(j)(r)~~ Infants shall not be served juice in a bottle without a prescription or written statement on file from a health care professional or licensed dietitian/nutritionist.

(s) Each infant shall be served only formula, breast milk and bottles labeled with their individual name.

~~(k)(t)~~ Drinking water must be freely available and offered to children on a frequent basis. Individual drinking utensils shall be provided by the parent or operator.

~~(h)(u)~~ When milk, milk products, or fruit juices are provided by the operator, only pasteurized products or products which have undergone an equivalent process to pasteurization shall be used.

~~(m)(v)~~ The operator ~~will provide~~ shall serve only the following beverages:

- (1) ~~breast milk;~~ milk, as specified in Paragraph (k) of this Rule;
- (2) formula;
- (3) water;
- (4) unflavored whole milk, for children ages 12-24 months;
- (5) unflavored skim or lowfat milk for children ~~two years old and older;~~ 25 months through five years old; ~~or~~
- (6) flavored or unflavored skim or low fat milk for children older than five years; or
- ~~(6)(7)~~ 100 percent fruit juice, limited to 6 ounces per day, for all ages.

Authority G.S. 110-85; 110-91(2); 143B-168.3.

10A NCAC 09 .1707 BUILDING REQUIREMENTS

The applicant shall ensure that the family child care home complies with the following requirements:

- (1) single-wide manufactured homes are limited to a maximum of three preschool-age children (no more than two shall be two years of age or less) and two school-age children;
- (2) all children are kept on the ground level with an exit at grade;
- (3) all homes are equipped with an electrically operated (with a battery backup) smoke detector, or one electrically operated and one battery operated smoke detector located next to each other;
- (4) all homes are provided with at least one five pound 2-A: 10-B: C type extinguisher for every 2,500 square feet of floor area;
- (5) heating appliances shall be installed and maintained according to NC Building Code Chapter 603.5.3;
- (6) all indoor areas used by children are heated when the temperature is below 65 degrees and ventilated when the temperature is above 85 degrees; and
- (7) pipes or radiators that are hot enough to be capable of burning children and are accessible to the children are covered or insulated.

Authority G.S. 110-85; 110-86(3); 110-91; 143B-168.3.

10A NCAC 09 .1708 PRE-LICENSING REQUIREMENTS

(a) Anyone who wishes to obtain a license to operate a family child care home shall first request a pre-licensing workshop provided by the Division and submit an application for a license with supporting documentation as described in 10A NCAC 09 .1702 and this Rule.

(b) The Division shall provide regularly scheduled workshops for new family child care home applicants. A schedule of these workshops may be obtained from the Division at http://ncchildcare.nc.gov/pdf_forms/prelicworkshop.pdf. The prospective operator of the family child care home shall complete the pre-licensing workshop provided by the Division prior to the Division issuing an initial license.

(c) Prior to receiving a license, each family child care home operator shall submit supporting documentation with the application for a license as specified in 10A NCAC 09 .1702 and as follows:

- (1) Complete and keep on file a health questionnaire which attests to the operator's physical and emotional ability to care for children.
- (2) Obtain written proof that he or she is free of active tuberculosis. The results indicating the individual is free of active tuberculosis or the screening completed by a licensed health professional shall be obtained within 12 months prior to applying for a license.
- (3) Complete certification in pediatric First Aid within 12 months prior to applying for a license. Verification of the operator's completion of this course from an approved training organization shall be maintained in the operator's personnel file. The Division shall post a list of approved training organizations on its website at http://ncchildcare.nc.gov/providers/pv_sn2_ov_pd.asp.
- (4) Complete certification in a pediatric Cardiopulmonary Resuscitation (CPR) course within 12 months prior to applying for a license. Verification of the operator's completion of this course from an approved training organization shall be maintained in the operator's personnel file. The Division shall post a list of approved training organizations on its website at http://ncchildcare.nc.gov/providers/pv_sn2_ov_pd.asp.
- (5) If requesting a license to care for infants ages 12 months and younger, complete ITS-SIDS training within 12 months prior to applying for a license.
- (6) Complete an orientation training. Training required pursuant to this Rule shall not be counted toward annual on-going training requirements. A Division representative may conduct the orientation during a pre-licensing visit or the operator may complete orientation in the specified topic areas from an approved training. The Division shall post a list of approved training organizations on its website at http://ncchildcare.nc.gov/providers/pv_sn2_ov_pd.asp. Training topics for orientation shall include:
 - (A) Recognizing, responding to, and reporting child abuse, neglect, or

maltreatment pursuant to G.S. 110-105.4 and G.S. 7B-301;

- (B) Review of the home's operational policies, including the written plan of care, safe sleep policy, and the Emergency Preparedness and Response Plan;
- (C) Adequate supervision of children in accordance with 10A NCAC 09 .1711(a);
- (D) Information regarding prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;
- (E) Prevention and control of infectious diseases, including immunization;
- (F) Firsthand observation of the home's daily operations;
- (G) Instruction regarding assigned duties;
- (H) Instruction in the maintenance of a safe and healthy environment;
- (I) Instruction in the administration of medication to children in accordance with 10A NCAC 09 .1720(b);
- (J) Review of the child care licensing law and rules;
- (K) An explanation of the role of State and local government agencies in the regulation of child care, their impact on the operation of the center, and their availability as a resource;
- (L) An explanation of the operator's obligation to cooperate with representatives of State and local government agencies during visits and investigations; and
- (M) Prevention of and response to emergencies due to food and allergic reactions.

The operator shall sign and date a statement which attests that this orientation training was completed. This statement shall be kept on file in the home available for review by the Division.

Authority G.S. 110-85; 110-88; 110-91; 143B-168.3.

10A NCAC 09 .1709 INSPECTIONS

(a) The operator shall permit the Division to inspect the premises of the family child care home prior to licensure, and at any time thereafter during operating hours, to ensure compliance with G.S. 110, Article 7 and 10A NCAC 09.

(b) The Division shall conduct an announced visit prior to the initial issuance of license.

(c) The Division shall make at least one unannounced visit annually to ensure compliance with the licensure statutes and rules.

(d) The Division shall make an unannounced visit when the Division receives a complaint alleging a violation of licensure

statutes, or rules, or if the Division has cause to believe an emergency exists at the facility.

Authority G.S. 110-105; 143B-168.3.

10A NCAC 09 .1710 ACCESS TO THE FAMILY CHILD CARE HOME

(a) No person shall be allowed on the premises of a family child care home who has been convicted of a "reportable conviction" as defined in G.S. 14-208.6(4).

(b) The parent of a child enrolled in a family child care home shall be allowed access to the home during its operating hours for the purposes of contacting the child or evaluating caregiving space at the home and the care provided by the operator for the child. The parent shall notify the operator of his or her presence upon entering the premises.

(c) Parents subject to court orders related to custody of a child enrolled in a family child care home shall only be allowed access to the home in accordance with the court order.

Authority G.S. 110-85; 110-90.2; 110-91; 143B-168.3.

10A NCAC 09 .1711 SUPERVISION OF CHILDREN

(a) Children shall be adequately supervised at all times. "Adequate supervision" shall mean that:

- (1) For pre-school age children, the operator shall be positioned in the indoor and outdoor environment to maximize his or her ability to hear and see the children at all times and render immediate assistance;
- (2) For school-age children, the operator shall be positioned in the indoor and outdoor environment to maximize his or her ability to hear or see the children at all times and render immediate assistance;
- (3) The operator shall interact with the children while moving about the indoor or outdoor area; and
- (4) For children of all ages:
 - (A) the operator shall know where each child is located and be aware of children's activities at all times;
 - (B) the operator shall provide supervision according to the individual age, needs, and capabilities of each child;
 - (C) all of the conditions in this Paragraph shall apply except when emergencies necessitate that adequate supervision is impossible for brief periods of time. Written documentation of emergencies stating the date, time, and reason shall be maintained and available for review by Division representatives upon request; and
 - (D) for children who are sleeping or napping, the operator is not required to visually supervise them, but shall be able to hear and respond without delay to them. Children shall not sleep or

nap in a room with a closed door between the children and the operator. The operator shall be on the same level of the home where children are sleeping or napping.

(b) Nothing contained in this Rule shall be construed to preclude a "qualified person with a disability," as defined by G.S. 168A-3(9), or a "qualified individual," as defined by the Americans With Disabilities Act at 42 U.S.C. 12111(8), from working in a licensed child care facility.

Authority G.S. 110-85; 110-88; 143B-168.3.

10A NCAC 09 .1712 WRITTEN PLAN OF CARE

(a) Each operator who intends to complete routine tasks while children are in care shall develop and adopt a written plan of care for completing routine tasks. For purposes of this Rule, routine tasks includes running errands, meeting personal and family demands, attending classes, and attending medical appointments.

(b) Operators who intend to complete routine tasks with enrolled children shall limit these tasks to no more than two hours per week.

(c) Children shall not attend classes or medical appointments, with the family child care home operator, as described in Paragraph (a) of this Rule.

(d) Operators who attend classes, medical appointments, or who must complete routine tasks in excess of two hours per week, shall ensure that a qualified additional caregiver or substitute provider cares for enrolled children during these times.

(e) The written plan of care shall:

- (1) specify typical times for completing routine tasks and include those times on the written schedule;
- (2) specify the names of any individuals, such as additional caregivers or substitute providers, who will be responsible for the care of children when the operator is attending to routine tasks;
- (3) specify how the operator shall maintain compliance with transportation requirements specified in 10A NCAC 09 .1723 if children are transported;
- (4) specify how parents will be notified when children accompany the operator off premises for routine tasks not specified on the written schedule;
- (5) specify any other steps the operator shall take to ensure routine tasks will not interfere with the care of children; and
- (6) be provided and explained to parents of children in care on or before the first day the child attends the home. Parents shall sign a statement acknowledging the receipt and explanation of the plan. Parents shall also give written permission for their child to be transported by the operator for specific routine tasks that are included on the written schedule. The acknowledgment and written parental permission shall be retained in the child's record as long as the child is enrolled at the home and

a copy of each document shall be maintained on file for review by the Division.

(f) If the operator amends the written plan, the operator shall give written notice of the amendment to parents of all enrolled children at least 30 days before the amended plan is implemented. Each parent shall sign a statement acknowledging the receipt and explanation of the amendment. The operator shall retain the acknowledgement in the child's records as long as the child is enrolled in the home and a copy shall be maintained on file for review by the Division.

Authority G.S. 110-85; 110-86(3); 110-91; 143B-168.3.

10A NCAC 09 .1713 EMERGENCY MEDICAL CARE

The operator shall have a written plan that sets forth in detail the steps to follow in the event of a child medical emergency. This plan shall give the procedures to be followed to ensure that any child who becomes ill or is injured and requires medical attention while in care receives appropriate medical attention. The operator shall be responsible for:

- (1) ensuring appropriate medical care is given, and determining which of the following is needed:
 - (a) simple pediatric First Aid for an injury or illness needing only minimal attention; or
 - (b) calling 911 in accordance with pediatric CPR or pediatric First Aid training recommendations.
- (2) ensuring that the signed authorization described in 10A NCAC 09 .1721(a)(3) is taken with the ill or injured child to the medical facility;
- (3) notifying a child's parents or emergency contact person about the illness or injury and where the child has been taken for treatment; and
- (4) obtaining substitute providers, if needed, to maintain adequate supervision of children who remain in care.

This plan shall be reviewed with all additional caregivers and substitute providers prior to caring for children and whenever the plan is revised. The plan shall be available for review by the Division during facility operating hours.

Authority G.S. 110-85; 110-91; 143B-168.3.

10A NCAC 09 .1714 EMERGENCY PREPAREDNESS AND RESPONSE

(a) For purposes of this Rule, the Emergency Preparedness and Response in Child Care is a training approved by the Division on creating an Emergency Preparedness and Response Plan and practicing, responding to, and recovering from emergencies in child care facilities.

(b) Existing operators that were licensed on or before July 1, 2015 shall have until July 1, 2017 to complete the Emergency Preparedness and Response in Child Care training. Within one year of the effective date of a new license, the operator shall complete the Emergency Preparedness and Response in Child Care training. Documentation of completion of the training shall be maintained in the operator's personnel file.

(c) Upon completion of the Emergency Preparedness and Response in Child Care training, the operator shall develop the Emergency Preparedness and Response Plan. The Emergency Preparedness and Response Plan means a written plan that addresses how a child care facility will respond to both natural and man-made disasters, such as fire, tornado, flood, power failures, chemical spills, bomb threats, earthquakes, blizzards, nuclear disaster, or a dangerous person in the vicinity, to ensure the safety and protection of the children and additional caregivers. This Plan shall be on a template provided by the Division available at <https://rmp.nc.gov/portal/#>, completed within four months of completion of the Emergency Preparedness and Response in Child Care training, and available for review.

(d) The Emergency Preparedness and Response Plan shall include the following:

- (1) written procedures for accounting for all in attendance, including:
 - (A) the location of the children, staff, volunteer and visitor attendance lists; and
 - (B) the name of the person(s) responsible for bringing the lists in the event of an emergency.
- (2) a description for how and when children shall be transported;
- (3) methods for communicating with parents and emergency personnel or law enforcement;
- (4) a description of how children's nutritional and health needs will be met;
- (5) the relocation and reunification process;
- (6) emergency telephone numbers;
- (7) evacuation diagrams showing how the operator, family members, children and any other individuals who may be present will evacuate during an emergency;
- (8) the date of the last revision of the plan;
- (9) specific considerations for non-mobile children and children with special needs; and
- (10) the location of the Ready to Go File. A Ready to Go File means a collection of information on children, additional caregivers and the facility, to utilize, if an evacuation occurs. The file shall include, but is not limited to, a copy of the Emergency Preparedness and Response Plan, contact information for individuals to pick-up children, each child's Application for Child Care, medication authorizations and instructions, any action plans for children with special health care needs, a list of any known food allergies of children and additional caregiver, additional caregiver contact information, Incident Report forms, an area map, and emergency telephone numbers.

(e) The operator shall review the Emergency Preparedness and Response Plan annually, or when information in the plan changes, to ensure all information is current.

(f) The operator shall review the Family Child Care Home's Emergency Preparedness and Response Plan with additional

caregivers prior to the individual caring for children and on an annual basis.

(g) All substitute providers and volunteers who provide care to children shall be informed of the Emergency Preparedness and Response Plan and its location. Documentation of this notice shall be maintained in the individual personnel files.

Authority G.S. 110-85; 110-88; 110-91; 143B-168.3.

10A NCAC 09 .1716 FAILURE TO MAINTAIN REQUIREMENTS

~~(a) If the Division determines that a family child care home operator fails to maintain compliance with the requirements for licensure, the Division may establish a reasonable time period to allow the operator to achieve compliance or recommend issuance of an administrative action and civil penalty in accordance with 10A NCAC 09 .2200, a provisional license in accordance with Rule .0401 of this Subchapter.~~

~~(b) If the operator fails to achieve compliance within the established time period, the Division may suspend, terminate, or revoke the license. The operator may appeal any such action pursuant to the provisions of G.S. 150B.~~

~~(c) The Division may recommend imposition of a civil penalty in accordance with the procedures set forth in Section .2200 of this Subchapter and according to the following schedules:~~

- ~~(1) A civil penalty in an amount up to one thousand dollars (\$1,000.00) may be imposed when the Division has substantiation that a child was abused or neglected while in care in a family child care home.~~
- ~~(2) A civil penalty in an amount up to two hundred dollars (\$200.00) may be imposed for the following violations:~~
 - ~~(A) Repeated incidents of exceeding the number of children allowed in a licensed family child care home;~~
 - ~~(B) Repeated incidents where there has been a lack of supervision of the children; or~~
 - ~~(C) Willful, repeated pattern of noncompliance with any requirement contained in this Subchapter or in the General Statutes.~~
- ~~(3) A civil penalty in an amount up to one hundred dollars (\$100.00) may be imposed for the following violations:~~
 - ~~(A) Denial of entry to an authorized representative of the Division;~~
 - ~~(B) Documented noncompliance with the number of children allowed in a licensed family child care home;~~
 - ~~(C) Lack of supervision of the children in care; or~~
 - ~~(D) Failure to comply with a corrective action plan designed by the Division to correct noncompliance with any applicable requirement in this Subchapter or in the General Statutes.~~

Authority G.S. 110-85; 110-86(3); 110-88(1),(5),(6a); 110-91; 110-98; 110-103.1; 110-105; 110-105.2; 110-106; 143B-168.3; 150B-23.

10A NCAC 09 .1718 REQUIREMENTS FOR DAILY OPERATIONS

~~(a) Children shall be adequately supervised at all times. "Adequate supervision" shall mean that:~~

- ~~(1) For pre-school age children, the operator shall be positioned in the indoor and outdoor environment to maximize his or her ability to hear and see the children at all times and render immediate assistance;~~
 - ~~(2) For school age children, the operator shall be positioned in the indoor and outdoor environment to maximize his or her ability to hear or see the children at all times and render immediate assistance;~~
 - ~~(3) The operator shall interact with the children while moving about the indoor or outdoor area; and~~
 - ~~(4) For children of all ages:~~
 - ~~(i) the operator shall know where each child is located and be aware of children's activities at all times;~~
 - ~~(ii) the operator shall provide supervision according to the individual age, needs, and capabilities of each child; and~~
 - ~~(iii) all of the conditions in this Paragraph shall apply except when emergencies necessitate that adequate supervision is impossible for brief periods of time. Written documentation of emergencies stating the date, time, and reason shall be maintained and available for review by Division representatives upon request.~~
- ~~(b)(a) The operator shall provide the following on a daily basis for all children in care:~~
- ~~(1) Developmentally appropriate equipment and materials for a variety of outdoor activities that allow for vigorous play, large and small muscle development, and social, emotional, and intellectual development. For purposes of this Rule "vigorous" means done with force and energy. Each child shall have the opportunity for a minimum of one hour of outdoor play each day that weather conditions permit. The operator shall provide space and time for vigorous indoor activities when children cannot play outdoors;~~
 - ~~(2) An individual sleeping space such as a bed, crib, play pen, cot, mat, or sleeping bag with individual linens for each pre-school aged child in care for four hours or more, or for all children if overnight care is provided, to rest. Individual sleep requirements for infants aged 12 months or younger shall be provided for as specified in 10A NCAC 09 .1724(a)(2). A supply of clean linens must be on hand so that linens can be changed whenever they become soiled or wet. Linens shall be changed weekly or whenever they become soiled or wet;~~
 - ~~(3) For children who are sleeping or napping, the operator is not required to visually supervise~~

- ~~them, but shall be able to hear and respond without delay to them. Children shall not sleep or nap in a room with a closed door between the children and the operator. The operator shall be on the same level of the home where children are sleeping or napping;~~
- (4)(3) A safe sleep environment by ensuring that when a child is sleeping or napping, bedding or other objects shall not be placed in a manner that covers the child's face;
- (5)(4) A separate area that can be supervised pursuant to ~~Paragraph (a) of this Rule~~ 10A NCAC 09 .1720(a) for children who become ill to the extent that they can no longer participate in routine group activities. Parents shall be notified immediately if their child becomes too sick to remain in care;
- (6)(5) The opportunity each day for each child under the age of 12 months ~~to~~ for supervised play while awake and alert while positioned on his or her stomach;
- (7)(6) Developmentally appropriate activities as planned on a written ~~schedule~~. schedule and activity plan. The schedule and activity plan may be combined as one document. Materials or equipment shall be available indoors and outdoors to support the activities listed on the written ~~schedule~~. schedule and activity plan;
- (7) The written schedule shall:
- (A) Show blocks of time assigned to types of activities and include periods of time for both active play and quiet play or rest;
- (B) Be displayed in a place where parents are able to view it;
- (C) Show times and activities that are developmentally appropriate for the ages of children in care;
- ~~(C)(D)~~ Reflect daily opportunities for both free choice and guided activities;
- ~~(D)(E)~~ Include a minimum of one hour of outdoor play throughout the day, if weather conditions permit; ~~and~~
- ~~(E)(F)~~ Include a daily gross motor activity that may occur indoors or ~~outdoors~~. outdoors; and
- (G) For children under two years old, interspersed among the daily events shall be individualized caregiving routines such as eating, napping, and toileting;
- (8) The written activity plan shall:
- (A) Include activities intended to stimulate the following developmental domains, in accordance with North Carolina Foundations for Early Learning and Development, available on the Division's website at
- http://ncchildcare.nc.gov/providers/pv_foundations.asp:
- (i) emotional and social development;
- (ii) health and physical development;
- (iii) approaches to play and learning;
- (iv) language development and communication; and
- (iv) cognitive development.
- (B) Identify activities that allow children to choose to participate with the whole group, part of the group, or independent of the group;
- (C) Reflect that children have at least four different activities daily, at least one of which is outdoors, if weather conditions permit, as specified in G.S. 110-91(12) as follows:
- (i) art and other creative play;
- (ii) children's books;
- (iii) blocks and block building;
- (iv) manipulatives; and
- (v) family living and dramatic play.
- (D) Provide materials and opportunities at least weekly, indoors or outdoors, for the following:
- (i) music and rhythm;
- (ii) science and nature; and
- (iii) sand and water play.
- (9) A safe, uncluttered area that allows freedom of movement shall be available, both indoors and outdoors; and
- (10) Operators who provide care to school-age children shall provide a balance of activities appropriate to the age, needs and interests of the school-age children.
- (c) ~~When screen time is time, including videos, video games, and computer usage, is provided, provided on any electronic media device with a visual display, it shall be:~~
- (1) ~~Offered only as a free choice activity; to stimulate a developmental domain in accordance with the North Carolina Foundations for Early Learning and Development as referenced in this Section;~~
- (2) ~~Used to meet a developmental goal; and~~
- (3)(2) Limited to a maximum of 30 minutes per day and no more than a total of two and a half hours per week per child; for each child two years of age and older. Usage time periods may be extended for specific special events, projects, occasions such as a current event, homework, on-site computer classes, holiday, and birthday celebration.
- (3) Documented on a cumulative log or activity plan, and shall be available for review by the Division; and

- (4) Screen time is prohibited for children under the age of ~~two~~ three years. The operator shall offer alternate activities for children under the age of ~~two~~ three years.

~~(d) Nothing contained in this Rule shall be construed to preclude a "qualified person with a disability," as defined by G.S. 168A-3(9), or a "qualified individual," as defined by the Americans With Disabilities Act at 42 U.S.C. 12111(8), from working in a licensed child care facility.~~

Authority G.S. 110-85; 110-88; 110-91(12); 143B-168.3.

10A NCAC 09 .1719 REQUIREMENTS FOR A SAFE INDOOR/OUTDOOR ENVIRONMENT

(a) The operator of a family child care home shall provide a physically maintain a safe and healthy indoor and outdoor environment that meets the developmental needs of children in care, including but not limited to the following: for the children in care. In addition, the operator shall:

- (1) keep all areas used by the children, both indoors and outdoors, clean and orderly and free of items which that are potentially hazardous to children. Potentially hazardous items including but not limited to, power tools, nails, chemicals, propane stoves, lawn mowers, and gasoline or kerosene whether or not intended for use by children, shall be stored in locked areas, removed from the premises, or otherwise inaccessible to children. This includes the removal of items that a child can swallow. In addition, loose nails or screws and splinters shall be removed on inside and outside equipment;
- (2) empty firearms of ammunition and keep both in separate, locked storage;
- (3) keep all materials used for starting fires, such as matches, lighters, and accelerants in locked storage;
- ~~(4)~~ (4) safely store all combustible materials that may create a fire hazard; hazard;
- ~~(2)~~ (5) safely store potentially hazardous equipment and supplies such as ~~lawnmowers~~, lawn mowers, hand and power tools, propane stoves, gasoline, kerosene, ~~nails~~, or nails so they are inaccessible to children;
- (6) medications including prescription and non-prescription items shall be stored in a locked cabinet or other locked container. Designated emergency medications shall be stored out of reach of children at least five feet high, but are not required to be in locked storage. For the purposes of this Rule designated emergency medications, used or needed for the immediate recovery from a life-threatening event, include Epi-Pen, Glucagon, Diazepam suppositories or gel and albuterol;
- (7) keep hazardous cleaning supplies and other items that might be poisonous, e.g., toxic plants, out of reach or in locked storage when children

are in care; A list of toxic plants may be found on the Division's website at http://ncchildcare.nc.gov/pdf_forms/form16b_bb.pdf;

- (8) keep all corrosive agents, pesticides, bleaches, detergents, cleansers, polishes, any product that is under pressure in an aerosol dispenser, and any substance which may be hazardous to a child if ingested, inhaled, or handled shall be kept in its original container or in another labeled container, used according to the manufacturer's instructions, and stored in a locked area when not in use. Locked areas shall include those that are unlocked with a combination, electronic, or magnetic device, key, or equivalent locking device. These unlocking devices shall be kept out of the reach of a child and shall not be stored in the lock. Toxic substances shall be stored below or separate from medications and food. Any product not listed in this Paragraph of this Rule that is labeled "keep out of reach of children" without any other warnings shall be kept inaccessible to children when not in use, but is not required to be kept in locked storage. The product shall be considered inaccessible to children when stored on a shelf or in an unlocked cabinet that is mounted a minimum vertical distance of five feet above the finished floor;
- (9) ensure potential bio-contaminants are stored in locked areas, or removed from the premises or otherwise inaccessible to children;
- (10) keep pediatric First Aid supplies in a place accessible to the operator;
- (11) keep tobacco products in locked storage when children are in care. The operator and staff shall not smoke or use any product containing, made or derived from tobacco, including cigarettes, cigars, little cigars, smokeless tobacco, and any device used to inhale or ingest tobacco products at any time while children are in care on the premises of the family child care home, on vehicles used to transport children or during any off premise activities;
- (12) post signage regarding the smoking and tobacco restriction at each entrance to the family child care home and on vehicles used to transport children;
- (13) notify the parent of each child enrolled in the facility, in writing, of the smoking and tobacco restriction;
- (14) verification of Subparagraphs (12) and (13) of this Paragraph by the Division shall be evidence that the operator has complied with the smoking and tobacco restriction for persons that are not employed by the facility;
- (15) have a working telephone within the family child care home. A telephone located in an area

- of the family child care home that is sometimes locked during the time the children are present shall not be the only phone available during operating hours. Telephone numbers for the fire department, law enforcement office, emergency medical service, and poison control center shall be posted in a location easily visible in the home;
- (16) have access to a means of transportation that is always available for emergency situations;
- (17) have a copy of "Caring for Our Children: Appendix A" located in the child care facility for referral regarding common signs and symptoms of illness. The book is incorporated by reference, including subsequent amendments and editions, and is available free of charge online at <http://cfoc.nrckids.org/>;
- (18) have a pediatric First Aid information sheet posted in a place for quick referral by staff members. A child care operator may request a pediatric First Aid information sheet from the North Carolina Child Care Health and Safety Resource Center at 1-800-367-2229;
- (19) conduct a monthly fire drill;
- (20) conduct a "shelter-in-place drill" or "lockdown drill" as defined in 10A NCAC 09 .0102 at least every three months and records shall be maintained as required by 10A NCAC 09 .0302(f)(8);
- (21) check the indoor and outdoor environment daily for debris, vandalism, broken equipment and animal waste. The operator shall keep all areas used by the children, indoors and outdoors, clean and orderly and free of items which are potentially hazardous to children. This includes the removal of items that a child can swallow and use of outdoor play equipment that is too hot to touch. In addition, loose nails or screws and splinters shall be removed on inside and outside equipment;
- (22) not have plastic bags, toys, and toy parts small enough to be swallowed accessible to children under three years of age. This includes materials that can be easily torn apart such as foam rubber and Styrofoam, except that Styrofoam plates may be used for food service and larger pieces of foam rubber may be used for supervised art activities;
- (23) ensure that jump ropes and rubber bands are not accessible to children under five years of age without adult supervision. Balloons shall be prohibited for children of all ages;
- (24) teacher-made and home-made equipment and materials may be used if they are safe and functional. Materials and equipment that are accessible to children shall not be coated or treated with, nor shall they contain, toxic materials such as creosote, pentachlorophenol, tributyl tin oxide, dislodgeable arsenic and any finishes which contain pesticides;
- (25) ensure the equipment and toys are in good repair and are developmentally appropriate for the children in care;
- (3)(26) ensure that all stationary outdoor equipment is firmly anchored and is not installed over concrete or asphalt. Footings which that anchor the equipment shall not be exposed;
- (27) ensure that any openings in equipment, steps, decks, and handrails shall be smaller than 3½ inches or greater than 9 inches to prevent entrapment;
- (28) ensure that all commercially manufactured equipment and furnishings shall be assembled and installed according to procedures specified by the manufacturer;
- (29) ensure that a shaded area is available to children in the outdoor learning environment. The shade may be provided by a building, awnings, trees, or other methods;
- (4)(30) securely mount electric fans out of the reach of children or have a mesh guard on each fan;
- (5)(31) cover all electrical outlets not in use and remove old, ~~cracked~~ cracked, or frayed cords in occupied outlets;
- (6)(32) ensure that, for appliances with heating elements, such as bottle warmers, crock pots, irons, coffee pots, or curling irons, neither the appliance nor the any cord, if applicable, is accessible to preschool children;
- (7)(33) have solid and safe indoor and outdoor stairs and steps if these are used by the children. Indoor indoor and outdoor stairs with more than two or more steps which that are used by the children shall be railed. Indoor stairs with more than two steps shall be made inaccessible to children in care who are two years old or younger; younger; and
- (34) ensure that toxic plants shall be inaccessible to children. A list of toxic plants may be found on the Division's website at http://ncchildcare.nc.gov/pdf_forms/form16b_bb.pdf.
- (8) maintain any swimming pools or wading pools on the premises in a manner that will safeguard the lives and health of the children. All swimming or wading pools used by children in care shall meet the "Rules Governing Public Swimming Pools," in accordance with 15A NCAC 18A .2500 which are hereby incorporated by reference including subsequent amendments. A copy of these Rules is on file at the Division at the address given in Rule .0102 of this Chapter or may be obtained at no cost by writing the North Carolina Division of Environmental Health, 1630 Mail Service Center, Raleigh, NC 26799-1630;

- (9) ~~enclose any in-ground swimming pools by a fence at least four feet high to prevent chance access by children. The swimming pool shall be separate from the play area. Access to the water in above-ground swimming pools shall be prevented by locking and securing the ladder in place or storing the ladder in a place inaccessible to the children; and~~

(b) When animals are on the premises, the following shall apply:

- (1) All household pets shall be vaccinated with up-to-date vaccinations as required by North Carolina law and local ordinances. Rabies vaccinations are required for cats and dogs;
- (2) Animal cages shall be kept clean; and
- (b)(3) ~~Prior to enrollment of children in a family child care home, and before new animals that will be in the home come into the family child care home, a the parent of each child must sign a form acknowledging the type of animal located on the premises and where the animal will be kept during operating hours. This documentation shall be maintained in each child's file.~~

Authority G.S. 110-85; 110-88; 110-91(3),(4),(5),(6).

10A NCAC 09 .1720 MEDICATION REQUIREMENTS

(a) ~~To assure the safety of children in care, the operator shall:~~

- (1) ~~empty firearms of ammunition and keep both in separate, locked storage;~~
- (2) ~~keep items used for starting fires, such as matches and lighters, out of the children's reach;~~
- (3) ~~keep all medicines in locked storage;~~
- (4) ~~keep hazardous cleaning supplies and other items that might be poisonous, e.g., toxic plants, out of reach or in locked storage when children are in care;~~
- (5) ~~keep first aid supplies in a place accessible to the operator;~~
- (6) ~~keep tobacco products out of reach or in locked storage when children are in care;~~
- (7) ~~ensure the equipment and toys are in good repair and are developmentally appropriate for the children in care;~~
- (8) ~~have a working telephone within the family child care home. Telephone numbers for the fire department, law enforcement office, emergency medical service, and poison control center shall be posted near the telephone;~~
- (9) ~~have access to a means of transportation that is always available for emergency situations;~~
- (10) ~~be able to recognize common symptoms of illnesses;~~
- (11) ~~conduct a monthly fire drill; and~~
- (12) ~~conduct a "shelter in place drill" or "lockdown drill" as defined in 10A NCAC 09 .0102 at least every three months.~~

(b)(a) The operator may provide care for a mildly ill child who has a Fahrenheit temperature of less than 100 degrees axillary or 101 degrees orally and who remains capable of participating in routine group activities; provided so long as the child does not have any of the following:

- (1) ~~have~~ the sudden onset of diarrhea characterized by an increased number of bowel movements compared to the child's normal pattern and with increased stool water;
- (2) ~~have~~ two or more episodes of vomiting within a 12 hour period;
- (3) ~~have~~ a red eye with white or yellow eye discharge until 24 hours after treatment;
- (4) ~~have~~ scabies or lice;
- (5) ~~have~~ known chicken pox or a rash suggestive of chicken pox;
- (6) ~~have~~ tuberculosis, until a health professional states that the child is not infectious;
- (7) ~~have~~ strep throat, until 24 hours after treatment has started;
- (8) ~~have~~ pertussis, until five days after appropriate antibiotic treatment;
- (9) ~~have~~ hepatitis A virus infection, until one week after onset of illness or jaundice;
- (10) ~~have~~ impetigo, until 24 hours after treatment; or
- (11) ~~have~~ a physician's or other health professional's written order that the child be separated from other children.

(c)(b) The following provisions apply to the administration of medication in family child care homes:

- (1) No prescription or over-the-counter medication and no topical, non-medical ointment, repellent, lotion, ~~cream~~ cream, fluoridated toothpaste or powder shall be administered to any child:
- (A) without written authorization from the child's parent;
- (B) without written instructions from the child's parent, physician or other health professional;
- (C) in any manner not authorized by the child's parent, physician or other health professional;
- (D) after its expiration date; ~~or~~
- (E) for non-medical reasons, such as to induce ~~sleep~~; sleep; or
- (F) with a known allergy to the medication.
- (2) Prescribed medications:
- (A) shall be stored in the original containers in which they were dispensed with the pharmacy labels specifying:
- (i) the child's name;
- (ii) the name of the medication or the prescription number;
- (iii) the amount and frequency of dosage;

- (iv) the name of the prescribing physician or other health professional; and
 - (v) the date the prescription was filled; or
- (B) if pharmaceutical samples, shall be stored in the manufacturer's original packaging, shall be labeled with the child's name, and shall be accompanied by written instructions specifying:
 - (i) the child's name;
 - (ii) the names of the medication;
 - (iii) the amount and frequency of dosage;
 - (iv) the signature of the prescribing physician or other health professional; ~~and~~
 - (v) the date the instructions were signed by the physician or other health professional; and
 - (vi) shall be administered according to the prescription, using amount and frequency of dosage specified on the label; and
- (C) shall be administered only to the child for whom they were prescribed.
- (3) A parent's written authorization for the administration of a prescription medication described in Paragraph ~~(e)(2)~~(b)(2) of this Rule shall be valid for the length of time the medication is prescribed to be taken.
- (4) Over-the-counter medications, such as cough syrup, decongestant, acetaminophen, ibuprofen, topical antibiotic cream for abrasions, or medication for intestinal disorders shall be stored in the manufacturer's original packaging on which the child's name is written or labeled and shall be accompanied by written instructions specifying:
 - (A) the child's name;
 - (B) the names of the authorized over-the-counter medication;
 - (C) the amount and frequency of the ~~dosages;~~ dosages, which shall not exceed the amount and frequency of the dosages on the manufacturer's label;
 - (D) the signature of the parent, physician or other health professional; and
 - (E) the date the instructions were signed by the parent, physician or other health professional.

The permission to administer over-the-counter medications is valid for up to 30 days at a time, except as allowed in Subparagraphs ~~(e)(6)~~, (b)(6), (7), (8), and (9) of this Rule. Over-the-counter medications shall not be administered
- on an "as needed" basis, other than as allowed in Subparagraphs ~~(e)(6)~~, (b)(6), (7), (8), and (9) of this Rule.
- (5) When questions arise concerning whether any medication should be administered to a child, the caregiver may decline to administer the medication without signed, written dosage instructions from a licensed physician or authorized health professional.
- (6) A parent may give a caregiver standing authorization for up to six months to administer prescription or over-the-counter medication to a child, when needed, for chronic medical conditions such as asthma, and for allergic reactions. The authorization shall be in writing and shall contain:
 - (A) the child's name;
 - (B) the subject medical conditions or allergic reactions;
 - (C) the names of the authorized over-the-counter medications;
 - (D) the criteria for the administration of the medication;
 - (E) the amount and frequency of the dosages;
 - (F) the manner in which the medication shall be administered;
 - (G) the signature of the parent;
 - (H) the date the authorization was signed by the parent; and
 - (I) the length of time the authorization is valid, if less than six months.
- (7) A parent may give a caregiver standing authorization for up to 12 months to apply over-the-counter, topical ointments, topical teething ointment or gel, insect repellents, lotions, creams, fluoridated toothpaste, and powders --- such as sunscreen, diapering creams, baby lotion, and baby powder --- to a child, when needed. The authorization shall be in writing and shall contain:
 - (A) the child's name;
 - (B) the names of the authorized ointments, repellents, lotions, creams, fluoridated toothpaste, and powders;
 - (C) the criteria for the administration of the ointments, repellents, lotions, creams, fluoridated toothpaste, and powders;
 - (D) the manner in which the ointments, repellents, lotions, creams, fluoridated toothpaste, and powders shall be applied;
 - (E) the signature of the parent;
 - (F) the date the authorization was signed by the parent; and
 - (G) the length of time the authorization is valid, if less than 12 months.

- (8) A parent may give a caregiver standing authorization to administer a single weight-appropriate dose of acetaminophen to a child in the event the child has a fever and a parent cannot be reached. The authorization shall be in writing and shall contain:
- (A) the child's name;
 - (B) the signature of the parent;
 - (C) the date the authorization was signed by the parent;
 - (D) the date that the authorization ends or a statement that the authorization is valid until withdrawn by the parent in writing.
- (9) A parent may give a caregiver standing authorization to administer an over-the-counter medication as directed by the North Carolina State Health Director or designee, when there is a public health emergency as identified by the North Carolina State Health Director or designee. The authorization shall be in writing, may be valid for as long as the child is enrolled, and shall contain:
- (A) the child's name;
 - (B) the signature of the parent;
 - (C) the date the authorization was signed by the parent; and
 - (D) the date that the authorization ends or a statement that the authorization is valid until withdrawn by the parent in writing.
- (10) Pursuant to G.S. 110-102.1A, a caregiver may administer medication to a child without parental authorization in the event of an emergency medical condition when the child's parent is unavailable, providing the medication is administered with the authorization and in accordance with instructions from a health care professional as defined in Rule ~~.0102(16)~~ .0102(21) of this Chapter.
- (11) A parent may withdraw ~~his or her~~ written authorization for the administration of medications at any time in writing.
- (12) Any medication remaining after the course of treatment is completed or after authorization is withdrawn shall be returned to the child's parents. Any medication the parent fails to retrieve within 72 hours of completion of treatment, or withdrawal of authorization, shall be discarded.
- (13) Any time prescription or over-the-counter medication is administered by a caregiver to children receiving care, the following information shall be recorded: including any time medication is administered in the event of an emergency medical condition without parental authorization as permitted by G.S. 110-102.1A,
- (A) the child's ~~name;~~ name;

- (B) ~~the date;~~ date medication given;
- (C) ~~time;~~ the time medication given;
- (D) ~~the amount and type of medication given;~~ given; and
- (E) the name and signature of the person administering the medication.
~~medication shall be recorded.~~

This information shall be noted on a medication permission slip, or on a separate form developed by the ~~provider~~ operator which includes the required information. This information shall be available for review by the Division during the time period the medication is being administered and for at least six months after the medication is administered. No documentation shall be required when items listed in Subparagraph ~~(e)(7)(b)(7)~~ of this Rule are applied to children.

- (14) if medication is administered in error, whether administering the wrong dosage, giving to the wrong child, or giving the incorrect type of medicine, the operator shall:

- (A) call 911 in accordance with pediatric CPR or pediatric First Aid training recommendations;
- (B) contact the child's parent immediately;
- (C) observe the child closely; and
- (D) document the medication error in writing, including:
 - (i) the child's name and date of birth;
 - (ii) the type and dosage of medication administered;
 - (iii) the name of the person who administered the medication;
 - (iv) the date and time of the error;
 - (v) the signature of the operator and the parent;
 - (vi) the actions taken by the operator following the error; and
 - (vii) the actions that will be taken by the operator to prevent a future error.

This documentation shall be maintained in the child's file.

- ~~(d) To assure the health of children through proper sanitation, the operator shall:~~

- (1) ~~collect and submit samples of water from each well used for the children's water supply for bacteriological analysis to the local health department or a laboratory certified to analyze drinking water for public water supplies by the North Carolina Division of Laboratory Services every two years. Results of the analysis shall be on file in the home;~~
- (2) ~~have sanitary toilet, diaper changing and hand washing facilities. Diaper changing areas shall be separate from food preparation areas;~~

- (3) ~~use sanitary diapering procedures. Diapers shall be changed whenever they become soiled or wet. The operator shall:~~
 - (A) ~~wash his or her hands before, as well as after, diapering each child;~~
 - (B) ~~ensure the child's hands are washed after diapering the child; and~~
 - (C) ~~place soiled diapers in a covered, leak proof container which is emptied and cleaned daily;~~
- (4) ~~use sanitary procedures when preparing and serving food. The operator shall:~~
 - (A) ~~wash his or her hands before and after handling food and feeding the children; and~~
 - (B) ~~ensure the child's hands are washed before and after the child is fed;~~
- (5) ~~wash his or her hands, and ensure the child's hands are washed, after toileting or handling bodily fluids.~~
- (6) ~~refrigerate all perishable food and beverages. The refrigerator shall be in good repair and maintain a temperature of 45 degrees Fahrenheit or below. A refrigerator thermometer is required to monitor the temperature;~~
- (7) ~~date and label all bottles for each individual child, except when there is only one bottle fed child in care;~~
- (8) ~~have a house that is free of rodents;~~
- (9) ~~screen all windows and doors used for ventilation;~~
- (10) ~~have all household pets vaccinated with up to date vaccinations as required by North Carolina law and local ordinances. Rabies vaccinations are required for cats and dogs; and~~
- (11) ~~store garbage in waterproof containers with tight fitting covers.~~

(e) ~~The operator shall not force children to use the toilet and the operator shall consider the developmental readiness of each child during toilet training.~~

(f) ~~The operator shall not use tobacco products at any time while children are in care. Smoking or use of tobacco products shall not be permitted indoors while children are in care, or in a vehicle when children are transported.~~

Authority G.S. 110-85; 110-88; 110-91(6); 110-102.1A; 143B-168.3.

10A NCAC 09 .1721 REQUIREMENTS FOR RECORDS

(a) The operator shall maintain the following health records for each enrolled child, including his or her own preschool child(ren):

- (1) a copy of the child's health assessment as required by G.S. 110-91(1);
- (2) a copy of the child's immunization record;
- (3) ~~a health and emergency information form an application for enrollment that includes information set forth in this Subparagraph of~~

this Rule provided by the Division that is completed and signed by a child's parent. parent, as defined in 10A NCAC 09 .0102. A copy of the form ~~can~~ may be found on the Division's website at http://ncchildcare.nc.gov/pdf_forms/DCD-0377.pdf. The completed form shall be on file the first day the child attends. An operator may use another form other than the one provided by the Division, as long as the form includes the following information:

- (A) ~~the child's name, address, and date of birth;~~
- (B) ~~the names of individuals to whom the child may be released;~~
- (C) ~~the general status of the child's health;~~
- (D) ~~any allergies or restrictions on the child's participation in activities with instructions from the child's parent or physician;~~
- (E) ~~the names and phone numbers of persons to be contacted in an emergency situation;~~
- (F) ~~the name and phone number of the child's physician and preferred hospital;~~
- (G) ~~authorization for the operator to seek emergency medical care in the parent's absence; and~~
- (A) the child's full name and the name the child is to be called;
- (B) the child's date of birth;
- (C) any allergies and the symptoms and type of response required for allergic reactions;
- (D) any health care needs or concerns, symptoms of and the type of response required for these health care needs or concerns;
- (E) particular fears or unique behavior characteristics that the child has;
- (F) the names of individuals to whom the operator may release the child as authorized by the person who signs the application;
- (G) the names and phone numbers of persons to be contacted in an emergency situation;
- (H) the name and phone number of the child's physician; and
- (J) authorization for the operator to seek emergency medical care in the parent's absence.

- (4) For any child with health care needs such as allergies, asthma, or other chronic conditions that require specialized health services, a medical action plan shall be attached to the application. The medical action plan shall be

completed by the child's parent or a health care professional and may include the following:

- (A) a list of the child's diagnosis or diagnoses including dietary, environmental, and activity considerations that are applicable;
- (B) contact information for the health care professional(s);
- (C) medications to be administered on a scheduled basis; and
- (D) medications to be administered on an emergency basis with symptoms, and instructions.

The medical action plan shall be updated on an annual basis. Sample medical action plans may be found on the Division's website at http://ncchildcare.nc.gov/providers/pv_provide_forms.asp;

- (4)(5) when medication is administered, authorization for the operator to administer the specific medication according to the parent's or physician's instructions.

(b) The operator and staff shall release a child only to an individual listed on the application.

(c) The information contained in Parts (a)(3)(A) through (a)(3)(J) and Subparagraph (a)(4) of this Rule, shall be accessible to caregiving staff during the time the child is in care.

(d) The operator and staff shall use the information provided on the application to ensure that each individual child's needs are met during the time the child is in care.

~~(b)(e)~~ (e) The operator shall complete and maintain other records which that include:

- (1) documentation of the operator's Emergency Preparedness and Response Plan on a template ~~which is~~ provided by the Division of Emergency Management at <http://rmp.nc.gov/portal/#>;
- (2) documentation that monthly fire drills are practiced. The documentation shall include the date each drill is held, the time of day, the length of time taken to evacuate the home, and the operator's signature;
- (3) incident reports that are completed each time a child is injured or when a child receives medical treatment by a ~~physician, nurse, physician's assistant, nurse practitioner, a health care professional, community clinic, or local health department, department~~ as a result of an incident occurring while the child is in care, ~~the family child care home. Each incident shall be reported on a form provided by the Division, signed by the operator and the parent, and maintained in the child's file. A copy of the form can be found on the Division's website at http://ncchildcare.nc.gov/pdf_forms/DCDEE-0058.pdf. A copy shall be mailed to the Division within seven calendar days after the incident occurs; The form shall contain the following information:~~

- (A) facility identifying information;
- (B) date and time of the incident;
- (C) witness to the incident;
- (D) time the parent is notified of the incident and by who;
- (E) piece of equipment involved;
- (F) cause of injury;
- (G) type of injury;
- (H) body part injured;
- (I) where the child received medical treatment;
- (J) description of how and where the incident occurred and pediatric First Aid received;
- (K) steps taken to prevent reoccurrence;
- (L) signature of staff member and date form completed; and
- (M) signature of parent and date.

This report shall be signed by the person completing it and by the parent, and maintained in the child's file. When medical treatment is required, a copy of the incident report shall be mailed to a representative of the Division within seven calendar days after the incident. A copy of the form can be found on the Division's website at http://ncchildcare.nc.gov/pdf_forms/DCDEE-0058.pdf;

- (4) an incident log ~~which that~~ is filled out any time an incident report is completed. This log shall be cumulative and maintained in a separate file and shall be available for review by the Division. This log shall be completed on a form supplied by the Division. A copy of the form can be found on the Division's website at http://ncchildcare.nc.gov/pdf_forms/incident_log_i.pdf;
- (5) documentation that a monthly check for hazards on the outdoor play area is completed. This form shall be supplied by the Division and shall be maintained in the family child care home for review by the Division. The form shall include the following information:

- (A) Name of facility, time and date the form was completed;
- (B) Signature of individual completing form;
- (C) General inspection items;
- (D) Surfacing;
- (E) General hazard items; and
- (F) Deterioration of equipment.

For items on the checklist the operator has to check if pass or fail, if fail identify the problem and solution. A copy of the form can be found of the Division's website at http://ncchildcare.nc.gov/pdf_forms/fcch_outdoor_inspection_checklist.pdf;

- (6) ~~Accurate~~ daily attendance records for all children in care, including the operator's own

preschool children. The attendance record shall indicate the date and time of arrival and departure for each child; and

- (7) documentation of lockdown or shelter-in-place drills giving the date each drill is held, the time of day, the length of time taken to get into designated locations and the signature of the person who conducted the drill.

(c) Written records shall be maintained as follows:

- (1) All children's records as required in Section .1700 of this Chapter, except medication permission slips as required in Rule ~~.1720(e)(13)~~ .1720(b)(13) of this Section, ~~must~~ shall be kept on file as long as the child is enrolled and for one year from the date the child is no longer enrolled.

- (2) Records regarding administration of medications required by 10A NCAC 09 .1720(b)(13) shall be maintained during the time period the medication is being administered and for at least six months after the medication is administered.

- ~~(2)(3)~~ Additional caregiver and substitute provider records as required in Section .1700 of this Chapter shall be maintained on file for as long as the individual is employed and for one year from the employee's last date of employment.

- ~~(3)(4)~~ Current All program records records, including documentation of operator qualifications, as required in Section .1700 of this Chapter shall be maintained on file for as long as the license remains ~~valid~~ valid except as follows: Prior versions shall be maintained based on the time frame in the following charts:

- (A) A minimum of 30 days from the revision or replacement date:

Record	Rule
Daily Schedule	.1718(7) <u>.1718(a)(6)</u>
<u>Activity Plan</u>	<u>.1718(a)(6)</u>
Infant Feeding Schedule	.1706(f) <u>.1706(j)</u>
<u>Menu</u>	<u>.1706(b)</u>
<u>Allergy Posting</u>	<u>.1706(f)</u>
SIDS Sleep Chart/Visual Check	.1724(8) <u>.1724(a)(8)</u>

- (B) A minimum of one year from the revision or replacement date:

Record	Rule
Attendance	<u>.1721(b)(6)</u>
Emergency Numbers	.1720(a)(8) <u>.1719(a)(14)</u>
<u>Safe Sleep Policy</u>	<u>.1724(c) and (d)</u>

<u>Written Plan of Care</u>	<u>.1712</u>
<u>Emergency Medical Care Plan</u>	<u>.1713</u>
Emergency Preparedness and Response Plan	<u>.1721(b)(1)</u>
Field Trip/Transportation Permission	.1723(4) <u>.1723(5)</u>
<u>List and Identifying Information for Children being Transported</u>	<u>.1723(14)</u>
Fire Drill Log	<u>.1721(b)(2)</u>
Lockdown or Shelter-in-Place Drill Log	<u>.1721(b)(7)</u>
Incident Log	<u>.1721(b)(4)</u>
Playground Inspection	<u>.1721(b)(5)</u>
Pet Vaccinations	.1720(d)(10) <u>.1719(b)(1)</u>
<u>Medication Error Log</u>	<u>.1720(14)</u>

- (4) Well-water analysis, pool inspection and inspections for local ordinances as referenced in Rules ~~.1720(d)(1)~~, ~~.1719(7)~~, and ~~.1702(d)~~ .1730(j), .1725(a)(1) of this Section and G.S. 110-91 shall remain on file at the family child care home for as long as the license remains valid.

- (5) Records may be maintained in a paper format or an electronic format, provided that all required signatures are preserved in a paper format, PDF, or other commonly used graphic format electronically, except that records that require a signature of a staff person or parent shall be maintained in a paper format.

- (6) All records required in this Chapter shall be available at the family child care home for review by the ~~Division~~ Division during the hours of operation listed on the child care license.

Authority G.S. 110-88; 110-91(1),(9).

10A NCAC 09 .1722 PROHIBITED DISCIPLINE

- (a) ~~The operator shall provide a written copy of and explain the operator's discipline practices to a parent of each child at the time of enrollment. A parent must sign and date a statement which attests that a copy of the discipline policy was given to, and discussed with them. If an operator changes discipline practices, the parent must sign and date a statement acknowledging that they received written notice of and discussed the new policy at least 30 days prior to the implementation of the new policy. The signed statement shall be kept on file in the home available for review.~~
(b)

(a) No child shall be subjected to any form of corporal punishment by the family child care home operator, additional caregiver, substitute provider, ~~caregiver~~, or any other person in the home, whether or not these persons reside in the ~~home~~, home as follows:

- ~~(e)(1)~~ (1) No child shall be handled roughly in any way, including but not limited to shaking, pushing, shoving, pinching, slapping, biting, kicking, or spanking; ~~spanking~~;
- ~~(e)(2)~~ (2) No child shall ever be placed in a locked room, closet, or box, or be left alone in a room separated from ~~staff~~ staff;
- ~~(e)(3)~~ (3) No discipline shall ever be delegated to another ~~child~~ child;
- ~~(f)~~ Discipline shall in no way be related to food, rest or toileting:
 - ~~(1)(4)~~ (4) No food shall be ~~withheld, or given, withheld or given~~ as a means of ~~discipline, punishment or reward~~;
 - ~~(2)(5)~~ (5) No child shall ever be disciplined for ~~lapses in toilet training, toileting accidents~~;
 - ~~(3)(6)~~ (6) No child shall ever be disciplined for not sleeping during rest ~~period, period~~;
 - ~~(e)(7)~~ (7) No child shall be disciplined by assigning chores that require contact with or use of hazardous materials, such as cleaning bathrooms or floors, or emptying diaper ~~pails~~ pails;
 - (8) Physical activity, such as running laps and doing push-ups, shall not be withheld or required as punishment;
 - (9) No child shall ever be yelled at, shamed, humiliated, frightened, threatened, or bullied; and
 - (10) No child shall be restrained as a form of discipline unless the child's safety or the safety of others is at risk. For purposes of this Rule, "restraining" shall mean that a caregiver physically holds a child in a manner that restricts the child's movement, for a minimum amount of time necessary to ensure a safe environment. Children shall not be restrained through the use of heavy objects, including a caregiver's body, or any device such as straps, blankets, car seats, or cribs.

~~(h)(b)~~ Discipline practices shall be age and developmentally appropriate.

Authority G.S. 110-85; 110-91(10); 143B-168.3.

10A NCAC 09 .1723 TRANSPORTATION REQUIREMENTS

To assure the safety of children whenever they are transported, the operator, or any other transportation provider, shall:

- (1) ensure that vehicles used to transport children are in good repair, safe, and free of hazards such as torn upholstery that allows children to remove the interior padding or hurt themselves, broken windows, holes in the floor or roof, or tire treads of less than 2/32 of an inch;

- ~~(2)~~ ensure that vehicles used to transport children comply with all applicable State and federal laws and regulations;
- ~~(3)~~ ensure that vehicles are insured for liability as required by State laws governing transportation of passengers;
- ~~(4)~~ ensure that vehicles used to transport children in snowy, icy, and other hazardous weather conditions are equipped with snow tires, chains, or other safety equipment as appropriate;
- ~~(4)(5)~~ (5) have written permission from a parent to transport his or her child and notify the parent when and where the child is to be transported, and ~~who~~ the name of the transportation provider. ~~provider will be.~~ Parents may give standing permission, valid for up to 12 months, for routine transport of children to and from the home;
- ~~(6)~~ ensure that all children are transferred to a responsible person who is indicated on the child's application for enrollment as specified in Rule .1721(a)(3) of this Section or as authorized by the parent;
- ~~(7)~~ load and unload children from curbside or in a safe, off-street area, out of the flow of traffic, so that they are protected from all traffic hazards;
- ~~(2)(8)~~ (8) ensure that all children regardless of age or location in the vehicle shall be restrained with an ~~by~~ individual seat ~~belts~~ belt or child ~~restraint device~~. safety seat appropriate to the child's age or weight in accordance with North Carolina Department of Public Safety requirements located at <https://www.ncdps.gov/Index2.cfm>. Only one person shall occupy each seat belt or child ~~restraint device~~; safety seat;
- ~~(3)(9)~~ (9) be at least ~~48~~ 21 years old, and have a valid driver's license of the type required under the North Carolina Motor Vehicle Law for the vehicle being driven, or comparable license from the state in which the driver resides, and no convictions of Driving While Impaired (DWI), or any other impaired driving offense, within the last three years;
- ~~(4)(10)~~ (10) ensure that each child is seated in a manufacturer's designated ~~area~~; area. No child shall ride in the load carrying area or floor of a vehicle;
- ~~(5)(11)~~ (11) ensure that a child shall not occupy the front seat if the vehicle has an operational passenger side airbag;
- ~~(12)~~ have a pediatric First Aid kit and fire extinguisher located in the vehicle used to transport children. The pediatric First Aid kit and fire extinguisher shall be firmly mounted or secured if kept in the passenger compartment;
- ~~(6)(13)~~ (13) never leave children in a vehicle unattended by an adult;

- (7)(14) have ~~emergency and identification~~ identifying information in the vehicle about each child ~~in the vehicle whenever children are being transported~~; being transported, including the child's name, photograph, emergency contact information, a copy of the emergency medical care information form required by Rule .1721(a)(3) of this Section; and
- (8)(15) ~~not use a~~ have a functioning cellular telephone or other functioning two-way voice communication device with them for use in an emergency. The transportation provider shall not use cellular telephones or other functioning two-way communication devices except in the case of an emergency and only when the vehicle is parked in a safe location; location; and
- (16) conduct off-premise activities as follows:
- (a) Before the operator walks children off premises for play or outings, the parent of each child shall give written permission for the child to participate in such activities;
 - (b) Parents may provide a written statement giving standing permission which may be valid for up to 12 months for participation in off premise activities that occur on a regular basis; and
 - (c) Each time the children are taken off premises, the operator shall take identifying information about each child including the child's name, photograph, emergency contact information, a copy of the emergency medical care information form required by 10A NCAC 09 .1721(a)(3) of this Section.

Authority G.S. 110-91; G.S. 110-91(13); 143B-168.3.

10A NCAC 09 .1724 SAFE SLEEP PRACTICES

(a) Each operator licensed to care for infants aged 12 months or younger shall ~~develop and adopt~~ develop, adopt, and comply with a written safe sleep policy that:

- (1) specifies that the operator shall place infants aged 12 months or younger on their backs for sleeping, unless:
 - (A) for an infant aged six months or less, the operator receives a written waiver of this requirement from a health care professional; or
 - (B) for an infant older than six months, the operator receives a written waiver of this requirement from a health care professional, or a parent, or a legal guardian;
- (2) specifies that infants aged 12 months or younger shall be placed in a crib, bassinet or

- play pen with a firm padded surface when sleeping;
- (3) specifies ~~whether no~~ pillows, wedges or other positioners, pillow-like toys, blankets, toys, bumper pads, quilts, sheepskins, loose bedding, towels and washcloths or and other objects may be placed in a crib with a sleeping infant aged 12 months or younger; younger, and if so, specifies the number and types of allowable objects;
- (4) specifies that nothing shall be placed over the head or face of an infant aged 12 months or younger when the infant is laid down to sleep;
- (5) specifies that the temperature in the room where infants aged 12 months or younger are sleeping does not exceed 75°F;
- (6) specifies the means by which the operator shall visually check sleeping infants aged 12 months or younger;
- (7) specifies ~~the frequency with which~~ the operator shall visually check sleeping infants aged 12 months or younger; younger at least every 15 minutes;
- (8) specifies how the operator shall document compliance with visually checking on sleeping infants aged 12 months or younger, with such documents to be maintained for a minimum of one month; ~~and~~
- (9) specifies that pacifiers that attach to infant clothing shall not be used with sleeping infants;
- (10) specifies that infants aged 12 months or younger sleep alone in a crib, bassinet, mat, or cot;
- (11) specifies that infants aged 12 months or younger are prohibited from sleeping in sitting devices, including but not limited to, car safety seats, strollers, swings, and infant carriers. Infants that fall asleep in sitting devices shall be moved to appropriate sleep environments at the earliest time possible; and
- (9)(12) specifies any other steps the operator shall take to provide a safe sleep environment for infants aged 12 months or younger.

(b) The operator shall post a copy of the safe sleep policy ~~on a~~ and poster about safe sleep practices in a prominent place in the infant sleeping room or area.

(c) A copy of the operator's safe sleep policy shall be given and explained to the parents of an infant aged 12 months or younger on or before the first day the infant attends the home. The parent shall sign a statement acknowledging the receipt and explanation of the policy. The acknowledgement shall contain:

- (1) the infant's name;
- (2) the date the infant first attended the home;
- (3) the date the operator's safe sleep policy was given and explained to the parent; and
- (4) the date the parent signed the acknowledgement.

The operator shall retain the acknowledgement in the child's record as long as the child is enrolled at the home.

(d) If an operator amends a home's safe sleep policy, the operator shall give written notice of the amendment to the parents of all enrolled infants aged 12 months or younger at least 14 days before the amended policy is implemented. Each parent shall sign a statement acknowledging the receipt and explanation of the amendment. The operator shall retain the acknowledgement in the child's record as long as the child is enrolled at the home.

(e) ~~A health care professional's or parent's waiver of the requirement that all infants aged 12 months or younger be placed on their backs for sleeping shall:~~ The operator shall place a child aged 12 months or younger on the child's back for sleeping, unless for a child aged 6 months or younger, the operator obtains a written waiver from a health care professional; or for a child older than 6 months, the operator obtains a written waiver from a health care professional or parent. Waivers shall include the following:

- (1) ~~be~~ the infant's name and birth date;
- (2) be signed and dated by the infant's health care professional or parent; ~~and~~
- (3) specify if a wedge is needed, why it is needed and how it should be used; and
- ~~(3)(4)~~ specify the infant's authorized sleep positions; positions.

The operator shall retain the waiver in the child's record as long as the child is enrolled at the home.

(f) For each infant with a waiver on file at the home as specified in Paragraph (e) of this Rule, a notice shall be posted for quick reference near the infant's crib, bassinet, ~~or~~ play ~~pen~~ pen, or mat that shall include:

- (1) the infant's name;
- (2) the infant's authorized sleep position; and
- (3) the location of the signed waiver.

No confidential medical information, including an infant's medical diagnosis, shall be shown on the notice.

Authority G.S. 110-85; 110-91(15); 143B-168.3.

10A NCAC 09 .1725 SANITATION REQUIREMENTS FOR FAMILY CHILD CARE HOMES

(a) To assure the health of children through proper sanitation, the operator shall:

- (1) collect and submit samples of water from each well used for the children's water supply for bacteriological analysis to the local health department or a laboratory certified to analyze drinking water for public water supplies by the North Carolina Division of Laboratory Services every two years. Results of the analysis shall be on file in the home;
- (2) wash his or her hands prior to caring for children each day;
- (3) ensure that each child's hands are washed upon arrival at the home each day;
- (4) have sanitary toilet, diaper changing and hand washing facilities as follows:
 - (A) diaper changing areas shall be separate from food preparation areas;
 - (B) toileting areas shall have toilet tissue available at all times;

- (C) all toilet fixtures shall be easily cleanable and in good repair;
- (D) handwashing areas shall have soap and paper towels or other drying devices available at all times;
- (E) diapering surfaces shall be smooth, intact, nonabsorbent and easily cleanable; and
- (F) potty chairs and diapering surfaces shall be cleaned after each use.

(5) use sanitary diapering procedures. Diapers shall be changed whenever they become soiled or wet. The operator shall:

- (A) gather all supplies before placing a child on the diapering surface;
- (B) wash his or her hands before, as well as after, diapering each child;
- (C) ensure the child's hands are washed after diapering the child; and
- (D) place soiled diapers in a covered, leak proof container which is emptied and cleaned daily;

(6) use sanitary procedures when preparing and serving food. The operator shall:

- (A) wash his or her hands before and after handling food and feeding the children; and
- (B) ensure the child's hands are washed before and after the child is fed;

(7) wash his or her hands, and ensure the child's hands are washed, after toileting or handling bodily fluids;

(8) handwashing procedures shall include:

- (A) using liquid soap and water;
- (B) rubbing hands vigorously with soap and water for 15 seconds;
- (C) washing all surfaces of the hands, to include the backs of hands, palms, wrists, under fingernails and between fingers;
- (D) rinsing well for 10 seconds;
- (E) drying hands with a paper towel or other hand drying device; and
- (F) turning off faucet with a paper towel or other method without recontaminating hands;

(9) refrigerate all perishable food and beverages. The refrigerator shall be in good repair and maintain a temperature of 45 degrees Fahrenheit or below. A refrigerator thermometer is required to monitor the temperature;

(10) have a house that is free of rodents;

(11) screen all windows and doors used for ventilation; and

(12) store garbage in waterproof containers with tight fitting covers.

(e) The operator shall not force children to use the toilet and the operator shall consider the developmental readiness of each child

when toilet training. The operator shall provide assistance to each child to ensure proper hygiene, as needed.

(f) The operator shall ensure that clean clothes are available in the event that a child's clothes become wet or soiled. The change of clothing may be provided by the operator or by the child's parents.

Authority G.S. 110-85; 110-88; 110-91; 143B-168.3.

10A NCAC 09 .1726 PREVENTION OF SHAKEN BABY SYNDROME AND ABUSIVE HEAD TRAUMA

(a) The operator of a family child care home licensed to care for children up to five years of age shall develop and adopt policies to assist staff in preventing shaken baby syndrome and abusive head trauma. For purposes of this Rule, "staff" includes the operator, additional caregivers, substitute providers, and uncompensated providers. The policy shall include:

- (1) How to recognize, respond to, and report the signs and symptoms of shaken baby syndrome and abusive head trauma. Signs and symptoms include: irritability, difficulty staying awake, difficulty breathing, inability to lift the head, seizures, lack of appetite, vomiting, and bruises;
- (2) Strategies to assist staff in coping with a crying, fussing, or distraught child;
- (3) Strategies to ensure staff members understand how to care for infants;
- (4) Strategies to ensure staff understand the brain development of children up to five years of age;
- (5) A list of prohibited behaviors that staff shall follow in order to care for children in a developmentally appropriate manner. Prohibited behaviors shall include, but not be limited to, shaking a child, tossing a child into the air or into a crib, chair, or care seat, and pushing a child into walls, doors, and furniture; and
- (6) Resources to assist staff and families in preventing shaken baby syndrome and abusive head trauma.

(b) A copy of the policy shall be given and explained to the parents of children up to five years of age on or before the first day the child receives care at the home. The parent shall sign a statement acknowledging the receipt and explanation of the policy. The acknowledgement shall contain the following:

- (1) The child's name;
- (2) The date the child first attended the home;
- (3) The date the operator's policy was given and explained to the parent;
- (4) The parent's name;
- (5) The parent's signature; and
- (6) The date the parent signed the acknowledgment.

The operator shall obtain the parent's signature and the acknowledgement shall be kept in the child's file.

(c) If an operator changes the policy at any time, the operator shall give written notice of the change to the child's parent 14 days prior to the implementation of the new policy and the parent shall

sign a statement that attests that a copy of the new policy was given to and discussed with him or her. The center shall obtain the parent's signature and this statement shall be kept in the child's file.

(d) The operator shall review the policy with staff prior to the individual providing care to children. The acknowledgement of this review shall contain the following:

- (1) The individual's name;
- (2) The date the operator's policy was given and explained to the individual;
- (3) The individual's signature; and
- (4) The date the individual signed the acknowledgment.

The operator shall retain the acknowledgement in the staff member's file.

(e) If an operator changes the policy at any time, the operator shall review the revised policy with staff 14 days prior to the implementation of the new policy. The individual shall sign a statement that attests that a copy of the new policy was given to and discussed with him or her. This statement shall be kept in the staff member's file.

Authority G.S. 143B-168.3.

10A NCAC 09 .1727 DISCIPLINE POLICY

(a) The operator shall provide a written copy of and explain the operator's discipline practices to each child's parent at the time of enrollment.

(b) Each parent must sign and date a statement which attests that a copy of the written discipline policy was given to, and discussed with him or her.

(c) That statement must include the following:

- (1) the child's name;
- (2) the date of enrollment; and
- (3) if different, the date the parent signs the statement.

The signed, dated statement must be in the child's record and must remain on file as long as the child is enrolled.

(d) If an operator changes the discipline policy at any time, the operator must give written notice of such a change to the child's parent, guardian, or full-time custodian 14 days prior to the implementation of the new policy and the parent, guardian or full-time custodian must sign a statement that attests that a copy of the new policy was given to and discussed with him or her. This statement shall be kept in the child's file.

Authority G.S. 110-85; 110-91(8),(11); 143B-168.3.

10A NCAC 09 .1728 OVERNIGHT CARE

(a) A safe and comfortable bed, crib, or cot, equipped with a firm waterproof mattress at least four inches thick and a fitted sheet shall be provided for each child who remains in the home after midnight. The top of bunk beds shall be used by school-age children only.

(b) A supply of clean linen must be on hand so that linens can be changed whenever they become soiled or wet. Linens shall be changed weekly or whenever they become soiled or wet.

(c) An operator licensed to care for children overnight may sleep during the nighttime hours

when all the children are asleep, provided:

- (1) the operator and the children in care, excluding the operator's own children, are on ground level;
- (2) the operator can hear and respond to the children; and
- (3) a battery operated smoke detector or an electrically operated (with a battery backup) smoke detector is located in each room where children are sleeping.

Authority G.S. 110-85; 110-88; 110-91(6).

10A NCAC 09 .1729 ADDITIONAL CAREGIVER AND SUBSTITUTE PROVIDER QUALIFICATIONS

(a) An individual who provides care for five hours or more in a week during planned absences of the operator shall:

- (1) be at least 21 years old;
- (2) have a high school diploma or GED;
- (3) have completed a pediatric First Aid and pediatric cardiopulmonary resuscitation (CPR) course as described in Rule .1708(c)(3) and (4) of this Section;
- (4) have completed a health questionnaire;
- (5) have proof of negative results of a tuberculosis test completed within 12 months prior to the first day of providing care;
- (6) have submitted criminal records check forms as required in Rule .2703 of this Chapter;
- (7) have documentation of annual on-going training as described in Rule .1705(d) of this Section after the first year of employment;
- (8) have completed ITS-SIDS training;
- (9) have completed Recognizing and Responding to Suspicions of Child Maltreatment training; and
- (10) have documentation that the operator reviewed appropriate requirements found in this Chapter, including the Emergency Preparedness and Response Plan, and in G.S. Chapter 110, Article 7.

While the individual provides care at a family child care home, copies of required information shall be on file in the home available for review by the Division.

(b) An individual who provides care for less than five hours in a week during planned absences of the operator shall be literate and meet all requirements listed in Paragraph (a) of this Rule, except the requirements for annual training and a high school diploma or GED.

(c) The operator shall conduct 16 hours of orientation with any caregivers, including substitute providers, and volunteers who are providing care prior to the individual caring for children. The orientation shall include an overview of the following topics, specifically focusing on the operation of the facility:

- (1) recognizing, responding to, and reporting child abuse, neglect, or maltreatment pursuant to G.S. 110-105.4 and G.S. 7B-301;
- (2) review of the home's operational policies, including the written plan of care, safe sleep

- policy, the emergency medical care plan and the Emergency Preparedness and Response Plan;
- (3) adequate supervision of children in accordance with Rule .1711(a) of this Section;
- (4) information regarding prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;
- (5) prevention and control of infectious diseases, including immunization;
- (6) firsthand observation of the home's daily operations;
- (7) instruction regarding assigned duties;
- (8) instruction in the maintenance of a safe and healthy environment;
- (9) instruction in the administration of medication to children in accordance with Rule .1720(b) of this Section;
- (10) review of the home's purposes and goals;
- (11) review of G.S. 110, Article 7 and 10A NCAC 09;
- (12) an explanation of the role of State and local government agencies in the regulation of child care, their impact on the operation of the center, and their availability as a resource;
- (13) an explanation of the individual's obligation to cooperate with representatives of State and local government agencies during visits and investigations; and
- (14) prevention of and response to emergencies due to food and allergic reactions.

The operator and individual providing care shall sign and date a statement that attests that this review was completed. This statement shall be kept on file in the home available for review by the Division.

(d) An individual who provides care during unplanned absences of the operator, such as medical emergencies, shall be at least 18 years old and submit criminal records check forms as required in Rule .2703(j) of this Chapter. The children of an emergency caregiver shall not be counted in the licensed capacity for the first day of the emergency caregiver's service.

Authority G.S. 110-85; 110-88; 110-91; 143B-168.3.

10A NCAC 09 .1730 ACTIVITIES INVOLVING WATER

(a) The requirements in this Rule apply to "aquatic activities," which are defined as activities that take place in a body of water such as swimming, swimming instruction, wading, and visits to water parks. Aquatic activities do not include water play activities such as water table play, slip and slide activities, or playing in sprinklers.

(b) Aquatic activities involving the following are prohibited:

- (1) hot tubs;
- (2) spas;
- (3) saunas or steam rooms;
- (4) portable wading pools; and
- (5) natural bodies of water and other unfiltered, nondisinfected containments of water.

(c) When children enrolled in a family child care home participate in aquatic activities, there shall be at least one person who has a life guard training certificate issued by the Red Cross or other training determined by the Division to be equivalent to the Red Cross training, appropriate for both the type of body of water and type of aquatic activity. Verification of the operator's completion of this course from an approved training organization shall be maintained in their personnel file in the family child care home. The Division shall post a list of approved training organizations on its website at http://ncchildcare.nc.gov/providers/pv_sn2_ov_pd.asp.

(d) Children under the age of three shall not participate in aquatic activities except to the extent necessary to implement any child's Individualized Family Service Plan (IFSP) or Individualized Education Program (IEP).

(e) The family child care home operator shall be responsible for adequately supervising the aquatic activity for the duration of the activity. "Adequate supervision" means that the operator shall be able to hear, see, and respond to the children whether in or out of the water.

(f) Prior to children participating in aquatic activities, the operator shall develop policies that address the following:

- (1) aquatic safety hazards;
- (2) pool and aquatic activity area supervision, including restroom or changing room use;
- (3) how discipline will be handled during aquatic activities;
- (4) the operator's specific field trip and transportation policies; and
- (5) that children shall be directed to exit the water during an emergency.

(g) Parents must provide written permission for participation in aquatic activities. The written permission shall include a statement that parents are aware of the operator's aquatic policies specified in Paragraph (f) of this Rule. The operator shall maintain copies of written parental permission in each child's file.

(h) Any outdoor swimming pool located on the family child care home premises shall be enclosed by a fence that is at least four feet high, separated from the remaining outdoor play area by that fence, and locked and inaccessible to children when not in use.

(i) Swimming pool safety rules shall be posted and visible to children and staff for any swimming pool located on the child care facility premises. These rules shall state:

- (1) the location of a pediatric First Aid kit;
- (2) that only water toys are permitted;
- (3) that children are not allowed to run or push one another;
- (4) that swimming is allowed only when the operator is present; and
- (5) that glass objects are not allowed.

(j) All swimming pools used by children in care shall meet the "Rules Governing Public Swimming Pools" in accordance with 15A NCAC 18A .2500 which are incorporated by reference, including subsequent amendments. A copy of these Rules can be found at <http://ehs.ncpublichealth.com/docs/rules/294306-9-2500.pdf> and is available at no charge.

(k) Educational activities, such as observing tadpoles, exploring mud, or learning about rocks and vegetation are permitted around bodies of water. However, if children will be in the water for any

part of the activity, Paragraphs (a) through (g) of this Rule shall apply.

(l) Boating, rafting, and canoeing activities are permitted. Prior to participating in recreational activities conducted on the water, children shall wear an age or size appropriate personal flotation device approved by the United States Coast Guard. This personal flotation device shall be worn for the duration of the activity.

Authority G.S. 110-88; 110-91(1),(3),(6); 143B-168.3.

SECTION .1800 - STAFF/CHILD INTERACTIONS AND BEHAVIOR MANAGEMENT

10A NCAC 09 .1801 SUPERVISION

(a) Children shall be adequately supervised at all times. Adequate supervision shall mean that:

- (1) staff must be positioned in the indoor and outdoor environment to maximize their ability to hear or see the children at all times and render immediate assistance;
- (2) staff must interact with the children while moving about the indoor or outdoor area;
- (3) staff must know where each child is located and be aware of the children's activities at all times;
- (4) staff must provide supervision appropriate to the individual age, needs, and capabilities of each child; and
- (5) staff must be able to see and hear children aged birth to five years old while the children are eating.

All of the conditions in this Paragraph shall apply except when emergencies necessitate that adequate supervision is impossible for brief periods of time. Documentation of emergencies shall be maintained and available for review by Division representatives upon request.

(b) For groups of children aged two years or older, the staff/child ratio during nap time complies with the requirements of this Chapter if at least one person remains in the room, all children are visible to that person, and the total number of required staff are on the premises and within calling distance of the rooms occupied by children.

Authority G.S. 110-85; 110-91(7); 143B-168.3.

10A NCAC 09 .0501-.1802 STAFF/CHILD INTERACTIONS

Staff shall ~~relate to~~ interact with children in positive ways by helping them feel welcome and comfortable, treating them with respect, listening to what they say, responding to them with acceptance and ~~appreciation~~ appreciation, and participating in many activities with the children. For example, staff shall:

- (1) make ~~Make~~ eye contact when speaking to a child;
- (2) engage ~~Engage~~ children in conversation to share experiences, ~~ideas~~ ideas, and opinions;
- (3) help ~~Help~~ children develop problem-solving skills; and

- (4) facilitate ~~Facilitate~~ learning by providing positive reinforcement, encouraging ~~efforts~~ efforts, and recognizing accomplishments.

Authority G.S. 110-85; 110-91(8),(11); 143B-168.3.

10A NCAC 09 ~~1801-1803~~ PROHIBITED DISCIPLINE

~~(a) The person who conducts the enrollment conference shall provide a written copy of and explain the center's discipline practices to each child's parents, legal guardian, or full-time custodian at the time of enrollment. Each parents, legal guardian, or full-time custodian must sign a statement which attests that a copy of the center's written discipline policies were given to and discussed with him or her. That statement must bear the child's name, the date of enrollment, and if different, the date the parent, legal guardian, or full-time custodian signs the statement. The signed, dated statement must be in the child's record and must remain on file in the center as long as the child is enrolled. If a center changes its discipline policy at any time, it must give written notice of such a change to the child's parent, guardian, or full-time custodian 30 days prior to the implementation of the new policy and the parent, guardian, or full-time custodian must sign a statement that attests that a copy of the new policy was given to and discussed with him or her. This statement shall be kept in the child's file.~~

~~(b)(a)~~ (a) No child shall be subjected to any form of corporal punishment by the owner, operator, director, or staff of any child care facility. For purposes of this Rule, "staff" shall mean any regular or substitute caregiver, any volunteer, and any auxiliary personnel, ~~such as including~~ including cooks, secretaries, janitors, maids, or vehicle ~~drivers, etc.;~~ drivers. The following applies at all child care facilities:

- (1) ~~No~~ no child shall be handled roughly in any way, including shaking, pushing, shoving, pinching, slapping, biting, kicking, or ~~spanking~~ spanking;
- (2) ~~No~~ no child shall ~~ever~~ be placed in a locked room, closet, or ~~box;~~ box or be left alone in a room separated from ~~staff;~~ staff;
- (3) ~~No~~ no discipline shall ~~ever~~ be delegated to another ~~child;~~ child;
- (4) ~~Discipline shall in no way be related to food, rest or toileting; no food shall be withheld as punishment or given as a means of reward;~~
(A) ~~No food shall to be withheld, or given, as a means of discipline.~~
- ~~(B)(5)~~ (5) ~~No~~ no child shall ~~ever~~ be disciplined for ~~lapses in toilet training;~~ toileting accidents;
- ~~(C)(6)~~ (6) ~~No~~ no child shall ~~ever~~ be disciplined for not sleeping during rest ~~period;~~ period;
- ~~(5)(7)~~ (7) ~~No~~ no child shall be disciplined by assigning chores that require contact with or use of hazardous materials, such as cleaning ~~bathrooms~~ bathrooms, or floors, or emptying diaper ~~pails;~~ pails;
- (8) physical activity, such as running laps and doing push-ups, shall not be withheld as punishment or required as punishment;

- (9) no child shall be yelled at, shamed, humiliated, frightened, threatened, or bullied; and
- (10) no child shall be restrained as a form of discipline unless the child's safety or the safety of others is at risk. For purposes of this Rule, "restraining" shall mean that a caregiver physically holds a child in a manner that restricts the child's movement, for a minimum amount of time necessary to ensure a safe environment. Notwithstanding any other provision of this Rule, no child shall be restrained through the use of heavy objects, including a caregiver's body, or any device such as straps, blankets, car seats, or cribs.

~~(6)(b)~~ Discipline practices shall be age and developmentally appropriate.

Authority G.S. 110-85; 110-91(10); 143B-168.3.

10A NCAC 09 .1804 DISCIPLINE POLICY

(a) The person who conducts the enrollment conference shall provide a written copy of and explain the center's discipline practices to each child's parents, legal guardian, or full-time custodian at the time of enrollment.

- (1) The child care center shall obtain from each parent, legal guardian, or full-time custodian shall sign a statement that attests that a copy of the center's written discipline policies was given to and discussed with him or her.
- (2) That statement must include the following:
 - (A) the child's name;
 - (B) the date of enrollment; and
 - (C) if different, from the enrollment date the date the parent, legal guardian, or full-time custodian signed the statement.

(b) The signed, dated statement must be in the child's record and shall remain on file in the center as long as the child is enrolled. If a center changes its discipline policy at any time, it must give written notice of such a change to the child's parent, guardian, or full-time custodian at least 14 days prior to the implementation of the new policy. The parent, guardian, or full-time custodian shall sign a statement that attests that a copy of the new policy was given to and discussed with him or her. This statement shall be kept in the child's file as long as the child is enrolled.

Authority G.S. 110-85; 110-91(8),(11); 143B-168.3.

SECTION .1900 - SPECIAL PROCEDURES CONCERNING ABUSE/NEGLECT IN CHILD CARE

10A NCAC 09 .1901 NOTIFICATION TO COUNTY DEPARTMENTS OF SOCIAL SERVICES

~~Any allegation of abuse or neglect received by the Division shall be referred to the county department of social services within 24 hours of receipt of the complaint or on the next working day. Even if the county department of social services determines the allegation does not warrant investigation according to G.S. 7B-302, the complaint shall be investigated by the Division.~~

Authority G.S. 110-88(5); 143B-168.3.

10A NCAC 09 .1903 INVESTIGATION PROCEDURES

~~(a) The investigation shall include interviews with the operator, staff, parents, or any other adult who has information regarding the allegation. Reports from law enforcement officers and other professionals, as well as photographs and other investigative tools, may be used as appropriate.~~

~~(b) The Division's representative may interview the child or children about the allegations of abuse or neglect only in those cases where the county department of social services does not conduct an investigation.~~

~~(c) The Division shall share information related to investigations with departments of social services, as appropriate. However, any information subject to confidentiality laws or regulations shall be handled so as to preserve the confidential nature of the material.~~

~~(d) At any time during the investigation, the representative of the Division may conduct an evaluation for compliance with all applicable requirements.~~

~~(e) The Division shall make a written report to the operator and the county department of social services when the investigation is completed. The Division may also report to law enforcement officers and other professionals that were involved in the investigation. This report shall explain the Division's findings and what further action will be taken, if any.~~

~~(f) The final written report of findings and further action shall be made within 90 days of receipt of the allegation. If the investigation is not complete at that time, an interim report explaining the status of the investigation shall be made to the operator 90 days after receipt of the allegation and every 30 days thereafter until the final report is made. The county department of social services shall be sent a copy of each interim report.~~

Authority G.S. 7B-301; 110-88(5); 110-105; 143B-168.3.

SECTION .2100 - RELIGIOUS-SPONSORED CHILD CARE CENTER REQUIREMENTS

10A NCAC 09 .2101 CENTERS OPERATING UNDER G.S. 110-106

(a) At least 30 days prior to the first day of operation of a new religious-sponsored child care center, the prospective operator shall send a "Letter of Intent to Operate" to the Division. That letter shall include the name, address, and telephone number of the operator and the center, if known; the proposed number and age range of children to be served; ~~and the center's scheduled opening date.~~ date and required criminal history records check documentation for the prospective operator and all known staff members. A representative of the Division shall contact the prospective operator no later than seven calendar days after the Letter of Intent is received to advise the prospective operator of the applicable requirements and procedures.

(b) A prospective operator who has not previously operated a religious-sponsored child care center in North Carolina shall attend a pre-licensing workshop provided by the Division before the center's opening date. Prospective operators shall download, complete, and submit the pre-licensing registration form to the Division. The Division provides regularly scheduled pre-licensing

workshops for potential operators. A schedule of these workshops may be found online at http://ncchildcare.dhhs.state.nc.us/pdf_forms/prelicworkshop.pdf. The pre-licensing form can be found online at http://ncchildcare.dhhs.state.nc.us/pdf_forms/prelicworkshop.pdf.

(c) The Division shall conduct an announced pre-licensing visit prior to the opening of the center, an unannounced visit within 30 days after the facility opens, and unannounced visits annually thereafter in order to ensure compliance with applicable requirements in G.S. 110, Article 7 and this Section of these Rules.

(d) Within 30 days of opening, the prospective operator shall submit reports indicating that the facility meets the minimum standards for facilities as specified in G.S. 110-91 regarding local ordinances, including a building inspection, a fire inspection and a sanitation inspection.

(e) The Division shall send a Notice of Compliance letter to the prospective operator when compliance with minimum standards for facilities as specified in G.S. 110, Article 7 has been determined. The Notice of Compliance letter is issued instead of a star rated license. The Notice of Compliance is not required to be posted at the child care facility.

~~(b)(f) Religious-sponsored child care centers shall comply with all child care center requirements in this Chapter except as follows: for the rules regarding age appropriate activities in Rules .0505 through .0511(a) and .2508; and staff qualifications and training requirements in Paragraphs (d) through (f) of Rule .0703, Rules .0704, .0707 through .0711, and Paragraphs (a) through (d) of Rule .0714. For staff working with school aged children only, 10A NCAC 09 .2510 does not apply.~~

<u>Age Appropriate Activities</u>	<u>Rules .0505 through .0510 and .2508</u>
<u>Staff Qualifications and Training Requirements</u>	<u>Rules .0703(d) and (f), .0704, .0714(a) through (d) and .1101, .1102, and .1103 through .1106.</u>
<u>Staff Qualifications if working with school aged children only</u>	<u>Rule .2510</u>

Compliance shall be documented at least annually using the same forms and in the same manner as for all other centers.

~~(e)(g)~~ The Division shall notify the prospective operator in writing as to whether the center facility complies or does not comply with the requirements.

Authority G.S. 110-85; 110-88; 110-106; 143B-168.3.

10A NCAC 09 .2102 USE OF CORPORAL PUNISHMENT

(a) Corporal punishment may be used in religious-sponsored child care facilities in accordance with G.S. 110-91(10), if:

- (1) the religious-sponsored child care facility files a notice with the Division stating that corporal punishment is part of the religious training of its program; and
- (2) the religious-sponsored child care facility clearly states in its written policy of discipline

that corporal punishment is part of the religious training of its program.

(b) The discipline policy shall state when corporal punishment is used, what type of punishment is used and who will be administering the punishment.

(c) The discipline policy shall be shared with all parents that have children enrolled at the facility and the facility shall provide parents a copy of the policy for their records.

(d) If the facility's discipline policy changes, the new policy shall be shared with parents 14 days prior to the change becoming effective. A copy of the revised discipline policy shall be submitted to the Division within 30 days of the effective date of the revised policy.

(e) A discipline policy that meets the requirements of this Rule shall not preclude the investigation of a complaint alleging inappropriate discipline of a child or child maltreatment.

Authority G.S. 110-91(10).

SECTION .2200 - ADMINISTRATIVE ACTIONS AND CIVIL PENALTIES

10A NCAC 09 .2214 SCHEDULE OF CIVIL PENALTIES FOR FAMILY CHILD CARE HOMES

(a) The following penalties may be assessed against family child care homes as defined in G.S. 110-86(3).

(b) A civil penalty in an amount up to one thousand dollars (\$1,000.00) may be imposed for the following violations:

- (1) When the Division has determined that child maltreatment occurred while a child was in care at the family child care home; or
- (2) Willful, repeated pattern of non-compliance with any requirement over extended period of time.

(c) A civil penalty in an amount up to two hundred dollars (\$200.00) may be imposed for the following violations:

- (1) Non-compliance with the standards for:
 - (A) Licensed capacity;
 - (B) Adequate supervision of children;
 - (C) Administration of medication to children;
 - (D) Emergency medical care plan;
 - (E) Discipline of children;
 - (F) Transportation of children; or
 - (G) Use of swimming pools and other swim areas;
- (2) Disapproved fire safety, building or sanitation inspection reports;
- (3) Relocation of the family child care home without prior notification to the Division;

(d) A civil penalty in an amount up to one hundred dollars (\$100.00) may be imposed for the following violations:

- (1) Non-compliance with the standards for:
 - (A) Staff health requirements;
 - (B) Staff qualifications;
 - (C) Staff training;
 - (C) Children's health requirements;
 - (D) Proper nutrition;

(E) Sanitation and personal hygiene practices;

(F) Age-appropriate activities;

(G) Failure to post current license; or

(H) Failure to maintain accurate records;

(2) Failure to comply with a corrective action plan; and

(3) Denial of entry to an authorized representative of the department or Division.

(e) Violation of other standards may result in the assessment of a penalty according to the effect or potential effect of the violation on the safety and well-being of the child.

Authority G.S. 110-85; 110-86(3); 110-88(1),(5),(6a); 110-91; 110-98; 110-103.1; 110-105; 110-105.2; 110-106; 143B-168.3; 150B-23.

10A NCAC 09 .2215 DENIAL OF A LICENSE

(a) The Secretary may deny an application for a child care facility license or the issuance of any permit to operate a child care facility under the following circumstances:

- (1) if the applicant owned or operated a licensed child care facility that was issued a denial, revocation, or summary suspension by the Division;
- (2) if the applicant owned or operated a licensed child care facility against which the Division initiated denial, revocation, or summary suspension proceedings and the applicant voluntarily relinquished the license prior to the issuance of a final action;
- (3) during the pendency of an appeal of a denial, revocation, or summary suspension of any other licensed child care facility license owned or operated by the applicant;
- (4) if the applicant owned or operated a facility that received a sanction for fraudulent misrepresentation pursuant to 10A NCAC 10 .0308 of the Subsidized Child Care Rules;
- (5) if the applicant owned or operated a facility that was issued a Notice of Termination and Disqualification by the Child and Adult Care Food Program (CACFP);
- (6) if the Division determines that the applicant has a relationship with an operator or former operator who owned or operated a regulated child care facility as described in Subparagraphs (1) through (5) of this Paragraph. As used in this Rule, an applicant has a relationship with a former operator if the former owner or operator would be involved with the applicant's child care facility in one or more of the following ways:
 - (A) would participate in the administration or operation of the facility;
 - (B) has a financial interest in the operation of the facility, as evidenced by, among other things, a familial relationship with the former owner or operator.

- (C) employment at the new facility, and ownership of the building or property where the facility is located; or entering into a lease for the building;
- (D) provides care to children at the facility, even as a volunteer;
- (E) resides in the facility;
- (F) has an ownership interest in the facility as defined in 10A NCAC 09 .0102(33); or
- (F) would serve on the facility's board of directors, be a partner of the corporation, or otherwise have responsibility for the administration of the business;
- (7) based on the applicant's previous non-compliance as an operator with the requirements of G.S. 110, Article 7, 10A NCAC 10, or this Chapter;
- (8) based on the operator's non-compliance with the requirements of G.S. 110, Article 7, 10A NCAC 10, or this Chapter, during a temporary licensure period;
- (9) if abuse or neglect or child maltreatment has been substantiated against the applicant pursuant to G.S. 7B-101 or GS. 110-105.5 or
- (10) if the applicant is a disqualified child care provider or has a disqualified household member residing in the child care facility pursuant to G.S. 110-90.2.

(b) In determining whether denial of the application for a license is warranted pursuant to Paragraph (a) of this Rule, the Division shall consider:

- (1) any documentation provided by the applicant that describes the steps the applicant will take to prevent reoccurrence of noncompliance with the requirements of G.S. 110, Article 7, 10A NCAC 10, or this Chapter;
- (2) training certificates or original transcripts for any coursework from a nationally recognized regionally accredited institution of higher learning related to providing quality child care, and that was taken subsequent to any prior administrative action against a license previously held by the applicant. "Nationally recognized" means that every state in this nation acknowledges the validity of the coursework taken at higher education institutions that meet the requirements of one of the accrediting bodies;

- (3) proof of employment in a licensed child care facility and references from the administrator or licensee of the child care facility regarding work performance;
- (4) documentation of collaboration or mentorship with a licensed child care provider to obtain additional knowledge and experience related to operation of a child care facility; or
- (5) documentation explaining relationships with persons meeting the criteria listed in Subparagraph (a)(6) of this Rule.

(c) Operators who held a child care facility license or permit that was denied, revoked, subject to a cease operation order, or summarily suspended within the past five years shall be ineligible to apply for a new child care license.

Authority G.S. 110-85; 110-86; 110-88; 110-91; 110-92; 110-93; 110-99.

SECTION .2300 - FORMS

10A NCAC 09 .2318 CARE CENTER RECORD RETENTION

All records required in this Chapter shall be maintained for review by representatives of the Division as specified in G.S. 110-91(9), 10A NCAC 09 .0304(g), and as follows:

- (1) The records shall be available at the center during the hours of operation listed on the child care license.
- (2) Records may be maintained in a paper format or an electronic format, provided that all required signatures are preserved in a paper format, PDF or other commonly used graphic format.
- (3) Records regarding administration of medications required by Rules .0302(f)(7) and .0803(13) of this Chapter shall be maintained during the time period the medication is being administered and for at least six months after the medication is administered.
- (4) All building inspections as referenced in G.S. 110-91, and in Rule .0302 of this Chapter shall remain on file at the center for as long as the license remains valid.
- (5) All fire, sanitation and pool inspections as referenced in G.S. 110-91, and Rules .0302 and .1403 of this Chapter shall remain on file at the center for a minimum of three years.
- (6) Each child care center shall retain records for children as follows:

<u>Type of Child Record</u>	<u>In each child's file, for as long as the child is enrolled</u>	<u>For 1 year after the child is no longer enrolled</u>
<u>Child Medical Report Rule .0302(f)(2)</u>	<u>X</u>	<u>X</u>
<u>Immunization Record Rule .0302(f)(2)</u>	<u>X</u>	<u>X</u>
<u>Child Application Rules .0302(f)(2) and .0801(a)</u>	<u>X</u>	<u>X</u>

PROPOSED RULES

<u>Type of Child Record</u>	<u>In each child's file, for as long as the child is enrolled</u>	<u>For 1 year after the child is no longer enrolled</u>
<u>Child Emergency Medical Care Information</u> <u>Rules .0302(f)(2), .0801(a) and .0802(c) through (d)</u>	<u>X</u>	<u>X</u>
<u>Safe Sleep Policy</u> <u>Rule .0606(c)</u>	<u>X</u>	<u>X</u>
<u>Notice of Amendment to Safe Sleep Policy</u> <u>Rule .0606(d)</u>	<u>X</u>	<u>X</u>
<u>Safe Sleep Waiver</u> <u>Rule .0606(e)</u>	<u>X</u>	<u>X</u>
<u>Child Medical Action Plan</u> <u>Rule .0801(a)</u>	<u>X</u>	<u>X</u>
<u>Incident Report</u> <u>Rule .0802(e)</u>	<u>X</u>	<u>X</u>
<u>Parental Permission for Administration of Medication</u> <u>Rules .0803(3), (4), (6) through (9) and (11)</u>	<u>X</u>	<u>X</u>
<u>Supplemental Food "Opt Out" Statement</u> <u>Rule .0901(d)</u>	<u>X</u>	<u>X</u>
<u>Parental Permission for Transportation</u> <u>Rules .1003(i) and (j), .1005(b)(3) and (4), and .2509</u>	<u>X</u>	<u>X</u>
<u>Parental Permission for Aquatic Activities</u> <u>Rule .1403(i)</u>	<u>X</u>	<u>X</u>
<u>Discipline Practices</u> <u>Rule .1804(a)</u>	<u>X</u>	<u>X</u>
<u>Notice of Change to Discipline Practices</u> <u>Rule .1804(b)</u>	<u>X</u>	<u>X</u>

(7) Each child care center shall retain records for personnel as follows:

<u>Type of Personnel Record</u>	<u>For at least 1 year after employee is no longer employed</u>	<u>For 1 Year After Record Created</u>	<u>Until the record is superseded by a new statement</u>	<u>In each personnel file or designated emergency preparedness file</u>
<u>Application for Employment</u> <u>Rule .0302(f)(1)</u>	<u>X</u>			
<u>Staff Medical Statement</u> <u>Rules .0302(f)(1) and .0701(a)</u>	<u>X</u>			
<u>Health Questionnaire</u> <u>Rules .0302(f)(1) and .0701(a)</u>	<u>X</u>			
<u>Proof of Tuberculosis Test</u> <u>Rules .0302(d)(1) and .0701(a)</u>	<u>X</u>			
<u>Staff Emergency Medical Care Information</u> <u>Rules .0302(d)(1) and .0701(a)</u>	<u>X</u>			

PROPOSED RULES

<u>Type of Personnel Record</u>	<u>For at least 1 year after employee is no longer employed</u>	<u>For 1 Year After Record Created</u>	<u>Until the record is superseded by a new statement</u>	<u>In each personnel file or designated emergency preparedness file</u>
Evaluation of Emotional and Physical Fitness (as applicable) Rules .0302(d)(1) and .0701(b)	<u>X</u>			
Verification of Age Rules .0302(d)(1), .0701, .0703, and .0704	<u>X</u>			
Criminal Record Check Information Rules .0302(d)(1) and .0703(b)	<u>X</u>			
Education and Equivalency Forms Rules .0302(d)(1), .0703, .0704 and .2510	<u>X</u>			
Record of In-Service Training Rules .0302(d)(1) and .0709	<u>X</u>			
Documentation of Staff Orientation Rules .0302(d)(1), .0707(a) and (b)	<u>X</u>			
Documentation of Emergency Preparedness and Response in Child Care Training Rule .0607(b)				<u>X</u>
Documentation of Review of Emergency Preparedness and Response Plan Rules .0607(e), (f) and (g)				<u>X</u>
Documentation of pediatric First Aid training if applicable Rule .0705(b)	<u>X</u>			
Documentation of CPR training if applicable Rule .0705(d)	<u>X</u>			
Documentation of Playground Safety Training if applicable Rule .0705(e)	<u>X</u>			
Documentation of ITS-SIDS Safe Sleep Training if applicable Rule .0705(f)	<u>X</u>			
Documentation of Aquatic Activities Policy Receipt Rule .1403(i)		<u>X</u>	<u>X</u>	
Documentation of BSAC training if applicable Rule .2510	<u>X</u>			

PROPOSED RULES

(8) Each child care center shall retain records for the program as follows:

<u>Type of Program Record</u>	<u>As long as the license remains valid</u>	<u>A minimum of 30 days after record revised or replaced</u>	<u>A minimum of 1 year after record created, revised or replaced</u>
<u>Attendance</u> <u>Rule .0302(d)(3)</u>			<u>X</u>
<u>Daily record of arrival and departure times for children</u> <u>Rule .0302(d)(4)</u>			<u>X</u>
<u>Fire Drill Log .0604(r)</u> <u>Rule .0302(d)(5)</u>			<u>X</u>
<u>Playground Inspection</u> <u>Rules .0302(d)(6) and .0605(q)</u>			<u>X</u>
<u>Lockdown or Shelter-In-Place Drill Record</u> <u>Rules .0302(d)(8) and .0604(s)</u>			<u>X</u>
<u>Daily Schedule</u> <u>Rule .0508(a)</u>			<u>X</u>
<u>Activity Plan</u> <u>Rule .0508(a)</u>		<u>X</u>	
<u>Manufacturer's Instructions for equipment and furnishings</u> <u>Rules .0601(b) and .0605(b)</u>	<u>X</u>		
<u>Fire Evacuation Procedures</u> <u>Rule .0604(o)</u>	<u>X</u>		
<u>Written plan for evacuation in centers that do not meet institutional building code</u> <u>Rule .0604(p)</u>			<u>X</u>
<u>Safe Arrival and Departure Procedures</u> <u>Rule .0604(t)</u>			<u>X</u>
<u>Safe Sleep Policy</u> <u>Rule .0606(a)</u>	<u>X</u>		
<u>SIDS Sleep Chart/Visual Check</u> <u>Rule .0606(a)(7)</u>		<u>X</u>	
<u>Emergency Preparedness and Response Plan</u> <u>Rules .0607(c) and (d)</u>			<u>X</u>
<u>Emergency Medical Care Plan</u> <u>Rule .0802(a)</u>			<u>X</u>
<u>Incident Log</u> <u>Rule .0802(f)</u>			<u>X</u>
<u>Menu</u> <u>Rule .0901(b)</u>		<u>X</u>	
<u>Allergy Postings</u> <u>Rule .0901(g)</u>		<u>X</u>	
<u>Infant Feeding Schedule</u> <u>Rule .0902(a)</u>		<u>X</u>	
<u>Identifying Information for Children being Transported</u> <u>Rule .1003(d)</u>			<u>X</u>
<u>List of children being transported</u> <u>Rules .1003(l) and .1005(b)(6)</u>			<u>X</u>
<u>Schedule of Off Premise Activities</u> <u>Rule .1005(b)(5)</u>			<u>X</u>

PROPOSED RULES

<u>Type of Program Record</u>	<u>As long as the license remains valid</u>	<u>A minimum of 30 days after record revised or replaced</u>	<u>A minimum of 1 year after record created, revised or replaced</u>
<u>Aquatic Activity Policies</u> <u>Rule .1403</u>	<u>X</u>		
<u>Documentation of emergency situation that necessitated a lack of direct supervision</u> <u>Rule .1801(a)(6)</u>	<u>X</u>		
<u>Discipline Practices</u> <u>Rules .1803 and .1804</u>	<u>X</u>		

Each child care center operator must retain records as follows:

- (1) All children's records as required in this Chapter, except the Medication Permission Slip as referenced in Rule .0803(13) of this Chapter, shall be maintained on file for at least one year from the date the child is no longer enrolled in the center.
- (2) All personnel records as required in this Chapter shall be maintained on file for at least one year from the date the employee is no longer employed.
- (3) Current program records shall be maintained on file for as long as the license remains valid. Prior versions shall be maintained based on the time frame in the following charts:
 - (a) A minimum of 30 days from the revision or replacement date:

Record	Rule
Activity Plan	.0508(d)
Allergy Postings	.0901(f)
Feeding Schedule	.0902(a)
Menu	.0901(b)
SIDS Sleep Chart/Visual Check	.0606(a)(7)

- (b) A minimum of one year from the revision or replacement date:

Record	Rule
Attendance	.0302(d)(3)
Daily Schedule	.0508(a)
Emergency Medical Care Plan	.0302(c)(3) and .0802(a)
Lockdown or Shelter in Place Drill Log	.0302(d)(8)
Emergency Preparedness and Response Plan	.0607(e);
Field Trip/Transportation Permission	.2507(a) and .0512(b)(3)
Fire Drill Log	.0302(d)(5)
Evacuation plan for non-mobile children in Centers not meeting institutional building code	.0604(p)
Incident Log	.0802(e)
Playground Inspection	.0605(n)
Safe Arrival and Departure Procedures	.1003(b)

- (4) All building, fire, sanitation and pool inspections as referenced in G.S. 110-91, and Rules .0302 and .1403 of this Chapter shall remain on file at the center for as long as the license remains valid.

- (5) ~~Records may be maintained in a paper format or electronically, except that records that require a signature of a staff person or parent shall be maintained in a paper format.~~
- (6) ~~All records required in this Chapter shall be available for review by the Division.~~

Authority G.S. 110-85; 110-91(9); 143B-168.3.

SECTION .2400 - CHILD CARE FOR MILDLY ILL CHILDREN

10A NCAC 09 .2401 SCOPE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 09 .2402 DEFINITIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 09 .2403 SPECIAL PROVISIONS FOR LICENSURE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 09 .2404 INCLUSION/EXCLUSION REQUIREMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 09 .2405 ADMISSION REQUIREMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 09 .2406 STAFF/CHILD RATIOS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 09 .2407 SPACE REQUIREMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 09 .2408 STAFF QUALIFICATIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 09 .2409 CHILDREN'S RECORDS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 09 .2410 CHILDREN'S ACTIVITIES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 09 .2411 NUTRITION REQUIREMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .2500 - CARE FOR SCHOOL-AGE CHILDREN

10A NCAC 09 .2501 SCOPE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 09 .2502 SPECIAL PROVISIONS FOR SUMMER DAY CAMPS

(a) A center providing care for school-age children exclusively on a seasonal basis between May 15 and September 15 shall be licensed as a summer day camp. ~~A track-out program that operates all four tracks for more than four hours per day must be licensed.~~

(b) A facility licensed as a summer day camp shall have a permanent structure located at the home base which is the primary site of the summer day camp activities. The permanent structure may be a building or permanent roofed shelter with overhang. The

summer day camp shall meet one of the following space requirements:

(1) When activities for children are routinely conducted outdoors or off the premises for at least 75 percent of each day, a minimum of 10 square feet per child of indoor space, exclusive of kitchens, hallways, restrooms, closets, and storage areas, shall be provided.

(2) When the camp's home base does not provide 10 square feet of primary space indoors, the camp shall provide notarized copies of all letters, agreements, or contracts with other facilities to the Division which guarantee that children will be accommodated comfortably indoors in the event of inclement weather.

(c) For the purpose of carrying out the provisions of G.S. 110-91(4) for summer day camps not covered by 10A NCAC 09 .2503(a)(1), the following North Carolina Building Codes apply to the structure described in Paragraph (b) of this Rule.

(1) When the authorized capacity of the facility is less than 30 children, the structure shall meet the requirements for residential occupancy as prescribed in the North Carolina Building Code. Children may use only those floors which have at least one grade level exit.

(2) When the authorized capacity of the facility is more than 29 children, but less than 100 children, the structure shall meet the North Carolina Building Code requirements for business occupancy.

(3) When the authorized capacity of the facility is more than 99 children, the structure shall meet the North Carolina Building Code requirements for assembly occupancy, or educational occupancy or institutional occupancy.

(d) If a summer day camp maintains its master records for children and staff in a central location, emergency information for each staff person and child shall always be on site. The emergency information on site shall include the name and telephone numbers of the child's parent or other responsible person, the child's or staff person's health care professional or preferred hospital, any chronic illnesses and medication taken for that illness, any allergy and recommended treatment for that allergy, and any other information that has a direct bearing on medical treatment and safe care. The parent's signed permission to obtain medical attention must also be on site with the child.

(e) If food is prepared at the summer day camp, the rules regarding sanitary facilities, food preparation and service for summer camps as adopted by the Commission for Public Health and codified in 15A NCAC 18A .1000 apply.

(f) Staff in summer day camp programs required to complete BSAC training shall do so within four weeks of becoming employed.

Authority G.S. 110-85; 110-88(1); 110-91; 143B-168.3.

10A NCAC 09 .2503 BUILDING CODE REQUIREMENTS

(a) Building code requirements adopted by reference in Section .1300 of this Chapter apply for a facility providing care to school-age children ~~except in the following situations: that any building which is approved for school occupancy and which houses a public or private school during the school year shall be considered an approved building to house a facility serving school-age children exclusively.~~ The operator shall obtain and submit copies of all applicable inspection reports to the Division.

(1) ~~Any building which is approved for school occupancy and which houses a public or private school during the school year shall be considered an approved building to house a facility serving school age children exclusively. The operator shall obtain and submit copies of all applicable inspection reports to the Division.~~

(2) ~~For the purpose of carrying out the provisions of G.S. 110-91(4) for summer day camps not covered by Subparagraph (1) of this Rule, the following North Carolina Building Codes apply to the structure described in Rule .2504(b) of this Section:~~

(A) ~~When the authorized capacity of the facility is less than 30 children, the structure shall meet the requirements for residential occupancy as prescribed in the North Carolina Building Code. Children may use only those floors which have at least one grade level exit.~~

(B) ~~When the authorized capacity of the facility is more than 29 children, but less than 100 children, the structure shall meet the North Carolina Building Code requirements for business occupancy.~~

(C) ~~When the authorized capacity of the facility is more than 99 children, the structure shall meet the North Carolina Building Code requirements for assembly occupancy, or educational occupancy or institutional occupancy.~~

(b) ~~A copy of the North Carolina Building Code is on file at the Division of Child Development at the address given in Rule .0102 of this Chapter and is available for public inspection during regular business hours. The North Carolina State Building Code is hereby incorporated by reference, inclusive of subsequent amendments. The current Code can be found online at [http://www.doi.com/OSFM/Engineering and Codes/Default.aspx?field1=Codes - Current and Past&user=State Building Codes](http://www.doi.com/OSFM/Engineering_and_Codes/Default.aspx?field1=Codes_-_Current_and_Past&user=State_Building_Codes).~~

Authority G.S. 110-85; 110-88(2); 110-91(4); 143B-168.3.

10A NCAC 09 .2504 SPACE REQUIREMENTS

(a) All space requirements specified in Section .1400 apply when a facility provides care for school-age children and any preschool child is also in care, or when a program which provides care exclusively for school-age children routinely operates indoors in a permanent structure for more than 25 percent of each day. A gymnasium or other single use room may be included in the space measured for licensed capacity when used as primary space.

~~(b) A facility licensed as a summer day camp shall have a permanent structure located at the home base which is the primary site of the summer day camp activities. The permanent structure may be a building or permanent roofed shelter with overhang. The summer day camp shall meet one of the following space requirements:~~

(1) ~~When activities for children are routinely conducted outdoors or off the premises for at least 75 percent of each day, a minimum of 10 square feet per child of indoor space, exclusive of kitchens, hallways, restrooms, closets, and storage areas, shall be provided.~~

(2) ~~When the camp's home base does not provide 10 square feet of primary space indoors, the camp shall provide notarized copies of all letters, agreements, or contracts with other facilities to the Division which guarantee that children will be accommodated comfortably indoors in the event of inclement weather.~~

Authority G.S. 110-85; 110-91(3),(6); 143B-168.3.

10A NCAC 09 .2505 HEALTH REQUIREMENTS FOR CHILDREN

(a) All requirements of Section .0800 of this Chapter apply to school-age child care arrangements with the following exceptions:

(1) A medical examination report is not required for any child enrolled in a public school or private school as described in G.S. 110-86(2)f.

(2) Rule .0806 of this Chapter does not apply.

(3) ~~If a summer day camp maintains its master records for children and staff in a central location, emergency information for each staff person and child shall always be on site. The emergency information on site shall include the name and telephone numbers of the child's parent or other responsible person, the child's or staff person's health care professional or preferred hospital, any chronic illnesses and medication taken for that illness, any allergy and recommended treatment for that allergy, and any other information that has a direct bearing on medical treatment and safe care. The parent's signed permission to obtain medical attention must also be on site with the child.~~

(b) All requirements specified in Section .0900 of this Chapter apply.

~~(c) If food is prepared at the summer day camp, the rules regarding sanitary facilities, food preparation and service for~~

~~summer camps as adopted by the Commission for Public Health and codified in 15A NCAC 18A .1000 apply.~~ If food is prepared at a licensed track-out program, the sanitation requirements of child care centers must be met.

(d) If food is brought from home by children or catered, the following requirements apply:

- (1) Sanitary cold storage shall be provided for perishable snacks or lunches brought from home.
- (2) Safe drinking water shall be available at all times regardless of where activities are provided.

Authority G.S. 110-85; 110-91(1),(2); 143B-168.3.

10A NCAC 09 .2506 GENERAL SAFETY REQUIREMENTS

(a) Pediatric First aid Aid equipment shall be available regardless of where activities are provided.

(b) All ~~regulations~~ requirements in Rule .1403 of this Chapter regarding ~~swimming pools~~ activities involving water shall apply.

(c) Potentially hazardous items, such as archery equipment, hand and power tools, nails, chemicals, or propane stoves, shall be used by children only when adult supervision is provided. Such potentially hazardous items, whether or not intended for use by the children, shall be stored in locked areas or with other safeguards, or shall be removed from the premises.

(d) All children shall be adequately supervised. Adequate supervision means staff shall be with the group of children and able to hear or see each child in his or her care, except:

- (1) Children who are developmentally able may be permitted to go to the restroom independently, provided that:
 - (A) staff members' proximity to children assures immediate intervention to safeguard a child from harm;
 - (B) individuals who are not staff members may not enter the restroom area while in use by any child; and
 - (C) children up to nine years of age are supervised by staff members who are able to hear the child. Children nine years of age and older are not required to be directly supervised, however, staff members shall know the whereabouts of children who have left their group to use the restroom;
- (2) Adequate supervision for children nine years of age and older means that staff are with the group of children and able to hear or see each child in his or her care. A staff member shall accompany any children who leave the group to go indoors or outdoors; and
- (3) When emergencies necessitate that direct supervision is impossible for brief periods of time.

(e) Children riding bicycles must wear safety helmets.

Authority G.S. 110-85; 110-91; 143B-168.3.

10A NCAC 09 .2507 OPERATING POLICIES

~~(a) Written permission from parents shall be obtained before transporting children on field trips or leaving the premises.~~

~~(b) Blanket permissions from parents for field trips or leaving the premises are acceptable only when a schedule of activities to be conducted off the premises is posted in a conspicuous place for review by parents and staff in advance on a weekly basis. The schedule shall include the location, purpose, time and date, person in charge, and telephone number or method for contacting the person in charge.~~

~~(c) Cots, beds, or mats with linens shall not be required for school age children. However, provision shall be made for children who wish to rest or who are sick to rest in a comfortable place.~~

Authority G.S. 110.91; 143B-168.3.

10A NCAC 09 .2508 AGE APPROPRIATE ACTIVITIES

(a) Child care facilities which provide care to school-age children shall provide a balance of teacher directed and free choice activities appropriate to the age, needs and interests of the children.

(b) Opportunities must be provided for children to participate in the planning and the implementation of activities.

(c) Facilities which operate a school-age component for three or fewer hours per day shall make at least three of the following activities available daily; those which operate a school-age component for more than three hours per day shall make at least four of the following activities available daily:

- (1) Career development activities;
- (2) Community awareness activities;
- (3) Creative arts activities;
- (4) Cultural activities;
- (5) Games or manipulatives;
- (6) Hands-on academic enrichment activities including language, math, science, social studies, or foreign language activities;
- (7) Health education or wellness activities;
- (8) Homework with assistance available as needed from center personnel;
- (9) Reading activities;
- (10) Sand or water play;
- (11) Social skills, life skills or problem-solving activities;
- (12) Structured or unstructured physical activities; or
- (13) Technology skill-building activities.

(d) All equipment and materials used by school-age children shall be appropriate for the age and size of the children using the items.

(e) When screen time ~~time, including, television, videos, video games, and computer usage,~~ is provided on any electronic device with a visual display, it shall be:

- (1) Offered as a free choice activity;
- (2) Used to meet a developmental goal;
- (3) Limited to a maximum of 30 minutes per day and no more than two and a half hours per week, per child; and

- (4) ~~When children are in care for four hours or less per day limited to a maximum of 30 minutes per child, per day. Documented on a cumulative log or activity plan, and shall be available for review by a representative of the Division; and~~
- (5) Usage time periods may be extended for school assigned homework.

~~Usage time periods may be extended for specific special events, projects, or occasions such as a current event, homework, on-site computer classes, researching topics, holiday, or birthday celebration.~~

(f) Cots, beds, or mats with linens shall not be required for school-age children. However, provision shall be made for children who wish to rest or who are sick to rest in a comfortable place.

Authority G.S. 110-85; 110-91(6),(12); 143B-168.3.

10A NCAC 09 .2509 ACTIVITIES: OFF PREMISES

- (a) The requirements of this Rule and Section .1000 of this Chapter shall apply when activities for children are routinely conducted outdoors or off the premises for at least 75 percent of each day.
- (b) The facility shall develop a schedule plan of activities which is posted in a conspicuous place in the home base or given to the parents. The plan shall be current and shall contain the information listed in Paragraph (e) of this Rule.
- ~~(c) The schedule shall be current and shall contain the information listed in Rule .2507(b).~~
- ~~(d)(c)~~ Activities shall be planned to accommodate a variety of individual interests and shall provide opportunities for choice.
- ~~(d) Written permission from parents shall be obtained before transporting children on field trips or leaving the premises.~~
- ~~(e) Blanket permissions from parents for field trips or leaving the premises are acceptable only when a plan of activities to be conducted off the premises is posted in a conspicuous place for review by parents and staff in advance on a weekly basis. The plan shall include the location, purpose, time and date, person in charge, and telephone number or method for contacting the person in charge.~~

Authority G.S. 110-91(6),(12); 143B-168.3.

10A NCAC 09 .2510 STAFF QUALIFICATIONS

- (a) The individual who is responsible for ensuring the administration of the program, whether on-site or off-site, shall:
- (1) Prior to employment, have at least 400 hours of verifiable experience working with school-age children in a licensed child care program or 600 hours of verifiable experience working with school-age children in an unlicensed school-age care or camp setting; or have an undergraduate, graduate, or associate degree, with at least 12 semester hours in school-age care related coursework; and
 - (2) Meet the requirements for a child care administrator in G.S. 110-91(8).

(b) At least one individual who is responsible for planning and ensuring the implementation of daily activities for a school-age program (program coordinator) shall:

- (1) Be at least 18 years old and have a high school diploma or its equivalent prior to employment;
- (2) Have completed two semester credit hours in child and youth development and two semester credit hours in school-age programming. Each individual who does not meet this requirement shall enroll in coursework within six months after becoming employed and shall complete this coursework within 18 months of enrollment. An individual who meets the staff requirements for administrator or lead teacher shall be considered as meeting the requirements for program coordinator, provided the individual completes Basic School-Age Care (BSAC) training, ~~or its equivalent~~; and
- (3) In a part day program be on site when children are in care. For a full day program, the program coordinator must be on site for two thirds of the hours of operation. This includes times when the individual is off site due to illness or vacation.

(c) Staff who are responsible for supervising groups of school-age children (group leaders) shall be at least 18 years of age and have a high school diploma or its equivalent prior to employment, and shall complete the BSAC training, ~~training, or its equivalent~~.

(d) Staff who assist group leaders (assistant group leaders) shall be at least 16 years of age and shall complete the BSAC training, ~~training, or its equivalent~~.

(e) The individual who is on-site and responsible for the administration of the school-age component of a center which also provides care to preschool-age children, shall meet the requirements for child care administrator in G.S. 110-91(8) and Section .0700 of this Chapter.

(f) When an individual has responsibility for both administering the program and planning and ensuring the implementation of the daily activities of a school-age program, the individual shall meet the staff requirements for an administrator and shall complete the BSAC training, ~~training, or its equivalent~~.

(g) Completion of the BSAC training course, ~~or its equivalent~~, counts toward meeting five hours of one year's annual on-going training requirements in Section ~~.0700~~ .1100 of this Chapter.

(h) As used in this Rule, the term "experience working with school-age children" means experience working with school-age children as an administrator, program coordinator, group leader, assistant group leader, lead teacher, teacher, or aide.

(i) All staff shall receive on-site training and orientation as follows:

- (1) Within the first two weeks of assuming responsibility for supervising a group of children, each employee shall complete at least six clock hours of training on:
 - (A) ~~the recognition of the signs and symptoms of child abuse or neglect and in the employee's duty to report suspected abuse and neglect; recognizing, responding to, and~~

reporting child abuse, neglect or maltreatment pursuant to G.S. 110-105.4 and G.S. 7B-301;

- (B) the center's operational policies, policies, including the Emergency Preparedness and Response Plan and the emergency medical care plan;
- (C) adequate supervision of children, taking into account their age, emotional, physical, and cognitive development; and
- (D) prevention and control of infectious diseases, including immunization; and
- (2) Within the first six weeks of assuming responsibility for supervising a group of children, each employee shall complete at least three additional clock hours of training on:
 - (A) maintaining a safe and healthy environment and developmentally appropriate activities for school-age children; children;
 - (B) firsthand observations of the program's daily operations and instruction in the employee's assigned duties;
 - (C) instruction in the administration of medication to children in accordance with 10A NCAC 09 .0803;
 - (D) successfully complete pediatric CPR and pediatric First Aid training;
 - (E) prevention of and response to emergencies due to food and allergic reactions;
 - (F) review of the program's handling and storage of hazardous materials and the appropriate disposal of bio-contaminants; and
 - (G) review of child care licensing law and rules, including an explanation of the role of State and local government agencies in the regulation of child care and the employee's obligation to cooperate with representatives of State and local government agencies during visits and investigations.

(j) Staff in part-time, full day, or track-out school-age care programs required to complete BSAC training ~~or its equivalent,~~ shall do so within three months of becoming employed. ~~Staff in summer day camp programs required to complete BSAC training shall do so within four weeks of becoming employed.~~

Authority G.S. 110-85; 110-91(8),(11); 143B-168.3.

10A NCAC 09 .2511 OTHER STAFF REQUIREMENTS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .2900 - DEVELOPMENTAL DAY SERVICES

10A NCAC 09 .2901 SCOPE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 09 .2902 LICENSE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 09 .2903 STAFF QUALIFICATIONS

(a) Each center serving children ages birth to three years shall have a minimum of one staff who holds ~~an Infant-Toddler Family Specialist certification issued from the North Carolina Division of Public Health; a NC Birth-through-Kindergarten (B-K) Standard Professional I licensure; provisional licensure in B-K issued from the Department of Public Instruction. Continuing or Initial License; or a NC Provisional Preschool Add-on License; or a NC Lateral Entry B-K License issued by the North Carolina Department of Public Instruction.~~ This staff shall provide program oversight and supervision for any caregivers in classrooms with children ages birth to three years.

(b) In accordance with G.S. 115C-84.2(a)(1), during the 185day school year (as defined by the State Board of Education), each child aged ~~three years old~~ three-years-old and older on or before the initial school entry date specified in G.S. 115C-364 (school entry date) shall be served in a classroom with at least one lead teacher who holds a B-K Standard Professional I licensure or provisional licensure in B-K, or Preschool Add-on licensure issued from the Department of Public Instruction.

(c) Children who turn ~~three years old~~ three-years-old after the school entry date who are identified as a child with a disability as evidenced by an Individualized Education Program (IEP), shall be served in a classroom ~~with a B-K licensed teacher.~~ by a teacher who holds a NC B-K Continuing or Initial License; or a NC Provisional Preschool Add-on License; or a NC Lateral Entry B-K License.

(d) Teachers who are required to hold a NC B-K Continuing or Initial License shall be enrolled with the Early Educator Support, Licensure & Professional Development Unit of the Division of Child Development and Early Education.

~~(d)~~(e) For centers operating for 12 months as specified by Rule .2902(a) of this Section, during the two additional months of operation each group of preschool children shall have at least one lead teacher with a minimum of an A.A.S. degree in early childhood education or child development, or an A.A.S. degree in any major with 12 semester hours in early childhood education or child development.

~~(e)~~(f) For centers operating for 10 months as specified by Rule .2902(a) of this Section, during the ~~10-month~~ 10-month school year, (as defined by the State Board of Education), each group of school-age children shall have at least one teacher who holds State certification as a Special Education Teacher. For centers operating for 12 months as specified by Rule .2902(a) of this Section, during the two additional months of operation each group of school-age children shall have at least one teacher who has completed at least two semester hours of school-age care related coursework and has completed or is enrolled in at least two additional semester hours of school-age related coursework.

~~(f)~~(g) Center administrators shall have a Level III North Carolina Early Childhood Administration Credential and two years of verifiable work experience with children with developmental delays or disabilities.

Authority G.S. 110-85; 110-88(5); 110-88(14).

**10A NCAC 09 .2904 PROGRAM REQUIREMENTS
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**10A NCAC 09 .2905 FAMILY SERVICES
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

SECTION .3000 - NC PRE-KINDERGARTEN SERVICES

**10A NCAC 09 .3001 SCOPE (READOPTION
WITHOUT SUBSTANTIVE CHANGES)**

10A NCAC 09 .3002 FACILITY REQUIREMENTS

(a) Programs serving NC Pre-K children shall maintain a four or five star rated license.

(b) All NC Pre-K licensed programs shall have an assessment completed every three years using the Early Childhood Environment Rating Scale-Revised Edition assessment tool as a part of the rated license reassessment process. Classrooms that score below ~~the "good level," as defined by the tool, 5.0,~~ shall be reassessed the following year and a minimum ~~"good level" score of 5.0~~ must be achieved in order to continue to be approved as a NC Pre-K site. At least one NC Pre-K classroom will be chosen for an assessment during the reassessment process.

Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a).

**10A NCAC 09 .3003 PROGRAM ATTENDANCE
POLICY (READOPTION WITHOUT SUBSTANTIVE
CHANGES)**

**10A NCAC 09 .3005 CHILD HEALTH ASSESSMENTS
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**10A NCAC 09 .3006 DEVELOPMENTAL
SCREENING (READOPTION WITHOUT SUBSTANTIVE
CHANGES)**

**10A NCAC 09 .3007 EARLY LEARNING
STANDARDS AND CURRICULA (READOPTION
WITHOUT SUBSTANTIVE CHANGES)**

**10A NCAC 09 .3008 FORMATIVE ASSESSMENTS
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**10A NCAC 09 .3009 STAFF-TO-CHILD RATIO AND
CLASS SIZE (READOPTION WITHOUT SUBSTANTIVE
CHANGES)**

**10A NCAC 09 .3010 FAMILY ENGAGEMENT
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**10A NCAC 09 .3011 NC PRE-K SITE-LEVEL
ADMINISTRATOR QUALIFICATIONS**

(a) Administrators of NC Pre-K sites ~~must~~ shall have either:

- (1) A NC ~~Principal~~ Principal's License, or

- (2) A North Carolina Early Childhood Administrator Credential (NCECAC) Level ~~III~~ III or its equivalent. If the site-level administrator has not yet earned the NCECAC Level III, the following shall apply:

- (A) Provisional approval shall be given for four years from the time the site began participation with the NC Pre-K program for the administrator with NCECAC I or II to obtain the NCECAC Level ~~III~~ III or its equivalent; and
- (B) Progress toward NCECAC Level III or its equivalent shall be considered a minimum of six documented semester hours per year.

(b) When the site administrator is unable to work, an interim director with at least a Level I Administrator Credential or its equivalent or a Principal's License shall be employed not to exceed 12 weeks. In determining whether to approve an extension of the 12-week vacancy, the Division shall consider reasons, including, but not limited to:

- (1) Maternity leave;
- (2) Death, disability, or illness; and
- (3) Natural or man-made disasters.

~~(b)(c)~~ Administrators of NC Pre-K sites shall not serve as the NC Pre-K teacher or teacher assistant.

~~(c) Long term vacancies shall not exceed 12 weeks.~~

Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a).

**10A NCAC 09 .3012 NC PRE-K TEACHER
EDUCATION, LICENSURE AND CREDENTIALS**

(a) All teachers shall hold, or be working toward a North Carolina (NC) Birth through Kindergarten (B-K) ~~Standard Professional II or Preschool Add-on licensures.~~ Continuing License or B-K or Preschool Add-on License. Teachers working toward the required education and license shall hold a minimum of a BA/BS degree and the following requirements:

- (1) NC ~~Initial Provisional~~ Lateral Entry B-K License, License; or
- (2) A North Carolina K-6 license and a ~~provisional~~ Provisional Preschool Add-on ~~license, license;~~ or
- (3) Another North Carolina or ~~other~~ another state's license and ~~an~~ a NC Provisional B-K ~~license,~~ license; or
- (4) A BA/BS degree in birth-through-kindergarten, child development, early childhood education, child development, or a or an early childhood education related field, and be eligible for a NC ~~Initial Provisional~~ Lateral Entry B-K License.

(b) Pre-K teachers with a NC Lateral Entry B-K License shall make progress toward the B-K Continuing License by:

- (1) Obtaining a Plan of Study issued by an accredited college or university with an approved teacher education program;
- (2) Submitting to the Division college or university transcripts verifying the completion of a

minimum of six semester credit hours per year; and

- (3) Achieving the NC B-K Initial or Continuing License within three years.

(c) ~~Pre-K teachers with a BA/BS degree~~ NC Provisional B-K or Preschool Add-on License shall make progress toward the B-K Continuing License by: B-K licensure by completing a minimum of six documented semester hours per year, and achieve the B-K license within three years. The site-level administrator shall maintain documentation available for review by the Division, of the progress toward the required standard.

- (1) Obtaining a Plan of Study issued by an accredited college or university with an approved teacher education program;

- (2) Submitting to the Division college or university transcripts verifying the completion of a minimum of six semester credit hours per year; and

- (3) Achieving the NC B-K Initial or Continuing License within five years.

(d) In determining whether to approve less than the minimum required semester hours, the Division shall consider reasons, including, but not limited to:

- (1) Maternity or family leave;
(2) Death, disability, or illness; and
(3) Natural or man-made disasters.

(e) The site-level administrator shall maintain documentation available for review by the Division, of the progress toward the required standard.

~~(b)(f)~~ All NC Pre-K lead teachers employed by nonpublic schools must shall be enrolled with the Early Educator Support, Licensure & Professional Development Unit of the Division of Child Development and Early Education.

Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a).

10A NCAC 09 .3013 NC PRE-K TEACHER ASSISTANT EDUCATION AND CREDENTIALS

All teacher assistants shall:

- (1) have a high school diploma or GED and shall hold, or be working toward, a minimum of an Associate Degree in birth-through-kindergarten, child development, early childhood education, ~~education or child development (ECE/CD)~~ or an early childhood education related field or a Child Development Associate (CDA) credential. Teacher assistants working toward the minimum of an Associate Degree or CDA shall make progress by completing a minimum of six documented semester hours per year; or
- (2) meet the employment requirements outlined by the federal "No Child Left Behind" (NCLB) legislation, and have one of the following:
 - (a) Six documented semester hours of coursework in early childhood education, or
 - (b) Two years of work experience in an early childhood setting.

The site-level administrator shall maintain documentation available for review by the Division of the progress toward the required standard.

Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a).

10A NCAC 09 .3014 NC PRE-K SUBSTITUTE STAFF

(a) When a member of the NC Pre-K teaching staff is unable to work, a substitute staff person ~~must~~ shall be provided to maintain the staff-to-child ratio as specified in Rule .3009 of this Section and ~~must~~ shall be able to implement the program in accordance with this Section. Substitute staff ~~must~~ shall be at least 18 years of age and meet the following minimum qualifications:

- (1) Requirements for short-term vacancies, when teachers are absent from the Pre-K classroom for 15 or fewer days, include the following:

(A) Nonpublic Schools (Private Child Care/Pre-K Settings): Substitutes in private settings ~~must~~ shall have at least a high school diploma or a GED, and completed at least one course in early childhood education or child development, such as the North Carolina Early Childhood Credential; or

(B) Public School Settings: Substitutes ~~must~~ shall meet the requirements of the substitute policy consistent with the local education agency (LEA).

- (2) Requirements for long-term vacancies, when teachers are absent from the Pre-K classroom for 16 or more attendance days, are for substitute staff to hold at least an ~~Associate's~~ Associate Degree or equivalent in birth-through-kindergarten, child development, early childhood education or an early childhood education related field. early childhood education/child development a four year degree in a related field.

(b) Substitutes for teacher assistants ~~must~~ shall be at least 18 years of age and have a minimum of a high school diploma or a GED.

(c) Long term vacancies shall not exceed 12 weeks. In determining whether to approve an extension of a long term vacancy, the Division shall consider:

- (1) The number of children and families who may lose services if the affected classroom is not approved for the extension, including the availability of unfilled Pre-K slots for placement of affected children;
- (2) The effect upon children and families if children are relocated to another Pre-K site, including transportation to and from the new Pre-K site, sibling care, and wrap-around care for the Pre-K child and the child's siblings;
- (3) Whether the Pre-K program has demonstrated a good faith effort to secure a permanent teacher for the vacancy;
- (4) Availability of funding sources other than Pre-K funds to support affected children;

- (5) Pre-K instructional staff turnover; and
- (6) Reasons for the vacancy, including, but not limited to:
 - (A) maternity leave;
 - (B) death, disability, or illness; and
 - (C) natural or man-made disasters.

Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a).

10A NCAC 09 .3015 INSTRUCTIONAL STAFF STANDARDS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 09 .3016 PROFESSIONAL DEVELOPMENT REQUIREMENTS

~~(a) Licensed Administrators, Teachers, and Teacher Assistants in non public and public~~ North Carolina licensed administrators, teachers, and teacher assistants employed by public and nonpublic schools shall participate in professional development consistent with the NC State Board of Education policy. the level of education and type of educator licensure required for employment. The policy can be found on the NC Department of Public Instruction's website at <http://www.ncpublicschools.org/profdev/>.

~~(b) Administrators, Teachers, and Teacher Assistants in non public school settings, working toward Pre K qualifications shall participate in a minimum of six documented semester hours per year.~~

Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a).

10A NCAC 09 .3017 CHILDREN WITH UNIQUE NEEDS AND CHALLENGING BEHAVIORS

When a child demonstrates persistent challenging behaviors that prevent his or her progress in any developmental domain as referenced in the "North Carolina Foundations for Early Learning and Development" impeding the child's access to and participation in the assigned NC Pre-K classroom learning activities, the following shall apply:

- (1) The Site Administrator shall notify the NC Pre-K Contract Administrator and the local school system's Preschool Exceptional Children Program for assistance if a child's cognitive, language and communication, emotional, social, health and physical needs exceed the program's capacity to address as indicated by one or more of the following:
 - (a) Developmental needs assessments;
 - (b) Home visits;
 - (c) Consultations with the family members;
 - (d) Daily recorded classroom teacher observations; and
 - (e) Modified instructional plans and differentiated lessons based on the child's individual goals.
- (2) The NC Pre-K Contract Administrator, Site Administrator, teacher, and family members in consultation with the school system's Preschool

Exceptional Children Program and other available community and state resources such as Birth-through-Kindergarten licensed mentors, evaluators, Healthy Social Behavioral specialists, child care health consultants, mental health specialists, social workers, and other local child developmental experts, shall develop a coordinated plan to support the NC Pre-K child's placement and participation in the NC Pre-K Program.

- (3) The Division of Child Development and Early Education shall be notified when support plans recommended by the local school system's Exceptional Children Program require an alternative placement and support services for a child.

Authority G.S. 110-85; 110-88; S.L. 2011-145, s. 10.7(a).

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Social Services Commission intends to adopt the rule cited as 10A NCAC 70I .0308, amend the rules cited as 10A NCAC 70I .0202, .0302, .0305, .0306, .0503, .0504, .0506, .0601, .0604, .0609, .0613, .0614, readopt with substantive changes the rules cited as 10A NCAC 70I .0201, .0405 and readopt without substantive changes the rule cited as 10A NCAC 70I .0101.

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.state.nc.us/ncac.asp>.

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://www2.ncdhhs.gov/dss/sscommission/contact.htm>

Proposed Effective Date: *August 1, 2017*

Public Hearing:

Date: *June 14, 2017*

Time: *10:00 a.m.*

Location: *NC DSS McBryde Building 1st floor room 151, 850 South Boylan Ave, Raleigh, NC 27603*

Reason for Proposed Action:

10A NCAC 70I .0101 - rule is subject to readoption without substantive changes.

10A NCAC 70I .0201(1) - is proposed for amendment to comply with federal standards related to the definition of child-caring institutions {45 CFR §1355.20(a)}.

10A NCAC 70I .0201(8) - is proposed for amendment to comply with the Social Worker Certification and Licensure Act (G.S. 90B).

10A NCAC 70I .0201(22) - proposed rule revision is to add the definition of reasonable and prudent parent standard as defined in G.S. 131D-10.2.

10A NCAC 70I .0202 - is proposed for amendment for residential child care facilities to comply with Federal and State guidelines to avoid debarment as a recipient of federal and state funds. The System for Award Management (SAM) is the official U.S. Government system that consolidates the capabilities of Central Contracting Registry (CCR); Federal Agency Registration, Online Representations & Certifications Application (ORCA) and Excluded Parties List System (EPLS). The proposed rule requires that the agency notify the licensing authority if the agency receives notice on debarment.

10A NCAC 70I .0302(14) - proposed rule amendment requires the governing body of child placing agency's for foster care and residential child-care facilities to develop and implement policies and procedures to comply with all applicable Federal and State laws pertaining to nondiscrimination.

10A NCAC 70I .0302(15) - proposed rule amendment require the governing body of child placing agency's for foster care and residential child-care facilities to comply with the Multiethnic Act (MEPA) of 1984, P.L. 103-382, as amended by the Interethnic Adoption Provisions (IEP).

10A NCAC 70I .0302(16) - proposed rule amendment requires that the governing body of child placing agency's for foster care and residential child-care facilities comply with the terms and conditions of State and Federal requirements to participate in procurement contracts and covered non-procurement transactions. Existing laws found in 45 D.F.R. 82.510, P.L. 103-227 15 C.F.R. 29-630; Title 15-Commerce and Foreign Trade; Subtitle A-Office of the Secretary of Commerce; Part 29-Government wide requirements for Drug Free Workplace and N.C.G.S. Article 2, Chapter 64.)

10A NCAC 70I .0305 - proposed rule amendment is to change the age of foster children up to 21 as current licensure rules and practice allows in order to protect the child's record. Impact attributed to the age increase to 21 in these rule amendments are absorbed and recognized in the Impact Analysis presented for rule revisions made to 70B and 70M.

10A NCAC 70I .0306(10) - proposed rule amendment gives the foster child the opportunity to participate in normal childhood activities when deemed appropriate in accordance to G.S. 131D-10.2.

10A NCAC 70I .0308 - proposed rule amendment requires residential child-care agency's to develop policies and procedures to comply with 131D-10.2A, this is a one-time occurring requirement. Existing rules in 70E, F, G & I direct agencies and the governing boards to develop various policy and procedures to operationalize and show compliance with rules and laws. The rule amendment does require that residential child caring agencies appoint a designated official however the rule does not limit the number of designated officials that can be assigned this role, which would allow for minimum impact on staff. There are 90 licensed agencies in the state that would be required to designate an official to provide oversight of the Reasonable Prudent Parent Standard as outlined in the agency's policy and procedures. It is estimated that less than 5% of staff work time would be required in the function as the designated official resulting in minimum fiscal impact.

10A NCAC 70I .0405(b) - proposed rule revisions include references to the Office of State Personnel have been changed to the Office of State Human Resources. The hyperlinks for class

specifications for Social Services Program Administrator I, Social Work Supervisor II and Social Worker II have been updated.

10A NCAC 70I .0405 (f)(2)(B) - is proposed for amendment to state staff in residential child-care facilities shall successfully complete certification in first aid, CPR and universal precautions. Successfully completed is defined as demonstrating competency, as evaluated by the instructor who has been approved by the American Heart Association or the American Red Cross or other organizations approved by the Division of Social Services to provide first-aid, CPR and universal precautions training. The current rule requires training but does not require demonstrating competency. Residential child-care staff can complete training classes and not be able to administer first aid, CPR and universal precautions. If they cannot demonstrate competencies, children in these facilities will be at risk. (Amended rule 10A NCAC 70I .0405(f)(2)(B) is based on child care rule 10A NCAC 09 .0705).

10A NCAC 70I .0405(g) and (h) - are proposed for amendment to comply with the Social Worker Certification and Licensure Act (G.S. 90B). The proposed amendment gives agencies choices of titles other than social work supervisor or social worker.

10A NCAC 70I .0503(b) - proposed rule amendment is in accordance with G.S. 108A-48 expansion of foster care to age 21, voluntary placement agreements will no longer be a requirement.

10A NCAC 70I .0503(b) - proposed rule amendment adds reasonable and prudent parent standard as an orientation topic for children, parent, guardian or legal custodian in accordance with G.S. 131D-10.10.

10A NCAC 70I .0504 - Current rule requires residential child care facilities to provide information and discuss policy and procedures at or before admission of child, the proposed rule amendment adds an additional topic, no required time limits are assigned to this task resulting in no additional cost to the agency, other individuals or entities.

10A NCAC 70I .0506(13) - proposed rule revision in accordance with G.S. 131D-10.2.

10A NCAC 70I .0506(19), (20) & (21) - proposed rule revisions to clarify that these required documents are to be maintained in the client records. The rule requirements to obtain these documents are in existing rules in 70I.

10A NCAC 70I .0601(b) - proposed rule amendment clarifies the plan of supervision of children placed in residential child care facilities.

10A NCAC 70I .0604(n) - proposed rule amendment to provide consistency with existing rule in 70E .0604(1)(d) for children placed in a foster home in accordance with G.S. 7B-505.1.

10A NCAC 70I .0604(r) - proposed rule amendment to provide consistency with existing rule in 70G .0510(b)(1-5) for child placing agency for foster care. Residential child care facilities are required to have policy and procedures regarding the administration of medications to children, the revisions clarify what content needs to be covered in those policies and procedures to insure that medication is properly administered and documented.

10A NCAC 70I .0604(u) - proposed rule amendment to remove the requirement to return unused prescription medications to a pharmacy and refer to Food and Drug Administration (FDA) for proper disposal. Pharmacy will no longer accept unused medications.

10A NCAC 70I .0609(b) - proposed rule amendment in accordance with G.S. 131D-10.10.

10A NCAC 70I .0613(g) - proposed rule amendments eliminates the use of prone or face down position restraints from crisis intervention techniques in accordance with signed written communication dated November 12, 2012 by the NC DHHS Secretary. DSS sent out written communication to all licensed agencies to inform providers, this proposed rule only clarifies this practice that can place children's safety at risk.

The law requires that Title IV-E agencies to develop and implement protocols to report missing or abducted children and youth immediately to law enforcement to be entered in the National Crime Information Center database (NCIC) and to the National Center for Missing and Exploited Children.

10A NCAC 70I .0614(g) - proposed rule amendment to comply with Federal Public Law 113-183 signed into law by the President effective September 29, 2014. The purpose of the legislation was to identify and protect children and youth at risk of sex trafficking. The law requires that Title IV-E agencies to develop and implement protocols to report missing or abducted children and youth immediately to law enforcement to be entered in the National Crime Information Center database (NCIC) and to the National Center for Missing and Exploited Children.

Comments may be submitted to: Carlotta Dixon, 820 South Boylan Avenue, Mail Service Center 2402, Raleigh, NC 278603, fax (919) 527-6421, fax (919) 334-1198, email Carlotta.dixon@dhhs.nc.gov

Comment period ends: June 16, 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 10A NCAC 70I .0308**
- ☐ **Substantial economic impact (≥\$1,000,000)**
- ☐ **Approved by OSBM**
- ☒ **No fiscal note required by G.S. 150B-21.4 10A NCAC 70I .0101, .0201, and .0405**



No fiscal note required by G.S. 150B-21.3A(d)(2) 10A NCAC .0202, .0302, .0305, .0306, .0503, .0504, .0506, .0601, .0604, .0609, .0613, and .0614

CHAPTER 70 - CHILDREN'S SERVICES

SUBCHAPTER 70I - MINIMUM LICENSING STANDARDS FOR RESIDENTIAL CHILD-CARE

SECTION .0100 – GENERAL LICENSING REQUIREMENTS

10A NCAC 70I .0101 LICENSING ACTIONS (READoption WITHOUT SUBSTANTIVE CHANGES)

SECTION .0200 – MINIMUM LICENSURE STANDARDS

10A NCAC 70I .0201 DEFINITIONS

In addition to the definitions found in G.S. 131D-10.2, the following definitions apply to the rules in Subchapters 70I and 70J of this Chapter.

- (1) ~~"Child-caring institution" means a residential child-care facility utilizing permanent buildings located on one site for 13 or more foster children.~~ "Child-caring institution" means a private residential child-care facility or group home that cares for foster children or a public residential child-care facility or group home that cares for no more than 25 children. This number includes the caregivers' own children and other relative children under the age of 18 residing in the facility. The composition of the facility shall include no more than two children under the age of two, four children under the age of six, and six children under the age of 12. Child-caring institutions do not include detention facilities, forestry camps, children's foster care camps, residential therapeutic (habilitative) camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent or undisciplined. A child-caring institution shall not provide day care, nor shall it be available to adults in the community who wish to rent rooms.
- (2) "Children's foster care camp" means a residential child-care facility that provides foster care at either a permanent camp site or in a wilderness setting.
- (3) "Direct service personnel" means staff responsible for the direct services provided to children and their families including child-care workers, residential counselors, house/teaching parents, social workers, recreation and education staff.
- (4) "Emergency shelter care" means 24 hour care provided in a residential child-care facility for a period not to exceed 90 days, in accordance with 10A NCAC 70J .0200.

- (5) "Executive director" means the person who is in charge of the agency and who is responsible for developing and supervising the program of residential child-care and services.
- (6) "Foster child" means an individual less than 18 years of age who has not been emancipated under North Carolina law, or one who is 18 to 21 years of age and continues to reside in a residential child-care facility, who is dependent, neglected, abused, abandoned, destitute, orphaned, undisciplined, delinquent, or otherwise in need of care away from home and not held in detention.
- (7) "Full license" means a license issued for two years when all licensing requirements are met.
- (8) ~~"Group home" means a residential child care facility operated either under public or private auspices that receives for 24 hour care no more than 12 children. This number includes the caregivers' own children and other relative children residing in the home under the age of 18. The composition of the group shall include no more than two children under the age of two, four children under the age of six, and six children under the age of 12. A group home shall not provide day care, nor shall it be available to adults in the community who wish to rent rooms.~~ "Social worker" means those who have a bachelor's, master's, or doctorate degree in social work from a social work program accredited by the Council on Social Work Education (CSWE) as provided in the Social Worker Certification and Licensure Act (G.S. 90B). Agencies may use terms such as case manager, case manager supervisor, etc.
- (9) "License" means permission granted in writing to a corporation, agency or county government by the licensing authority to engage in the provision of full-time residential child-care or child-placing activities based upon an initial determination, and biennially thereafter, that such corporation, agency, or a county government has met and complied with standards set forth in this Subchapter.
- (10) "Licensing authority" means the North Carolina Department of Health and Human Services, Division of Social Services.
- (11) "Licensed medical provider" means a physician, physician's assistant or certified nurse practitioner.
- (12) "Out-of-home family services agreement" means a document developed with the child's custodian that identifies a child's permanency plan (return to parents, placement with relatives, guardianship, and adoption). The out-of-home family services agreement describes a child's needs, goals and objectives in a residential child-care facility and the tasks and assignments of the staff of the residential child-care facility to meet a child's and family's needs, goals and objectives. The out-of-home family services agreement specify what must change in order for the parents to meet the needs of the child. Basic goal planning steps include:
 - (a) involving the family in the process;
 - (b) identifying goals that are both realistic and achievable;
 - (c) using family strengths when outlining objectives and activities to attain the goals;
 - (d) spelling out the steps necessary for success;
 - (e) documenting who will do what and when they will do it; and
 - (f) providing for review.
- (13) "Owner" means any individual who is a sole proprietor, co-owner, partner or shareholder holding an ownership or controlling interest of five percent or more of the applicant entity. Owner includes a "principal" or "affiliate" of the residential child-care facility.
- (14) "Private agency residential child-care facility" means a residential child-care facility under the auspices of a licensed child-placing agency or another private residential child-care facility.
- (15) "Private residential child-care facility" means a residential child-care facility under the control, management and supervision of a private non-profit or for-profit corporation, sole proprietorship or partnership that operates independently of a licensed child-placing agency or any other residential child-care facility.
- (16) "Provisional license" means a license issued for a maximum of six months enabling a facility to operate while some below standard component of the program is being corrected. A provisional license for the same below standard program component shall not be renewed.
- (17) "Public agency residential child-care facility" means a residential child-care facility under the control, management or supervision of a county department of social services.
- (18) "Public residential child-care facility" means a residential child-care facility under the control, management or supervision of a county government other than a county department of social services.
- (19) "Staff" means full-time, part-time and contracted staff persons.
- (20) "Visitation and contact plan" means a specific document that is developed by the child's custodian for each child that specifies whom the child may visit with and have contact with and the circumstances under which the visits and contacts shall take place.
- (21) "Volunteer" means a person working in a staff position for an agency who is not paid.

- (22) The "reasonable and prudent parent standard", as defined in G.S. 131D-10.2.

Authority G.S. 131D-10.3; 131D-10.5; 131D-10.2; 143B-153.

10A NCAC 70I .0202 RESPONSIBILITY TO LICENSING AUTHORITY

- (a) A residential child-care facility shall biennially submit to the licensing authority the information and materials required by rules in Subchapters 70I and 70J of this Chapter to document compliance and to support issuance of a license.
- (b) A residential child-care facility shall submit to the licensing authority a biennial statistical report of program activities.
- (c) A residential child-care facility shall provide written notification to the licensing authority of a change in the executive director.
- (d) A residential child-care facility shall provide written notification to the licensing authority of any changes in policies and procedures to assure that the changes are in compliance with the rules in Subchapters 70I and 70J of this Chapter. The residential child-care facility shall receive written approval from the licensing authority before instituting any changes in policies and procedures.
- (e) The office of a residential child-care facility shall be maintained in North Carolina. The licensee shall carry out activities under the North Carolina license from this office.
- (f) The current license of a residential child-care facility shall be posted at all times in a conspicuous place within the facility.
- (g) When there is a death of a child who is a resident of a residential child-care facility, the executive director or his or her designee shall immediately notify the licensing authority in accordance with Rule. 0614 of this Subchapter.
- (h) The agency shall provide to the licensing authority at the time of license application the legal name and social security number of each individual who is an owner.
- (i) The agency shall provide to the licensing authority written notification of a change in the legal name of any owner and individuals holding an interest of at least five percent within 30 days following the changes.
- (j) A residential child-care facility shall notify the local management entity where services are being provided within 24 hours of placement that a child may require mental health, developmental disabilities or substance abuse services.
- (k) If a residential child-care facility is monitored by a local management entity the residential child-care facility shall provide data to the local management entity as required by Department of Health and Human Services, pursuant to 10A NCAC 27G .0608, for monitoring and reporting to the General Assembly.
- (l) The agency shall notify the licensing authority immediately if the agency receives notice of debarment that prohibits the agency from participating in State and Federal procurement contracts and covered non-procurement transactions.

Authority G.S. 131D-10.3; 131D-10.5; 143B-153.

SECTION .0300 - ORGANIZATION AND ADMINISTRATION

10A NCAC 70I .0302 RESPONSIBILITIES OF THE GOVERNING BODY

The governing body shall:

- (1) adopt administrative, personnel, and program policies which are reviewed at least every two years;
- (2) review and approve a budget prior to the beginning of the fiscal year;
- (3) establish and review policies on fundraising and investment management at least every two years;
- (4) annually review and accept the financial audit, in the case of a private residential child-care facility;
- (5) employ an executive director (CEO, director, president, superintendent) and delegate authority to that person to employ and dismiss staff, implement board policies, and manage day-to-day operation of the facility;
- (6) ensure that the criminal history of the executive director is checked prior to employment, and based on the criminal history, a determination is made concerning the individual's fitness for employment. The governing body shall ensure that searches of the North Carolina Sex Offender and Public Protection Registry and the North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-256) are completed prior to employment, and based on these searches, a determination is made concerning the individual's fitness for employment. The governing body shall submit authorization to the licensing authority to search the Responsible Individuals List, as defined in 10A NCAC 70I .0102, to determine if the executive director has had child protective services involvement resulting in a substantiation of child abuse or serious neglect, and based on this search, a determination is made concerning the individual's fitness for employment. The governing body shall require that the executive director provide a signed statement prior to employment that he/she has not abused or neglected a child or has been a respondent in a juvenile court proceeding that resulted in the removal of a child or has had child protective services involvement that resulted in the removal of a child. The governing body shall require that the executive director provide a signed statement that the executive director has not abused, neglected or exploited a disabled adult and that the executive director has not been a domestic violence perpetrator. Agencies or applicants that do not have a governing body shall provide this information directly to the licensing authority.
- (7) not employ an executive director who has been convicted of a felony involving:
 - (A) child abuse or neglect;

- (B) spouse abuse;
- (C) a crime against a child or children (including child pornography); or
- (D) a crime of rape, sexual assault, or homicide.
- (8) not employ an executive director who has been convicted of a felony within the last five years involving:
 - (A) assault;
 - (B) battery; or
 - (C) a drug-related offense.
- (9) permit the executive director or his or her designee to attend all meetings of the governing body and committees with the exception of those held for the purpose of reviewing his or her performance, status, or compensation;
- (10) annually evaluate and document the executive director's performance through specific criteria and objectives;
- (11) initiate and review an annual evaluation of services and direct needed changes based on the evaluation;
- (12) annually review facility needs related to risk management; ~~and~~
- (13) maintain a long range plan and review ~~annually~~ annually;
- (14) shall develop and implement policies and procedures to comply with all applicable State and Federal laws pertaining to nondiscrimination;
- (15) shall ensure that the agency complies with the Multiethnic Placement Act (MEPA) of 1994, P.L. 103-382, as amended by the Interethnic Adoption Provisions (IEP) of 1996; and
- (16) shall ensure the agency complies with the terms and conditions of State and Federal requirements to participate in procurement contracts and covered non-procurement transactions. (45 D.F.R. 82.510, P.L. 103-227 15 C.F.R. 29.630; Title 15-Commerce and Foreign Trade; Subtitle A-Office of the Secretary of Commerce; Part 29-Government wide Requirements for Drug Free Workplace and G.S. 64, Article 2.

Authority G.S. 131D-10.5; 131D-10.6; 143B-153.

10A NCAC 70I .0305 RECORDKEEPING AND REPORTING

- (a) A residential child-care facility shall develop and enforce a policy on confidentiality that shall:
 - (1) identify the individuals with access to or control over confidential information;
 - (2) specify that persons who have access to records or specified information in a record be limited to persons authorized by law specifically including the parents, guardian or legal custodian (if applicable) and children (12 years of age and older), agency staff auditing,

- licensing, or accrediting personnel; and those persons for whom the agency has obtained a consent for release of confidential information signed by the parents, guardian or legal custodian; and
- (3) require that when a child's information is disclosed, a signed consent for release of information is obtained on a consent for release form.
- (b) A residential child-care facility shall:
 - (1) provide a secure place for the storage of records with confidential information;
 - (2) inform any individual with access to confidential information of the provisions of this Rule;
 - (3) ensure that, upon employment and whenever revisions are made, staff sign a compliance statement which indicates an understanding of the requirements of confidentiality;
 - (4) permit a child to review his or her case record in the presence of facility personnel on the facility premises, in a manner that protects the confidentiality of other family members or other individuals referenced in the record, unless facility personnel determine the information in the child's case record would be harmful to the child;
 - (5) in cases of perceived harm to the child, document in writing any refusals to share information with the parents, guardian and legal custodian (if applicable) and child (12 years of age and older);
 - (6) maintain a confidential case record for each child;
 - (7) maintain confidential personnel records for all employees; and
 - (8) maintain confidential records for all volunteers.
- (c) A residential child-care facility may destroy in office a closed record in which a child has been discharged for a period of three years unless included in a federal or state fiscal or program audit that is unresolved. A residential child-care facility may destroy in office a record three years after a child has reached age ~~18-21~~ unless included in a federal or state fiscal or program audit that is unresolved. The agency may destroy these closed records in office when the federal or state fiscal or program audits have been resolved and the agency is released from all audits.

Authority G.S. 48-2-502; 48-3-303; 131D-10.5; 143B-153.

10A NCAC 70I .0306 CLIENT RIGHTS

- (a) A residential child-care facility shall develop and implement policies and procedures to protect the individual rights and dignity of children and families.
- (b) A residential child-care facility shall have a client's and family's rights policy which includes that each child has the right to:
 - (1) privacy;
 - (2) be provided adequate food, clothing, and shelter;

- (3) have access to family time and have telephone conversations with family members, when not contraindicated in the child's visitation and contact plan;
- (4) have personal property and a space for storage;
- (5) express opinions on issues concerning the child's care or treatment;
- (6) receive care in a manner that recognizes variations in cultural values and traditions;
- (7) be free from coercion by facility personnel with regard to religious decisions. The facility shall have a process to assure that, whenever practical, the wishes of the parents or guardians with regard to a child's religious participation are ascertained and followed;
- (8) not be identified in connection with publicity for the facility which shall bring the child or the child's family embarrassment; ~~and~~
- (9) not be forced to acknowledge dependency on or gratitude to the ~~facility~~; facility; and
- (10) participate in extracurricular, enrichment, cultural, and social activities as appropriate and in accordance G.S. 131D-10.2.

(c) A residential child-care facility shall have a policy which prohibits direct involvement by a child in funds solicitation for the facility.

(d) A residential child-care facility shall have a policy which prohibits the child's participation in any activities involving audio or visual recording and research without the voluntary signed, time-limited consent of the parents, guardian or legal custodian and child (12 years of age and older).

Authority G.S. 143B-153; 131D-10.2; 131D-10.5.

10A NCAC 70I .0308 NORMALCY FOR FOSTER CHILDREN

A residential child-care facility shall develop and follow policies and procedures in accordance with G.S. 131D-10.2. The agency shall demonstrate compliance with policies and procedures that includes:

- (1) Appointment of a designated official(s) to apply the reasonable and prudent parent standard when determining whether to allow a child to participate in extracurricular, enrichment, cultural, and social activities;
- (2) Documentation of reasonable and prudent parenting standard decision making;
- (3) Training for residential staff in the area of reasonable and prudent parent standard; and
- (4) Supervision and support to staff in the implementation of the reasonable and prudent parent standard.

Authority G.S. 131D-10.2; 131D-10.5; 143B-15.

SECTION .0400 – PERSONNEL

10A NCAC 70I .0405 PERSONNEL POSITIONS

(a) Executive Director. There shall be a full-time executive director for an agency with one or more facilities licensed for 20 or more children. At a minimum, there shall be a part-time executive director for an agency with one or more facilities licensed for less than 20 children.

(b) The executive director shall meet the requirements of a Social Services Program Administrator I as defined by the North Carolina Office of State ~~Personnel~~-Human Resources. A copy of these requirements can be ~~obtained by contacting the Division of Social Services at 828-669-3388 or by reviewing the following web site~~ (<http://www.oshr.nc.gov/Guide/CompWebSite/Class%20Specs/04077.pdf> found at: (<http://www.oshr.nc.gov/state-employee-resources/classification/compensation/job-classification>)). The college or university degree shall be from a college or university listed at the time of the degree in the Higher Education Directory. This information can be obtained by calling Higher Education Publications, Inc. at ~~1-888-349-7715~~ or at: <http://www.hepinc.com>.

(c) The executive director shall:

- (1) be responsible for the general management and administration of the residential child-care facility in accordance with policies established by the governing board and licensing requirements;
- (2) explain licensing standards, residential child-care standards and the residential child-care facility's services to the board, the facility's constituency, other human service agencies and the public;
- (3) initiate and carry out the program of residential child-care as approved by the governing board;
- (4) report to the governing board on all phases of operation at least quarterly;
- (5) delegate authority and responsibility to staff qualified to ensure the maintenance of the residential child-care facility's operations;
- (6) establish and oversee fiscal practices, present the annual operating budget and quarterly reports to the governing board;
- (7) evaluate, at least annually, the training needs of the staff; plan and implement staff training and consultation to address identified needs;
- (8) employ and discharge staff and meet on a regular basis with administrative and management staff to review, discuss and formulate policies and procedures;
- (9) supervise staff who report directly to the executive director; and
- (10) conduct an annual individual written evaluation of each staff member who reports directly to the executive director. This evaluation shall contain both a review of job responsibilities and goals for future job performance.

(d) Clerical, Maintenance and Other Support Personnel. The residential child-care facility shall employ or contract personnel qualified to perform all clerical, support and maintenance duties.

(e) Business and Financial Personnel. The residential child-care facility shall employ or contract personnel to perform all business, accounting and financial functions.

(f) Direct Care Service Personnel. Any staff member who assumes the duties of direct care service personnel in the living unit shall comply with all the standards for direct care services personnel in the living unit.

- (1) Direct care service personnel shall:
 - (A) have a high school diploma or GED;
 - (B) complete a medical history form prior to assuming the position;
 - (C) have a medical examination by a licensed medical provider 12 months prior to assuming the position and biennially thereafter. This report shall include a statement indicating the presence of any communicable disease which may pose a risk of transmission in the residential child-care facility. After the initial examination, the cost of the medical examinations as required by licensure shall be at the expense of the facility;
 - (D) have a TB skin test or chest x-ray, unless the medical provider advises against this test, prior to assuming the position;
 - (E) be 21 years of age.
- (2) Standards for direct care service personnel in the living unit:
 - (A) There shall be one direct care staff personnel assigned to every six children during waking hours and one direct care staff personnel assigned to every ten children during overnight hours.
 - (B) A residential child-care facility shall ensure that a staff member ~~trained~~ certified in cardiopulmonary resuscitation ~~(CPR) and (CPR)~~, first aid, and universal precautions ~~such as those~~ provided by the American Red Cross, the American Heart Association or equivalent organizations, is always available to the children in care; and that direct care service personnel shall receive training in first aid ~~and CPR aid, CPR,~~ and universal precautions within the first thirty days of employment. Equivalent organizations shall be approved if the Division of Social Services determines that courses offered are substantially equivalent to those offered by the American Heart Association or the American Red Cross. Training in CPR shall be appropriate for the ages of children in care. First aid, and CPR and universal

precautions training shall be updated as required by the American Red Cross, the American Heart Association or equivalent organizations. Successfully completed is defined as demonstrating competency, as evaluated by the instructor who has been approved by the American Heart Association or the American Red Cross or equivalent organizations approved by the Division of Social Services to provide first-aid, CPR and universal precautions training. Training in CPR shall be appropriate for the ages of children in care. Documentation of successful completion of first-aid, CPR and universal precautions shall be maintained by the residential child-care facility. Web-based trainings are not acceptable methods of successfully completing certification in first-aid, CPR and universal precautions.

- (C) A residential child-care facility shall ensure that direct care service personnel receive supervision and training in the areas of child development, permanency planning methodology, group management, preferred discipline techniques, family relationships, human sexuality, health care and socialization, leisure time and recreation. In addition, the residential child-care facility shall provide training to direct care service personnel in accordance with the needs of the client population, including, training in child sexual abuse. Direct care service personnel shall receive 24 hours of continuing education annually.
- (D) A residential child-care facility shall ensure that direct care service personnel receive supervision in food preparation and nutrition when meals are prepared in the living unit.
- (E) Any duties other than direct care services duties assigned to direct care service personnel shall be specified in writing and assigned in accordance with the residential child-care program.
- (3) Direct care service supervisory personnel shall have a high school diploma or GED and be 21 years of age.
- (4) Standards for direct care service supervisory personnel:

- (A) There shall be at least one supervisor for every 15 direct care service personnel.
- (B) Supervisory staff shall be selected on the basis of the knowledge, experience and competence required to manage direct service personnel.
- (C) Direct care service supervisory personnel shall receive 24 hours of continuing education annually.

(g) Social work supervisors or case manager supervisors shall be employed by the residential child-care facility to supervise, evaluate and monitor the work and progress of the social work or case manager staff.

- (1) Social work supervisors or case manager supervisors shall meet the requirements of a Social Work Supervisor II as defined by the North Carolina Office of State ~~Personnel~~ Human Resources. A copy of these requirements can be ~~obtained by contacting the Division of Social Services at 828-669-3388 or by reviewing the following web site (<http://www.oshr.nc.gov/Guide/CompWebSite/Class%20Specs/04016.pdf>~~ found at (<http://www.oshr.nc.gov/state-employee-resources/classification/compensation/job-classification>). The college or university degree shall be from a college or university listed at the time of the degree in the Higher Education Directory. Social work supervisors or case manager supervisors shall receive 24 hours of continuing education annually.
- (2) Supervision of social workers or case managers shall be assigned as follows:

Supervisors Required	Social Workers <u>or Case Managers</u> Employed
0	0-4 (executive director serves as social work <u>or case manager</u> supervisor)
1	5
2	6-10
3	11-15
There shall be one additional supervisor for every one to five additional social workers <u>or case managers</u> .	

(h) Social workers or case managers shall be employed by the residential child-care facility to provide social work or case management services to the children in care and their families in accordance with the out-of-home family services agreement.

- (1) Social workers or case managers shall meet the requirements of a Social Worker II as defined by the North Carolina Office of State ~~Personnel~~ Human Resources. A copy of these requirements can be ~~obtained by contacting the Division of Social Services at 828-669-3388 or by reviewing the following web site (<http://www.oshr.nc.gov/Guide/CompWebSite/Class%20Specs/04012.pdf>~~ found at:

(<http://www.oshr.nc.gov/state-employee-resources/classification/compensation/job-classification>). The college or university degree shall be from a college or university listed at the time of the degree in the Higher Education Directory. Social workers or case managers shall receive 24 hours of continuing education annually.

- (2) There shall be at least one social worker or case manager assigned for every 15 children.
- (3) A residential child-care facility shall ensure that social workers or case managers receive supervision and training in the areas of child development, permanency planning methodology, group dynamics, family systems and relationships, and child sexual abuse.
- (4) Any duties other than social work or case management duties assigned to staff employed as social workers or case managers shall be specified in writing and assigned in accordance with the residential child-care program.

Authority G.S. 131D-10.5; 143B-153.

SECTION .0500 - SERVICE PLANNING

10A NCAC 70I .0503 ADMISSION AGREEMENT

(a) At admission, a residential child-care facility shall develop a written agreement between the parents, guardian or legal custodian, and the facility which specifies the services to be provided by the facility and the responsibilities of the parents, guardian, or legal custodian which includes the following:

- (1) statement of consent for placement by the parents, guardian or legal custodian, with the date of admission;
- (2) plan for providing admission information on the child's care, developmental, educational, medical, and psychological needs to the parents, guardian or legal custodian, the frequency of out-of-home family service agreement reviews, and receipt of program information required by 10A NCAC 70I .0307(a) and 10A NCAC 70I .0504(a);
- (3) statement of facility responsibility for working with the child's parents, guardian or legal custodian;
- (4) statement related to the provision of religious training and practices and consent to these by the parents, guardian or legal custodian;
- (5) visitation and contact plan;
- (6) fees and plan for payment of care;
- (7) plan for discharge to include projected length of stay; and
- (8) statement of facility responsibility for aftercare services.

~~(b) For foster children 18 years of age and older residing in the residential child-care facility or reentering the facility, the facility shall obtain a voluntary placement consent signed by the foster~~

~~child that specifies the conditions for residential child care and services.~~

Authority G.S. 131D-10.5; 131D-10.10; 143B-153; 143B-154; 143B-155; 143B-156.

10A NCAC 70I .0504 ORIENTATION

(a) A residential child-care facility shall provide information and discuss the program policies governing residential care and services for children with the child's parents, guardian or legal custodian and the child at or before admission, which include:

- (1) family time, mail, gifts, personal possessions, money, and telephone calls and restrictions which may be imposed on these;
- (2) discipline and behavior management, including the use of searches of children's rooms and possessions;
- (3) program of religious training and practices;
- (4) educational resources;
- (5) trips away from the facility;
- (6) use of volunteers, if any;
- (7) physical restraint practices;
- (8) client rights and grievance procedures; ~~and~~
- (9) daily and seasonal ~~schedules, schedules; and~~
- (10) reasonable and prudent parent standard.

(b) The residential child-care facility shall obtain the out-of-home family services agreement from the county department of social services at or before admission when the county department of social services is the legal custodian. In the case of a private placement, the facility shall develop an out-of-home family services agreement.

(c) The residential child-care facility shall develop a written out-of-home family services agreement for each child within 30 days of admission. The out-of-home family services agreement shall be reviewed initially within 60 days, the second review shall be within 90 days of the initial review and the third and subsequent reviews shall be held every six months, inviting parents or guardian, the legal custodian, if different, the child, as well as any individual or agency designated as providing services to participate.

(d) The out-of-home family services agreement shall be developed utilizing information from an assessment of the child's and family's needs and include goals based on normal developmental tasks and needs. The goals and objectives shall be based on identified issues, be behaviorally specific, time limited and measurable and include staff assignments and specific strategies to be taken to meet the goals in the following areas:

- (1) special interests and personal goals;
- (2) intellectual, academic and vocational;
- (3) psychological and emotional;
- (4) medical;
- (5) social and family relationships;
- (6) cultural and spiritual; and
- (7) basic living skills.

(e) A visitation and contact plan shall be developed for each child by the parents, guardian or legal custodian, if different.

(f) A written discharge plan shall be part of the out-of-home family services agreement.

(g) Direct care staff shall be informed about the child's out-of-home family services agreement by the executive director of the residential child-care facility or his or her designee and shall participate or provide input at the reviews as described in Paragraph (c) of this Rule.

(h) A copy of the child's out-of-home family services agreement shall be provided to the parents, guardian and the executive director of the residential child-care facility or his or her designee by the county department of social services serving as the legal custodian. The child's out-of-home family services agreement shall be provided to other agencies and individuals listed as providing services to the child and his or her parents or guardian. An age appropriate version of the out-of-home family services agreement shall be written and provided to each child by the legal custodian.

(i) The child's out-of-home family services agreement review shall include:

- (1) an evaluation of progress towards meeting identified needs;
- (2) any new needs identified since the child's out-of-home family services agreement was developed or last reviewed and behaviorally-specific strategies to meet these needs, including instructions to staff;
- (3) an update of the estimated length of stay and discharge plan; and
- (4) signatures of the persons participating in the review.

(j) If the legal custodian is a county department of social services, the residential child-care agency, department of social services, parents or guardian, other service providers and child shall develop a single out-of-home family services agreement. The residential child-care staff shall attend court reviews, child and family team meetings, agency reviews and permanency planning action team meetings. The Out-of-Home Family Services Agreement (DSS-5240 or DSS-5241) and the Transitional Living Plan may serve as the out-of-home family services agreement for the residential child-care facility if the documents reflect input and participation by the residential child-care facility.

Authority G.S. 131D-10.5; 131D-10.10; 143B-153.

10A NCAC 70I .0506 CLIENT RECORDS

(a) A residential child-care facility shall maintain a client record for each child which contains the following:

- (1) documentation of placement authority by parents, guardian or legal custodian;
- (2) written placement consent and agreement;
- (3) intake study and related documents;
- (4) completed application for services that includes demographic information on the child and the child's family;
- (5) documentation that verifies the child's birth;
- (6) pre-admission medical examination report or a medical examination report completed within two weeks of admission (unless the child's health status indicates the completion of a medical examination report sooner) and copies of subsequent medical examination reports;

- (7) immunization records;
- (8) out-of-home family services agreement and reviews;
- (9) court orders;
- (10) visitation and contact plan, including type, duration, location both on-site and off-site, and frequency, as well as any rationale for restrictions on family involvement; the facility shall maintain documentation of all family time;
- (11) consents for release of information;
- (12) consent for emergency medical treatment;
- (13) consents for out-of-state field trips; for overnight activities outside the direct supervision of the caregiver for periods exceeding 72 hours;
- (14) consents for time-limited audio-visual recording signed by both the child and parents or guardian, and legal custodian (if applicable);
- (15) ongoing record of medical and dental care;
- (16) documentation of medical insurance;
- (17) progress notes; ~~and~~
- (18) discharge summary including date of discharge, time of discharge and the name, address, telephone number and relationship of the person or agency to whom the child was discharged, a summary of services provided during care, needs which remain to be met and plans for the services needed to meet these ~~goals-goals;~~
- (19) medical reports including medical history, cumulative health history, immunization records, and available psychological and psychiatric reports; and if applicable:
 - (A) documentation of mental illness, developmental disabilities or substance abuse diagnosis coded according to the latest edition of the Diagnostic and Statistical Manual of Mental Disorders;
 - (B) documentation of screening and assessment;
 - (C) medication orders and Medication Administration Record (MAR);
 - (D) documentation of medication administration errors;
 - (E) documentation of adverse drug reactions; and
 - (F) orders and copies of lab tests;
- (20) documentation of searches for drugs, weapons, contraband or stolen property, including date and time of the search, action taken by staff and the agency, name of staff informing the agency, the date and time the agency is informed of the search, the date and time of the notification to the child's parents, guardian or legal custodian; and

- (21) authorization from the parents, guardian, legal custodian or licensed medical provider to administer non-prescription medications.

(b) The residential child-care facility shall maintain client records for the purpose of:

- (1) protecting the legal rights of the child, parents, guardian or legal custodian, and the facility;
- (2) documenting service provision to the child and family, including an evaluation of effectiveness of services provided; and
- (3) providing a source of information about individual children, as well as information for the facility in planning its program of care and services.

(c) Staff members recording entries in client records shall date, initial or sign entries.

Authority G.S. 131D-10.2; 131D-10.5; 143B-153.

SECTION .0600 - SERVICE DELIVERY

10A NCAC 70I .0601 PROGRAM POLICIES AND PRACTICES

(a) A residential child-care facility shall have a written program description and written program policies and procedures.

(b) The residential child care facility shall provide any child placed in the facility with supervision that is appropriate for the child's age, intelligence, emotional make-up and past experience, and adhere to the supervision requirements specified in the out-of-home family services agreement or person-centered plan.

~~(b)~~(c) The residential child-care facility shall design a program to provide opportunities for positive learning experiences and to meet the needs of children and families.

~~(c)~~(d) The residential child-care facility shall provide a daily schedule of activities to meet the needs of children, which allows time for privacy and individual pursuits.

~~(d)~~(e) The residential child-care facility shall consider each child an unique individual, providing opportunities which take into consideration each child's ethnic and cultural backgrounds.

~~(e)~~(f) The residential child-care facility shall give each child individual attention and nurturing.

~~(f)~~(g) The residential child-care facility shall provide each child with the opportunity to have interaction with adults and children of both sexes.

~~(g)~~(h) The residential child-care facility shall instruct and supervise each child in personal care, hygiene, and grooming appropriate for the age, sex, race and developmental capacity of the child.

~~(h)~~(i) The residential child-care facility shall ensure that each child has normal contacts in the community in which the facility is located through participation in events such as school functions, recreational facilities, church youth groups, part-time paid employment, community service and volunteer work. An exception shall be made when community contact is inconsistent with the program design.

~~(i)~~(j) The residential child-care facility shall encourage each child to form friendships with children outside the facility, to visit friends in the community, and have their friends visit them at the facility. An exception shall be made when contact with friends is

inconsistent with the program design or out-of-home family services agreement.

~~(j)~~(k) The residential child-care facility shall provide residents with access to telephones to maintain contact with friends and family members.

~~(k)~~(l) The residential child-care facility shall maintain a log of children in residence which includes:

- (1) child's name, age, sex and race;
- (2) name of parents, guardian or legal custodian; and
- (3) dates of admission and discharge.

Authority G.S. 131D-10.5; 143B-153.

10A NCAC 70I .0604 HEALTH SERVICES

(a) No child shall be accepted into a residential child-care facility without having had a medical examination by a licensed medical provider within 12 months prior to admission, or a medical examination by a licensed medical provider within two weeks after admission or sooner if indicated by the child's health status. The medical examination shall include a signed statement by the licensed medical provider specifying the child's medical condition and medications prescribed and indicating the presence of any communicable disease which may pose a risk of transmission in the facility. If a child is in the custody of a department of social services, is already scheduled to have and is having a medical examination report completed annually, and is entering a facility, the schedule of annual medical examination reports shall not be changed. A copy of the most recent medical examination report shall be obtained from the responsible county department of social services by the facility.

(b) A child admitted to a residential child-care facility shall be immunized against diphtheria, tetanus, whooping cough, poliomyelitis, red measles (rubeola), rubella, mumps, and any other disease as required by 10A NCAC 41A .0400, as age appropriate, prior to admission. The facility shall obtain documentation of immunization. A copy of 10A NCAC 41A .0400 may be accessed at the following website (<http://www.oah.state.nc.us/rules/>) at the time of adoption of this Rule.

(c) A residential child-care facility shall make arrangements with one or more licensed medical providers or medical clinics and with at least one dentist for the care of the children.

(d) Each child shall have a medical examination at least once a year and more often as needed. A child shall not be allowed to participate in activities that pose risks to his or her health. Any illness, disease or medical condition of a child shall be identified and treated promptly through proper medical care. Children shall have a psychiatric or psychological examination or both when indicated and treatment when indicated.

(e) Children shall have had a dental examination, by a licensed dentist, within one year prior to admission or arrangements shall be made for an exam within six weeks after admission and annually thereafter. The facility shall document dental services in the child's record.

(f) The facility shall instruct direct child-care staff on medical care which may be given by them without specific orders from a licensed medical provider. The facility shall instruct direct child-

care staff in the procedures for obtaining medical care beyond home health care and handling medical emergencies.

(g) The residential child-care facility shall arrange with a hospital for the admission of children from the facility in the event of serious illness or emergency.

(h) The residential child-care facility shall obtain a mouthpiece, utilize universal precautions and other precautionary equipment for administering CPR for the children in residence.

(i) The residential child-care facility shall ensure that first aid kits are available for immediate use in each living unit, recreation area and in vehicles used to transport children.

(j) The residential child-care facility shall not engage in any home health care practices that conflict with the control measures for communicable diseases in 10A NCAC 41A .0200. A copy of 10A NCAC 41A .0200 may be accessed at the following website (<http://www.oah.state.nc.us/rules/>) at the time of adoption of this Rule.

(k) Direct child-care staff shall be able to recognize common symptoms of illnesses in children and be alert to any infectious condition and take proper precautions to prevent the spread of such a condition.

(l) Direct child-care staff shall be able to provide home health care. A thermometer shall be kept available for use. When there is risk of transmission, arrangements shall be made for isolation and attendant care of a child with a communicable disease.

(m) Prescription medications shall be administered only when approved by a licensed medical provider.

(n) ~~Non-prescription medication shall be administered only when approved by the parents, guardian, legal custodian or a licensed medical provider.~~ Non-prescription medications shall be administered to a child taking prescription medications only when authorized by the child's licensed medical provider; allow non-prescription medications to be administered to a child not taking prescription medication, with the authorization of the parents, guardian, legal custodian, or licensed medical provider in accordance with G.S. 7B-505.1.

(o) All medicines, prescription and non-prescription, shall be stored in a locked cabinet, closet or box not accessible to children.

(p) Each child shall have a medical record which contains written consent from the legal custodian or parent authorizing routine medical and dental treatment and emergency treatment.

(q) Each child shall have a medical record which contains the preadmission medical examination report, or a medical examination report within two weeks after admission (or sooner if indicated by the child's health status), immunization records, and records of ongoing medical and dental care and examinations received, including hospitalizations, illnesses or accidents and treatment provided.

(r) A residential child-care facility shall have written policies and procedures regarding the administration of medications to children placed in the residential child-care facility. ~~The executive director of a residential child-care facility, or his or her designee, shall discuss and provide these policies and procedures to the parents, guardian or legal custodian, and the child (if 12 years of age or older), upon admission.~~ These policies and procedures shall address medication:

- (1) administration;
- (2) dispensing, packaging, labeling, storage and disposal;

- (3) review;
- (4) education and training; and
- (5) documentation, including medication orders, Medication Administration Record (MAR), orders and copies of lab tests, and medication administration errors and adverse drug reactions.

(s) The residential child-care facility shall maintain a Medication Administration Record (MAR) for each child that documents all medications administered.

(t) The residential child-care facility shall document medication errors, adverse drug reactions and medication orders in the child's Medication Administration Record (MAR).

(u) Upon discharge of a child, the residential child-care facility shall return prescription medications to the person or agency legally authorized to remove the child from residential child-care. The residential child-care facility shall provide oral or written education to the person or agency legally authorized to remove the child from residential child-care regarding the medications. Unwanted, out-dated, improperly labeled, damaged, adulterated or discontinued prescription medications shall be ~~returned to a pharmacy for disposal.~~ disposed of according to Federal Drug Administration guidelines found at: <http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm101653.htm>.

Authority G.S. 7B-501.1; 131D-10.5; 143B-153.

10A NCAC 70I .0609 RECREATION AND LEISURE ACTIVITIES

(a) A residential child-care facility shall develop a written schedule of planned recreational, leisure, or physical exercise activities with input from both staff and children which meets the children's developmental needs, and which shall be posted in each facility.

(b) A residential child-care facility shall provide a variety of indoor and outdoor, individual and group recreational opportunities, with suitable space and competent adult supervision, appropriate to the age, interests, and needs ~~of each child.~~ and abilities of each child in accordance with the reasonable and prudent parent standard. G.S. 131D-10.2.

(c) A residential child-care facility shall provide recreational opportunities for children to play with children of both genders. An exception shall be made when the program cares for only one gender.

(d) A residential child-care facility shall have an individualized recreation plan for any child who has special recreational needs.

Authority G.S. 131D-10.2; 131D-10.5; 131D-10.10; 143B-153.

10A NCAC 70I .0613 DISCIPLINE AND BEHAVIOR MANAGEMENT

(a) A residential child-care facility shall have written policies and procedures on discipline and behavior management, including the type and use of physical restraint holds, if utilized. A copy of the written policies and procedures shall be provided to and discussed with each child and the child's parents, guardian or legal custodian prior to or at the time of admission. Policies and procedures shall include:

- (1) proactive means for interacting with and teaching children which emphasize praise and encouragement for exhibiting self control and desired behavior; and
- (2) methods for protecting children and others when a child is out of control.

(b) A residential child-care facility shall implement standards for behavior which are reasonable and developmentally appropriate.

(c) A residential child-care facility shall not engage in discipline or behavior management which includes:

- (1) corporal and physical punishment;
- (2) cruel, severe, or humiliating actions;
- (3) discipline of one child by another child;
- (4) denial of food, sleep, clothing or shelter;
- (5) denial of family contact, including family time, telephone or mail contacts with family;
- (6) assignment of extremely strenuous exercise or work;
- (7) verbal abuse or ridicule;
- (8) mechanical restraints;
- (9) a drug used as a restraint, except as outlined in Paragraph (e) of this Rule;
- (10) seclusion or isolation time-out; or
- (11) physical restraints except as outlined in Paragraph (f) of this Rule.

(d) Time-out means the removal of a child to a separate unlocked room or area from which the child is not physically prevented from leaving. The residential child-care facility may use non-isolation time-out as a behavioral control measure when the facility provides it within hearing distance and sight of a staff member. The length of time alone shall be appropriate to the child's age and development.

(e) A drug used as a restraint means a medication used to control behavior or to restrict a child's freedom of movement and is not a standard treatment for the child's medical or psychiatric condition. A drug used as a restraint shall be employed only if required to treat a medical condition. It shall not be employed for the purpose of punishment, staff convenience or as a substitute for adequate staffing.

(f) Physical restraint of a child means physically holding a child who is at imminent risk of harm to himself or others until the child is calm. A residential child-care facility shall only use physical restraint holds approved by the North Carolina Interventions (NCI) Quality Assurance Committee, Division of Mental Health, Developmental Disabilities and Substance Abuse Services. Requests for approval shall be submitted to the North Carolina Interventions (NCI) Quality Assurance Committee, Division of Mental Health, Developmental Disabilities and Substance Abuse Services, 3022 Mail Service Center, Raleigh, NC 27699-3022.

(g) Physical restraints where a person ends up in a prone or face down position are prohibited.

~~(g)~~(h) Physical restraint holds shall be administered only by staff trained in the use of physical restraint holds. No child or group of children shall be allowed to participate in the physical restraint of another child.

~~(h)~~(i) Before employing a physical restraint, the residential child-care facility shall take into consideration the child's medical condition and any medications the child may be taking.

~~(j)~~(j) No child shall be physically restrained utilizing a protective or mechanical device. Physical restraint holds shall:

- (1) not be used for purposes of discipline or convenience;
- (2) only be used when there is imminent risk of harm to the child or others and less restrictive approaches have failed;
- (3) be administered in the least restrictive manner possible to protect the child or others from imminent risk of harm; and
- (4) end when the child becomes calm.

~~(j)~~(k) A residential child-care facility shall:

- (1) ensure that any physical restraint hold utilized on a child is administered by a trained staff member with a second trained staff member in attendance. An exception may occur when no other staff member is present or can be called for immediate assistance. Concurrent with the administration of a physical restraint hold and for a minimum of 15 minutes subsequent to the termination of the hold, a staff member shall monitor the child's breathing, ascertain the child is verbally responsive and motorically in control, and ensure the child remains conscious without any complaints of pain.

If at any time during the administration of a physical restraint hold the child complains of being unable to breathe or loses motor control, the staff member administering the physical restraint hold shall immediately terminate the hold or adjust the position to ensure that the child's breathing and motor control are not restricted. If at any time the child appears to be in distress, a staff member shall immediately seek medical attention for the child. Following the use of a physical restraint hold, a staff member shall conduct an interview with the child about the incident, and the staff administering the physical restraint hold shall be interviewed about the incident;

- (2) document each incident of a child being subjected to a physical restraint hold on an incident report. This report shall include the following:
 - (A) the child's name, age, height and weight;
 - (B) the type of hold utilized;
 - (C) the duration of the hold;
 - (D) the staff member administering the hold;
 - (E) the staff member witnessing the hold;
 - (F) the supervisory staff who reviewed the incident report; less restrictive alternatives that were attempted prior to utilizing physical restraint;
 - (G) the child's behavior which necessitated the use of physical restraint; whether the child's condition necessitated medical attention;
 - (H) planning and debriefing conducted with the child and staff to eliminate or reduce the probability of reoccurrence; and

- (I) the total number of restraints of the child since admission.

Within 72 hours, supervisory staff shall review the incident report to ensure that correct steps were followed and shall forward the report to the parents, guardian or legal custodian and the licensing authority on a report form developed by the licensing authority. If a child dies as a result of a physical restraint hold, the residential child-care facility shall report the death of the child to the parents, guardian or legal custodian and to the licensing authority within 72 hours;

- (3) submit a summary report to the licensing authority by the 10th day of each month indicating the number of physical restraint holds used during the previous month on each child and any injuries that resulted;
- (4) ensure that any physical restraint hold utilized on a child is administered by a trained staff member who has completed at least 16 hours of training in behavior management, including techniques for de-escalating problem behavior, the appropriate use of physical restraint holds, monitoring of the child's breathing, verbal responsiveness and motor control. Training shall also include debriefing children and staff involved in physical restraint holds. Thereafter, staff authorized to use physical restraint holds shall annually complete at least eight hours of behavior management training, including techniques for de-escalating problem behavior. Instructor qualifications and training requirements include:
 - (A) trainers shall demonstrate competence by scoring 100 percent on testing in a training program aimed at preventing, reducing and eliminating the need for restrictive interventions; trainers shall demonstrate competence by scoring 100 percent on testing in a training program teaching the use of physical restraint;
 - (B) trainers shall demonstrate competence by scoring a passing grade on testing in an instructor training program;
 - (C) the training shall be competency-based, and shall include measurable learning objectives, measurable testing (written and by observation of behavior) on those objectives and measurable methods to determine passing or failing the course;
 - (D) the content of the instructor training shall be approved by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services and shall include, presentation of understanding the adult learner, methods of teaching content of the course, evaluation of

- trainee performance and documentation procedures;
- (E) trainers shall be retrained at least annually and demonstrate competence in the use of physical restraint;
- (F) trainers shall be trained in CPR;
- (G) trainers shall have coached experience in teaching the use of restrictive interventions at least two times with a positive review by the coach;
- (H) trainers shall teach a program on the use of physical restraints at least once annually; and
- (I) trainers shall complete a refresher instructor training at least every two years.
- (5) complete an annual review of the discipline and behavior management policies and techniques to verify that the physical restraint holds being utilized are being applied properly and safely. This review shall be documented and submitted to the licensing authority as part of the biennial licensing renewal application; and
- (6) maintain reports of physical restraint holds in a manner consistent with the agency's risk management policies (clinical decisions and activities undertaken to identify, evaluate and reduce the risk of injury to clients, staff and visitors and reduce the risk of loss to the agency) and make them available to the licensing authority upon request.

Authority G.S. 131D-10.5; 143B-153.

10A NCAC 70I .0614 CRITICAL INCIDENTS AND CRITICAL INCIDENT REPORTS

- (a) A residential child-care facility shall have written policies and procedures for handling and reporting critical incidents.
- (b) Critical incident reports shall be submitted to the licensing authority by the executive director or designee on a form developed by the licensing authority within 72 hours of the critical incident. Critical incidents involving a child who is a resident of a residential child-care facility include the following:
 - (1) a death of a child;
 - (2) reports of abuse and neglect;
 - (3) admission to a hospital;
 - (4) suicide attempt;
 - (5) runaway lasting more than 24 hours;
 - (6) arrest for violations of state, municipal, county or federal laws; and
 - (7) reports of physical restraint holds.
- (c) Documentation of critical incidents shall include:
 - (1) name of child or children involved;
 - (2) date and time of incident;
 - (3) brief description of incident;
 - (4) action taken by staff;
 - (5) need for medical attention;
 - (6) name of staff involved and person completing the report;

- (7) name of child's parents, guardian or legal custodian notified and date and time of notification; and
- (8) approval of supervisory or administrative staff reviewing the report.
- (d) When there is a death of a child who is a resident of a residential child-care facility, the executive director or his or her designee shall notify the parents, guardian or legal custodian and the licensing authority within 72 hours.
- (e) The residential child-care facility shall have and follow policies and procedures for handling any suspected incidents of abuse or neglect of children involving staff, subcontractors, volunteers or interns. The policies and procedures shall include:
 - (1) a provision for reporting any suspicions of abuse or neglect to the appropriate county department of social services for an investigative assessment in accordance with G.S. 7B-301;
 - (2) a provision for recording any suspected incident of abuse or neglect and for promptly reporting it to the executive director or governing body;
 - (3) a provision for notifying the parents, guardian or legal custodian;
 - (4) a provision for preventing a recurrence of the alleged incident pending the investigative assessment;
 - (5) a policy concerning personnel action to be taken when the incident involves a staff member, subcontractor, volunteer or intern;
 - (6) a provision for submitting a critical incident report to the licensing authority within 72 hours of the incident being accepted for an investigative assessment by a county department of social services; and
 - (7) a provision for submitting written notification to the licensing authority within 72 hours of the case decision by the county department of social services conducting the investigative assessment.
- (f) Critical incident reports shall be maintained in a manner consistent with the agency's risk management policies and shall be made available to the licensing authority upon request.

(g) When staff determines that a foster child under the age of 18 is missing, they shall notify the appropriate law enforcement authority immediately.

Authority G.S. 131D-10.5; 143B-153; P.L. 113-18.

* * * * *

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Social Services Commission intends to readopt with substantive changes the rules cited as 10A NCAC 97B .0401-.0403; 97C .0104, .0106, .0108, .0109, and .0111.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www2.ncdhhs.gov/dss/ssocommission/contact.htm>

Proposed Effective Date: August 1, 2017

Public Hearing:

Date: June 14, 2017

Time: 10:00 a.m.

Location: NC DSS McBryde Building 1st floor room 151, 820 South Boylan Avenue, Raleigh, NC 27603

Reason for Proposed Action:

10A NCAC 97B .0401, .0402, and .0403 - Update information based on Office of Economic Opportunity being located within Department of Health and Human Services, Division of Social Services; maximize the use of available discretionary funding through aligning state rules with allowable use under federal regulations; general updates to reflect current practices/operations.

10A NCAC 97C .0106, .0108, .0109, .0111 - Update information based on Office of Economic Opportunity being located within Department of Health and Human Services, Division of Social Services; maximize the use of available discretionary funding through aligning state rules with allowable use under federal regulations; general updates to reflect current practices/operations.

Comments may be submitted to: Carlotta Dixon, 820 South Boylan Avenue, MSC 2402, Raleigh, NC 27603; phone (919) 527-6421; fax (919) 334-1198; email carlotta.dixon@dhhs.nc.gov

Comment period ends: June 16, 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 97 - ECONOMIC OPPORTUNITY

SUBCHAPTER 97B - GENERAL ADMINISTRATIVE POLICIES

SECTION .0400 - CITIZEN PARTICIPATION AND HEARINGS

10A NCAC 97B .0401 GENERAL PROVISIONS

Each applicant for programs funded under 10A NCAC 97C .0108(a)(1) administered by the Office shall provide citizens with ~~an adequate~~ opportunity for ~~meaningful~~ involvement ~~on a continuing basis~~ and for participation in the planning, implementation, evaluation and assessment of the program. The applicant shall:

- (1) provide ~~adequate~~ information to citizens;
- (2) hold a public hearing at the initial stage of ~~the a~~ multi-year planning process; process meeting requirements of Rule .0402 (3), (4), (5) of this Section;
- (3) publish a notice of intent to file an application prior to the governing board's ~~approval,~~ approval as specified in Rule .0402 of this Section and subsequent submission of the application to the ~~Office; Division of Social Services;~~
- (4) allow citizen participation on substantive amendments in the program; and
- (5) provide an opportunity to comment on the applicant's performance.

Authority G.S. 143-323(d); 143B-10; 143B-276; 143B-277.

10A NCAC 97B .0402 CITIZEN PARTICIPATION IN THE APPLICATION PROCESS

Each applicant for programs funded under 10A NCAC 97C .0108(a)(1) administered by the Office shall develop and maintain procedures that meet the following requirements:

- (1) Solicit and respond ~~in a timely and appropriate manner~~ to reviews and proposals of citizens, particularly low-income persons, members of minority groups, and resident areas where activities are proposed. Applicants shall respond in writing to written citizen comments objecting to an application. The applicant shall consider written objections made only on the following grounds:
 - (a) The applicant's description of the needs, ~~goals~~ goals, and objectives is ~~plainly~~ inconsistent with available facts and data.
 - (b) The activities to be, or being, undertaken are ~~plainly~~ inappropriate to meeting the needs, goals, and objectives identified by the applicant.
 - (c) The application does not comply with the requirements of this Chapter or other applicable laws and regulations.

Responses to the written objection shall be made within 10 calendar days of receipt of the citizen comment.

- (2) Provide technical assistance to facilitate citizen participation, where requested. The level and type shall be determined by the applicant.
- (3) Provide adequate notices of public hearings in a timely manner and in such a way as to make them accessible and understandable to all citizens. A notice of the public hearing shall be given once a week for two successive calendar weeks in the non-legal section of a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing.
- (4) Schedule public hearings to obtain citizen views and to respond to citizen proposals at times and locations ~~which~~ that permit broad participation, particularly by low income persons, members of minority groups, handicapped persons, and residents of project areas.
- (5) Conduct at least one public hearing at the initial stage of ~~the~~ a multi-year planning process to allow citizens the opportunity to express views and proposals.
- (6) Publish a notice of intent to file an application, at least one time in the non-legal section of a newspaper, having general circulation in the area, no less than 10 calendar days prior to final approval by the recipient's governing board. The notice shall specify the time and place the governing board shall meet to consider adopting a resolution (as required by Rule .0203(2)(b) of this Subchapter) to approve the application. The notice shall contain a description of the activities to be undertaken and the amount of funds requested in the application.
- (7) Persons wishing to object to the approval of an application by the ~~Office~~ Division of Social Services shall make such objection in writing. The ~~Office~~ Division of Social Services will consider objections made only on the following grounds:
 - (a) The applicant's description of the needs, goals, and objectives is ~~plainly~~ plainly inconsistent with available facts and data.
 - (b) The activities to be undertaken are ~~plainly~~ plainly inappropriate to meeting the needs, goals, and objectives identified by the applicant.
 - (c) The application does not comply with the requirements of this Chapter or other applicable laws and regulations.
- (8) All objections shall include both an identification of the requirements not met and, in the case of objections made on the grounds that the description of needs and objectives is

plainly inconsistent with available facts and data, the data upon which the persons rely.

Authority G.S. 143-323(d); 143B-10; 143B-276; 143B-277.

10A NCAC 97B .0403 CITIZEN PARTICIPATION IN THE PROGRAM AMENDMENT PROCESS

(a) Each grant recipient funded under 10A NCAC 97C .0108(a)(1) shall respond to citizen objections and comments in the same manner as in ~~Regulation Rule~~ Rule .0402(1) of this Section.

(b) ~~All amendments~~ Amendments which require prior Office Division of Social Services approval. ~~approval also may require a public hearing. After determination by the Office that a public hearing is required, it shall be held in accordance with Rule .0402(3) and (4) of this Section.~~

(c) ~~The Office may determine that a hearing is required if a program is substantially changed by:~~

- (1) ~~A new or amended state or federal statute or regulation requires a new provision, or conflicts with any existing plan provision;~~
- (2) ~~A court decision changes the interpretation of a statute or regulation;~~
- (3) ~~The grant recipient proposes to add, significantly modify, or delete any project.~~

(c) A public hearing shall be required if:

- (1) The grant recipient proposes an objective or activities not included in the original work plan;
- (2) There is an increase or decrease of total funds in excess of an aggregate of ten percent of the total amount of the grant agreement; or
- (3) There is a transfer of funds from the inception to the termination of the grant agreement between projects in excess of an aggregate of five percent of the total amount of the grant agreement; and
- (4) Public hearings shall be held in accordance with Rule .0402(3) and (4) of this Section.

Authority G.S. 143-323(d); 143B-10; 143B-276; 143B-277.

SUBCHAPTER 97C - COMMUNITY SERVICES BLOCK GRANT PROGRAM

SECTION .0100 - GENERAL PROVISIONS

10A NCAC 97C .0104 DEFINITIONS

For the purpose of this Subchapter, the following definitions apply:

- (1) Act. The Omnibus Budget Reconciliation Act of 1981, as amended, under which the Community Services Block Grant Program was established.
- (2) Community Action Agency (CAA). An agency ~~officially~~ officially designated and funded by the Community Services Administration in Federal Fiscal Year 1981 for the purpose of operating an anti-poverty project and ~~which~~ that was funded by the Office in fiscal year 1985 to administer a Community Services Block Grant

- anti-poverty project or any agency designated ~~as such~~ by the Governor or his designee and determined to be eligible by the ~~Office~~. Division of Social Services.
- (3) Community Services Block Grant. The state administered Community Services Block Grant Program (CSBG).
- (4) ~~Limited Purpose Agency. An agency funded by the Community Services Administration in Federal Fiscal Year 1981 for the purpose of operating projects for a specific target population, such as senior citizens, or for a specific program area, such as economic development and which was funded by the Office in fiscal year 1982 to carry out similar specific and limited projects.~~
- (5)(4) Local Administering Agency. ~~An agency funded by the Office to carry out programs in a single or multi county area. Entities carrying out activities under 42 U.S.C 9907(b)(1)(A-H) which may include Community Action Agencies.~~
- (6)(5) OCS. The Office of Community Services is established in the U.S. Department of Health and Human Services and is charged with the responsibility of administering the ~~program~~. various programs.
- (7)(6) Persons in poverty. For the purpose of the allocation of CSBG fund, persons in poverty is defined as the number of persons ~~who~~ whose income fall is below the poverty threshold established by the ~~U.S. Census Bureau. Bureau of Census, U.S. Department of Commerce.~~ The number of persons in poverty will be based on the most recent Small Area Income Poverty Estimates released by the U.S. Census Bureau available at the time of allocation determination. available census data. For the purpose of program eligibility, persons in poverty is defined as the persons who fall below the poverty guidelines updated periodically by the U.S. Department of Health and Human Services and released by the Division for use. ~~established by the Office of the U.S. Office of Management and Budget.~~
- (8)(7) Quarter. Each three months during the life of a grant agreement with a grant recipient.
- (9)(8) State Plan. The plan which sets forth how the State of North Carolina will use the funds allocated under ~~CSBG. CSBG.~~

Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d).

10A NCAC 97C .0106 ELIGIBLE GRANT RECIPIENTS

Eligible grant recipients for CSBG funds include:

- (1) community action agencies as defined in (2) of Rule .0104 of this Section; in any geographic area of a state not ~~presently~~ served by an

eligible entity, the Governor may decide to serve such a new area by:

- (a) requesting an existing eligible entity ~~which that~~ is located and provides services in an area contiguous to the new area to serve the new area;
- (b) if ~~not~~ existing eligible entity is located and provides services in an area contiguous to the new area, requesting the eligible entity located ~~elosest~~ closest to the area to be served or an existing eligible entity serving an area within reasonable proximity of the new area to provide services in the new area; ~~or~~
- (c) ~~where no existing eligible entity requested to serve the new area decides to do so,~~ designating any existing eligible entity, any private, non-profit organization which has a board meeting the requirements of ~~Section 675(c)(3) 42 U.S.C. 9910 or any political suboffice of the state to~~ serve the new area. The Governor's designation of an organization which has a board meeting the requirements of Section 675(c)(3) or a political suboffice of the state to serve the new area shall qualify such organization as a eligible entity; or
- (d) if no private, nonprofit organization is identified or determined to be qualified to serve the unserved geographic area as an eligible entity the Governor may designate an appropriate political subdivision of the State to serve as an eligible entity for the area. In order to serve as the eligible entity for that area, the political subdivision shall have a board or other mechanism as required under U.S.C. 42 9910 section 676B(b).
- (2) ~~organizations serving seasonal or migrant farmworkers; and~~ Local Administering Agencies as defined in (4) of Rule .0104 of this Section
- (3) ~~limited purposes agencies as defined in (6) of Rule .0104 of this Section.~~

Authority G.S. 143-276; 143-323(d); 143B-10(b); 42 U.S.C. 9901-12.

10A NCAC 97C .0108 ALLOCATION OF CSBG FUNDS

(a) Funds ~~allocated~~ to North Carolina under the CSBG Program will be ~~used in~~ Federal Fiscal Year 1989 ~~and in each subsequent federal fiscal year~~ as follows:

- (1) No less than Ninety-90 percent of the funds to make grants to those allocated for contracting

~~with eligible grant recipients—Community Action Agencies as defined in Rule .0106 (a) .0104(2) of this Section which are re-certified as eligible agencies each fiscal year by the Office—Division of Social Services. The amount of the funds allocated to each eligible grant recipient shall be based on the following method of distribution:~~

- (A) Funds shall be allocated based on the ratio (percentage) of persons in poverty in the county (counties) served by the eligible agency compared to the number of persons in poverty in the total area (counties) served by all eligible agencies.
- (B) ~~However, No eligible agency shall receive less than whichever is higher:~~
 - (i) An allocation of one hundred twenty thousand dollars (\$120,000), or
 - (ii) An allocation totaling 80 percent of the eligible agency's Federal Fiscal Year 1982 allocation, if the agency has maintained designation for all counties it was designated in Federal Fiscal Year 1982. whichever is higher.
- (2) Five percent of the funds will be used by the ~~Office—Division of Social Services~~ for administration of the CSBG program.
- (3) The remaining five percent of the funds will be allocated in accordance with the current State CSBG Plan strategy which will be made publicly available. The Division of Social Services shall award no more than 40 percent of the total CSBG funds available under this allotment to a single Local Administering Agency as defined in Rule .0104 of this Section for activities that may include: to make grants in Federal Fiscal Year 1989 and in each subsequent federal fiscal year to those limited purpose agencies as defined in Rule .0104 of this Section and which are re-certified as eligible agencies each fiscal year by the Office. The Office shall allot to each eligible Limited Purpose Agency an amount of funds based on the percentage of the total CSBG funds the eligible agency received of those funds reserved for the limited purpose agencies and the North Carolina Commission of Indian Affairs in federal fiscal year 1986.
 - (A) Providing training and technical assistance to those entities in need of such training and assistance;
 - (B) Coordinating State-operated programs and services, locally-operated programs and services, targeted to

low-income children and families with services provided by eligible entities and other funded organizations, to ensure increased access to services provided by the State of North Carolina or local agencies;

- (C) Supporting statewide coordination and communication among eligible entities;
- (D) Analyzing the distribution of funds made available in this Rule to determine if such funds have been targeted to the areas of greatest need;
- (E) Supporting asset-building programs for low-income individuals, such as programs supporting individual development accounts;
- (F) Supporting innovative programs and activities conducted by community action agencies or other neighborhood-based organizations to eliminate poverty, promote self-sufficiency, and promote community revitalization;
- (G) Supporting State charity tax credits; or
- (H) Supporting other activities, consistent with the purposes of this Rule.

Any funds granted to Local Administering Agencies under this Rule shall be awarded through a prescribed selection process, to include a review body established by the Division of Social Services. The review body shall be comprised of no less than five individuals selected by the Division and who shall have knowledge in the areas of poverty, grants management, fiscal operations, grants monitoring and grants compliance. Funds not awarded through the prescribed selection process will be distributed in accordance with Subparagraph (a)(1) of this Rule.

- (b) ~~Beginning with federal fiscal year 1988 and effective for all subsequent fiscal years, eligible agencies will not be allowed to carry forward unearned funds at the end of a grant agreement to the succeeding grant agreement. All unobligated funds must be returned to the Office—Division of Social Services within 60 days after the termination of the grant agreement.~~
- (c) Supplemental CSBG Grants. The preceding paragraphs of this Rule do not apply to the allocation of supplemental CSBG grants to North Carolina. Such allocations to eligible applicants for eligible activities will be made by the Office—Division of Social Services in a manner ~~not inconsistent~~ which is compliant with federal guidelines and conditions on supplemental appropriations. The Office—Division of Social Services has the flexibility to determine the number of grants awarded and the manner in which grantee(s) are selected based upon the amount of the allocation and the intent of the applicable legislation and regulations.
- (d) Subject to requirements of 42 U.S.C. 9907, any funds distributed to a Community Action Agency through grants made in accordance with Subparagraph (a)(1) of this Rule which remain

unexpended for a fiscal year shall be available to such Community Action Agency for obligation during that fiscal year and the succeeding fiscal year. Any unexpended allotment of CSBG funds from previous years grants shall be allocated to each eligible CSBG grant recipient for the following purposes:

- (1) to assist in the implementation of special statewide initiatives, and
- (2) for one time expenditures to enhance local programs.

Ninety percent of these funds will be distributed to Community Action Agencies based on the ratio of persons in poverty in the county or counties served by the Community Action Agency compared to the number of persons in poverty in the total area served by all eligible Community Action Agencies. Ten percent of these funds will be distributed to those Limited Purpose Agencies as defined in Rule .0104 of this Section on an equal basis.

(e) Any unexpended funds aligned with Subparagraphs (a)(2) and (a)(3) of this Rule shall be distributed in accordance with Subparagraph (a)(1) of this Rule for during that fiscal year or the succeeding fiscal year.

Authority G.S. 143B-227; 143B-276; 42 U.S.C. 9901-12.

10A NCAC 97C .0109 REQUIREMENTS/GOVERNING BODIES OF PRIVATE GRANT RECIPIENTS

(a) Each eligible private non-profit grant recipient funded under Rule .0108 (a)(1) of this Section must shall have a board of directors consisting of at least 15 members and not more than 51 members.

(b) The board of directors of private non-profit grant recipients funded under Rule .0108 (a)(1) of this Section shall be constituted so as to assure that:

- (1) one-third of the members of the board are elected public officials, currently holding office, or their representatives, except that if the number of elected officials reasonably available and willing to serve is less than one-third of the membership of the board, membership on the board of appointive public officials may be counted in meeting such one-third requirement;
- (2) at least one-third of the members are persons chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area served; and
- (3) the remainder of the members are officials or members of business, industry, labor, religious, welfare, education, or other major groups and interests in the community.

(c) Each public grant recipient funded under Rule .0108(a)(1) of this Section shall administer the community services block grant program through:

- (1) a tripartite board, which shall have members selected by the organization and shall be composed so as to assure that not fewer than 1/3 of the members are persons chosen in accordance with democratic selection

procedures adequate to assure that these members:

- (A) are representative of low-income individuals and families in the neighborhood served;
- (B) reside in the neighborhood served; and
- (C) are able to participate actively in the development, planning, implementation, and evaluation of programs funded under this subtitle; or
- (2) another mechanism specified by the State to assure decision making and participation by low-income individuals in the development, planning, implementation.

(e)(d) All committees of the board of directors of private grant recipients funded under Rule .0108(a)(1) of this Section shall fairly reflect the tripartite and geographical composition of the board.

(d)(e) In addition to the general powers granted under its state charter, the board of directors of the private grant recipients must shall possess the following specific powers:

- (1) to appoint the executive director of the agency;
- (2) to determine major personnel, organization, fiscal, and program policies;
- (3) to determine overall program plans and priorities for the agency, including provisions for evaluating progress;
- (4) to make final approval of all program proposals and budgets;
- (5) to enforce compliance with all conditions of the Office's Division of Social Services grants; and
- (6) to oversee the extent and the quality of the participation of the poor in the program of the agency.

Authority G.S. 143-323(d); 143B-276; 143B-277; 143B-10; 42 U.S.C. 9901-12.

10A NCAC 97C .0111 CITIZEN PARTICIPATION

(a) Each grant recipient funded under Rule .0108(a)(1) of this Section is required to establish citizen participation policy and procedures. Grant recipients are required to shall hold public hearings to meet the requirements of Rule .0401(5) of Subchapter 97B only during the initial planning when a new multi-year plan is to be developed.

(b) The following special requirements on the Community Anti-Poverty Plan (application for CSBG funds) shall be met. Community action agencies funded under Rule .0108(a)(1) of this Section shall hold one public hearing for review and comment in each county it serves prior to submission of the Community Anti-Poverty Plan to the Division of Social Services. Grant recipients funded under Rule .0108(a)(3) of this Section shall meet the public review requirements by submitting a copy of their plan to the review body specified in Rule .0108(a)(3) of this Section.

- (1) Community action agencies shall meet the following requirements:
- (A) Submit their Community Anti-Poverty Plan to their local board(s) of county commissioners in each county served

- ~~by the agency for their review and comment prior to submission to the Office. County commissioners will be given 30 days to comment on the application.~~
- (B) ~~Hold one public hearing for review and comment in each county it serves prior to submission of the Community Anti-Poverty Plan to the Office.~~
- (2) ~~Limited purpose agencies shall meet the public review requirements by submitting a copy of their plan to the State Clearinghouse, Department of Administration for review. Any comments from the State Clearinghouse shall be submitted to the Office by the applicant within 10 working days of receipt of the Work Plan.~~
- (c) Each grant recipient ~~is shall be~~ responsible for establishing special procedures to ensure that the poor are able to participate ~~meaningfully~~ in the decisions and activities of the grant recipient. These procedures shall include provisions for:
- (1) ~~Advance notice of and the agenda (an outline of matters to be considered) Notification for any board or committee meetings. meetings to include the agenda items.~~ These shall be provided individually to all members of the board and/or committees in writing at least five days before the meeting. In addition, notices should be given to the local public media and posted in all the grant recipient's neighborhood and/or community centers.
- (2) ~~Adequate information~~ Information about standards of program effectiveness. This information shall be given to the representatives of the poor to permit them to plan for and evaluate agency programs and to set priorities for the use of funds and other resources. Evaluations of programs and their operation shall consider the views of the poor on the
- board, as well as the views of program participants and area residents.
- (3) ~~Adequate information~~ Information and training for board members about their functions, duties, and responsibilities and the issues which will come before them. This will permit board members to make the fullest possible contribution to the work of the board. In this connection, the by-laws of the agency shall be distributed and fully explained to members of the board.
- (4) Developing effective involvement of the poor in each major program. This involvement may be in the form of a program advisory committee or neighborhood council made up of target area residents. The committee and council may advise the grant recipient on program priorities, participate in the development of ~~pertinent parts~~ of the grant application, review and comment on programs and policies, and participate in the evaluation of programs.
- (5) The grant recipient in the planning process of its Anti-Poverty Plan, shall annually hold a sufficient number of meetings to ascertain from low-income residents their suggestions, recommendations, and priorities for eliminating poverty. The grant recipient shall provide ~~adequate~~ information and training to the low-income residents to ensure their ~~effective and meaningful~~ involvement in this planning process. The recommendations, suggestions, and priorities of the low-income residents ~~will~~ shall be reviewed by the board of directors in its determination of programs to be implemented by the grant recipient, and will be maintained by the grant recipient for public inspection.

Authority G.S. 143-323(d); 143B-10; 143B-276; 143B-277.

RULES REVIEW COMMISSION

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 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

Jeff Hyde (1st Vice Chair)
Robert A. Bryan, Jr.
Margaret Currin
Jay Hemphill
Jeffrey A. Poley

Appointed by House

Garth Dunklin (Chair)
Stephanie Simpson (2nd Vice Chair)
Paul Powell
Jeanette Doran

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

April 20, 2017	May 18, 2017
June 15, 2017	July 20, 2017

RULES REVIEW COMMISSION MEETING

MINUTES

March 16, 2017

The Rules Review Commission met on Thursday, March 16, 2017, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Margaret Currin, Jeanette Doran, Garth Dunklin, Jeff Hyde, Jeff Poley, Paul Powell, and Stephanie Simpson.

Staff members present were Commission Counsels Amanda Reeder, Abigail Hammond, and Jason Thomas; and Julie Brincefield, Alex Burgos, and Dana Vojtko. Commission Counsel Amber Cronk May joined by telephone.

The meeting was called to order at 10:02 a.m. with Chairman Dunklin presiding.

Chairman Dunklin read the notice required by G.S. 138A-15(e) and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts of interest.

APPROVAL OF MINUTES

Chairman Dunklin asked for any discussion, comments, or corrections concerning the minutes of the February 16, 2017 meeting. There were none and the minutes were approved as distributed.

FOLLOW UP MATTERS

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 and .0107 - The review of these Rules will occur at the April meeting in accordance with G.S. 150B-21.10. No action was required by the Commission.

Commission for Mental Health, Developmental Disabilities and Substance Abuse Services

10A NCAC 27G .6702 and 27H .0201 were unanimously approved.

The Commission objected to 10A NCAC 27H .0202, .0203, .0204, .0205, .0206, and .0207 in accordance with G.S. 150B-21.9.

The Commission objected to 10A NCAC 27H .0202 finding that the Commission for MH/DD/SAS lacks the authority to set the employment requirements for individuals in requiring that forensic evaluators be employed or under contract with an LME-MCO. The Commission also objected to this Rule as being unclear or ambiguous as it is unclear what the "Pre-Trial Evaluation Center" is, how the Secretary is to make the determination, and how the public will be made aware of what this is.

The Commission objected to 10A NCAC 27H .0203 finding that the Commission for MH/DD/SAS lacks the authority to set the employment requirements for individuals in requiring that forensic evaluators be employed by or under contract with an LME-MCO. The Commission also objected to this Rule finding that it is unclear or ambiguous. Specifically, the Commission objected as Paragraph (a) contains a reference to an "applicant," but there is no information contained within the Rule as submitted to say what the "applicant" will need to do to apply to be certified as a forensic evaluator, to whom the applicant will apply, what the application process is, and the timing of the training requirements. The Commission further found that it is unclear how the LME-MCO will determine whether the evaluator has expertise as set forth in Paragraph (b).

The Commission objected to 10A NCAC 27H .0204 finding that the Commission for MH/DD/SAS lacks the statutory authority to promulgate rules regarding the contents of the report.

The Commission objected to 10A NCAC 27H .0205 for lack of statutory authority and as being unclear or ambiguous. In objecting to this Rule, the Commission found that the Commission for MH/DD/SAS lacks the statutory authority to promulgate rules regarding LME-MCOs' oversight of forensic evaluators. The Commission also found the following were unclear or ambiguous:

- In (a), it is unclear what is meant by "sufficient."
- In (b), it is unclear as to how expertise of an evaluator is to be conveyed to the LME-MCO. Rule .0205 indicates that it will be self-reporting by the evaluator; however, Rule .0203 indicates that the LME-MCO is required to determine the expertise of the evaluator. It is unclear whether these two provisions conflict with each other or whether they are different processes.
- In (e), it is unclear as to what information is required to be maintained in the log.

The Commission objected to 10A NCAC 27H .0206 for lack of statutory authority and as being unclear or ambiguous. In objecting to this Rule, the Commission found that the Commission for MH/DD/SAS lacks the authority to delegate the termination of certifications to LME-MCOs. The Commission further found that it is unclear what the responsibilities and duties of the LME-MCOs would be in accordance with this Rule.

The Commission objected to 10A NCAC 27H .0207, finding that the Commission for MH/DD/SAS lacks the statutory authority to specify the requirements of the evaluation report. The Commission also found that the Commission for MH/DD/SAS lacks the statutory authority to limit a recommendation by a forensic evaluator for a full evaluation at the Pre-Trial Evaluation Center only if the defendant is charged with a felony

Josephine Tetteh, with the Attorney General's Office and representing the agency, addressed the Commission.

Department of Insurance

11 NCAC 05A .0105, .0201, .0301, .0501, .0505, .0508, .0511, .0603, .0703, and .0704 – The agency requested additional time to address the objection from the January meeting. No action was required by the Commission.

Manufactured Housing Board

11 NCAC 08 .0904 – The agency is addressing the objection from the November meeting. No action was required by the Commission.

State Human Resources Commission

25 NCAC 01C .0402, .1004; 01D .0101, .0102, .0105, .0112, .0114, .0201, .0301, .0401, .0608, .0901, .1001, .2701, .2702; and 01O .0108 - The revised rules incorporating technical changes were unanimously approved.

Prior to the review of the rules from the State Human Resources Commission, Commissioner Doran recused herself and did not participate in any discussion or vote concerning the rules because she is a State employee.

LOG OF FILINGS (PERMANENT RULES)

Board of Agriculture

All rules were unanimously approved.

Commerce - Division of Employment Security

All rules were unanimously approved.

Prior to the review of the rules from the Division of Employment Security, Commissioner Doran recused herself and did not participate in any discussion or vote concerning the rules because she is the Chairman of the Board of Review for the Division.

Medical Care Commission 10A NCAC 13E, 13F, 13G

All rules were unanimously approved.

Prior to the review of the rules from the Medical Care Commission, Commissioner Poley recused himself and did not participate in any discussion or vote concerning the rules because he represents the Commission.

Medical Care Commission 10A NCAC 13P

All rules were unanimously approved.

Prior to the review of the rules from the Medical Care Commission, Commissioner Poley recused himself and did not participate in any discussion or vote concerning the rules because he represents the Commission.

The Commission received over 10 letters of objection for 10A NCAC 13P .0204 requesting a delayed effective date and legislative review of the approved rule in accordance with G.S. 150B-21.3(b2).

Criminal Justice Education and Training Standards Commission

All rules were unanimously approved.

Wildlife Resources Commission

All rules were unanimously approved.

The Commission received over 10 letters of objection for 15A NCAC 10C .0314 requesting a delayed effective date and legislative review of the approved rule in accordance with G.S. 150B-21.3(b2).

Commission for Public Health

15A NCAC 18A .1971 was unanimously approved.

Board of Barber Examiners

All rules were unanimously approved.

Board of Chiropractic Examiners

21 NCAC 10 .0305 was unanimously approved.

Board of Employee Assistance Professionals

All rules were unanimously approved.

Board of Dental Examiners

21 NCAC 16G .0101 was unanimously approved.

Board of Massage and Bodywork Therapy

All rules were unanimously approved with the following exceptions:

The Commission objected to 21 NCAC 30 .0903 based on lack of statutory authority. The Board of Massage and Bodywork Therapy lacks the statutory authority to make by rule an exception to the public records law of North Carolina. Without a specific statutory grant from the General Assembly, the materials generated or obtained by the Board in conducting an investigation are public records.

The Commission objected to 21 NCAC 30 .0906 based on lack of statutory authority and unclear or ambiguous language. The Board of Massage and Bodywork Therapy lacks the statutory authority to summarily suspend an occupational license

based upon the cited authority in the Rule as filed with the Rules Review Commission. Further, the findings required by the Board that would lead to the immediate suspension of licensure are unclear or ambiguous as provided in the Rule.

Charles Wilkins, the rulemaking coordinator representing the agency, addressed the Commission.

Ann Christian, representing the NC Chapter of the American Massage Therapy Association, addressed the Commission.

Board of Podiatry Examiners

All rules were unanimously approved with the following exceptions:

The Commission objected to 21 NCAC 52 .0201 and .0207 for failure to comply with the Administrative Procedure Act. The Board of Podiatry Examiners submitted two permanent rules that differed substantially from the proposed text published in the December 15, 2016 31:12 Register. Therefore, the Board of Podiatry Examiners failed to comply with G.S. 150B-21.2(g).

Reed Fountain, representing the agency, addressed the Commission.

Real Estate Commission

All rules were unanimously approved.

Vice Chairman Hyde presided over the discussion and vote on the Real Estate Commission rules.

Prior to the review of the rules from the Real Estate Commission, Commissioner Currin recused herself and did not participate in any discussion or vote concerning the rules because she has an inactive broker's license.

Prior to the review of the rules from the Real Estate Commission, Commissioner Dunklin recused himself and did not participate in any discussion or vote concerning the rules because he practices before the Commission and was involved with some of the subject rules.

Commissioner Dunklin was not present during the discussion or vote concerning the Real Estate Commission rules.

Commissioner Dunklin returned as the Chair following the discussion and vote on the Real Estate Commission rules.

Office of Administrative Hearings

All rules were unanimously approved.

Commissioner Currin presented these Rules to the Commission.

EXISTING RULES REVIEW

Department of Health and Human Services

10A NCAC 17- The Commission unanimously approved the report as submitted by the agency.

Social Services Commission

10A NCAC 71 - The Commission unanimously approved the report as submitted by the agency.

Commissioner Simpson was not present during the discussion or vote concerning the report.

Auctioneer Licensing Board

21 NCAC 04 - The Commission unanimously approved the report as submitted by the agency.

Commissioner Simpson was not present during the discussion or vote concerning the report.

Marriage and Family Therapy Licensure Board

21 NCAC 31 - The Commission unanimously approved the report as submitted by the agency.

Sheriffs Education and Training Standards Commission

The agency requested a waiver of 26 NCAC 05 .0211 for the report for 12 NCAC 10.

The waiver request was unanimously approved. The Commission rescheduled the date of review for the report, and amended 26 NCAC 05 .0211. The Commission will review the agency's report at its February 2018 meeting.

Acupuncture Licensing Board

21 NCAC 01 – As reflected in the attached letter, the Commission extended the period for the agency to readopt these Rules to August 31, 2017. Commissioners Dunklin and Doran voted against.

Mike Tadych, the rulemaking coordinator with the agency, addressed the Commission.

COMMISSION BUSINESS

The Commission voted to amend the December 2016 minutes to reflect the following change:

The Commission voted to approve 04 NCAC 10J .0103, with Commissioners Dunklin and Hyde Hemphill voting against.

Commissioner Doran abstained from the vote as she was not present at the December 15, 2016 meeting.

Staff presented the Commission with a discussion of the Answer and Memorandum received in the Ambulatory Surgical Center Association v. the Industrial Commission lawsuit.

The Chair gave an update on SB16, which proposes changes to the Periodic Review.

The meeting adjourned at 12:20 p.m.

The next regularly scheduled meeting of the Commission is Thursday, April 20th at 10:00 a.m.

There is a digital recording of the entire meeting available from the Office of Administrative Hearings /Rules Division.

Respectfully Submitted,

Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:

Garth Dunklin, Chair

March 16, 2017

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Chuck Lewis	DHHS / DHSS / OEMS
John D Barkley	DRT
Marta T. Hester	DHHS - DMH / DA / SIA
Elizabeth Kule	NCBMBT
Charles Wilkins	NCBMBT
Chrissy Waggett	NCPA / CS
MIKE TADYCU	NALB
Jessica Middlebrooks	OSHP
Jan Withers	DSDHIT
Pam King	OSDH
Susan Murdoch	DSDHIT
Glenn Siler	DSDHIT
Bob MARTIN	DAH
Randy Bunch	DHSR
Jan Ak	DHSR
Sheena J. Cabrand	Commerce - DES
E. Ann Christian	AMTA - NC
Mgt Hazelrigg	DHHS
Denise Baker	DHHS - DMH / DA / SIA
Carlotta Dixon	DHHS - DSS
Glenda Antis	DHHS - DSS
Laura White	DHHS / DSOIF
Keel Carpenter	DHHS / DSOIF
Tracy Ginn	DHHS / DSOIF

March 16, 2017

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Charles Diehl	NC Antiterror Licensing Bd.
Suzannah Holloway	Attorney General's Office
Nadine Pfeiffer	NC DHSR
Dennis Seavers	NCBPE
Diane Konopka	Sheriffs' Stds. Div.
Jennifer Vuillemet	NC DOS
Josephine Tetler	NC DOJ
Melissa Vuotto	NCREC
Madison Mackenzie	NCREC
Leslie Easter	NC DHHS /DPH
Tracy Steadman	NCBPE
Charminique Branson	NCJET
Adrian Bellinger	NC DOJ
Tricia Angoli	OSWP/EMS /DHHS
Nancy Deal	OSWP/ETS /DHHS
Larry Michael	NC DHHS
Carrie Ruhelman	NC WRC
Christian Waters	NCWRC
Jessie Birkhead	NCWRC
Megan Lamphare	DHSR/ACLS
Tom Mitchell	OEMS/DHSR
Wanda Nicholson	NC MFT Licensure Board



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6700

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

March 16, 2017

Sent via email: mike@smvt.com
Michael J. Tadych, Rulemaking Coordinator
Acupuncture Licensing Board
Stevens Martin Vaughn & Tadych
1101 Haynes Street, Suite 100
Raleigh, North Carolina 27604

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **21 NCAC 01**

Dear Mr. Tadych:

At its meeting on March 16, 2017, the Rules Review Commission considered the Acupuncture Licensing Board's request to extend the schedule for the readoption of the above-referenced rules. As reflected in the attached letter dated April 21, 2016, the rules set forth in 21 NCAC 01 were scheduled to be readopted by the agency no later than May 31, 2017.

Pursuant to G.S. 150B-21.3A(d)(2) and the agency's request to extend the readoption date, these rules shall be readopted by the agency no later than August 31, 2017.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

Abigail M. Hammond
Commission Counsel

Administration
919/431-3000
fax: 919/431-3100

Rules Division
919/431-3000
fax: 919/431-3104

Judges and
Assistants
919/431-3000
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Clerk's Office
919/431-3000
fax: 919/431-3100

Rules Review
Commission
919/431-3000
fax: 919/431-3104

Civil Rights
Division
919/431-3036
fax: 919/431-3103

An Equal Employment Opportunity Employer



**STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS**

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6714

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

April 21, 2016

Michael J. Tadych
Acupuncture Licensing Board
Stevens Martin Vaughn & Tadych
1101 Haynes Street, Suite 100
Raleigh, North Carolina 27604

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **21 NCAC 01**

Dear Mr. Tadych:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the April 21, 2016 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than May 31, 2017.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

Abigail M. Hammond
Commission Counsel

Administration
919/431-3000
fax: 919/431-3100

Rules Division
919/431-3000
fax: 919/431-3104

Judges and
Assistants
919/431-3000
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Clerk's Office
919/431-3000
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Rules Review
Commission
919/431-3000
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Civil Rights
Division
919/431-3036
fax: 919/431-3103

An Equal Employment Opportunity Employer

11/16/2015

RRC Determination - Periodic Rule Review

Generated 11/16/2015 at 9:31 AM

**RRC DETERMINATION
PERIODIC RULE REVIEW
July 01, 2014 through June 30, 2016
Acupuncture Licensing Board
Total: 4**

RRC Determination: Necessary with substantive public interest

Rule	Determination	APO Review Date
<u>21 NCAC 01 .0104</u>	Necessary with substantive public interest	November 22, 2014
<u>21 NCAC 01 .0201</u>	Necessary with substantive public interest	November 22, 2014
<u>21 NCAC 01 .0301</u>	Necessary with substantive public interest	November 22, 2014
<u>21 NCAC 01 .0402</u>	Necessary with substantive public interest	November 22, 2014

<http://rats/Reports/RRC/periodicRuleReview.pl?sType=RRCdetermination&sDetermination=Necessary%20with%20substantive%20public%20interest&bCo...> 1/1

LIST OF APPROVED PERMANENT RULES
March 16, 2017 Meeting

AGRICULTURE, BOARD OF

<u>Vitamin Assay of Milk Products</u>	02 NCAC 09G .0103
<u>Appeals Procedure</u>	02 NCAC 09G .2009

COMMERCE - EMPLOYMENT SECURITY, DIVISION OF

<u>Definitions</u>	04 NCAC 24A .0105
<u>Valid Job Contacts</u>	04 NCAC 24B .0107
<u>Content of Higher Authority Decision</u>	04 NCAC 24C .0506
<u>Post-Decision Relief</u>	04 NCAC 24C .0601

MEDICAL CARE COMMISSION

<u>Definitions</u>	10A NCAC 13E .0101
<u>Applying for a License to Provide Overnight Respite Services</u>	10A NCAC 13E .0201
<u>Persons Not Eligible for Overnight Respite Services Licenses</u>	10A NCAC 13E .0202
<u>The License</u>	10A NCAC 13E .0203
<u>Renewal of License</u>	10A NCAC 13E .0204
<u>Closing of Overnight Respite Services</u>	10A NCAC 13E .0205
<u>Denial and Revocation of License</u>	10A NCAC 13E .0206
<u>Suspension of Admissions</u>	10A NCAC 13E .0207
<u>Appeal of Licensure Action</u>	10A NCAC 13E .0208
<u>Submission of Information to the Division of Health Servi...</u>	10A NCAC 13E .0301
<u>Capacity</u>	10A NCAC 13E .0302
<u>Design and Construction</u>	10A NCAC 13E .0303
<u>Location</u>	10A NCAC 13E .0304
<u>Living Room</u>	10A NCAC 13E .0305
<u>Dining Room</u>	10A NCAC 13E .0306
<u>Kitchen</u>	10A NCAC 13E .0307
<u>Bedrooms</u>	10A NCAC 13E .0308
<u>Bathroom</u>	10A NCAC 13E .0309
<u>Storage Areas</u>	10A NCAC 13E .0310
<u>Corridor</u>	10A NCAC 13E .0311
<u>Outside Entrance and Exits</u>	10A NCAC 13E .0312
<u>Laundry Room</u>	10A NCAC 13E .0313
<u>Floors</u>	10A NCAC 13E .0314
<u>Housekeeping and Furnishings</u>	10A NCAC 13E .0315
<u>Fire Safety and Disaster Plan</u>	10A NCAC 13E .0316
<u>Building Service Equipment</u>	10A NCAC 13E .0317
<u>Outside Premises</u>	10A NCAC 13E .0318
<u>Administrator</u>	10A NCAC 13E .0401
<u>Supervisor-In-Charge</u>	10A NCAC 13E .0402
<u>Staff and Staffing</u>	10A NCAC 13E .0403
<u>Training on Cardio-Pulmonary Resuscitation</u>	10A NCAC 13E .0404
<u>Program Policies</u>	10A NCAC 13E .0501
<u>Enrollment of Participants</u>	10A NCAC 13E .0601

<u>Planning Services for Individual Participants</u>	10A NCAC 13E .0602
<u>Medication Administration Policies and Procedures</u>	10A NCAC 13E .0701
<u>Medication Administration Competency Evaluation</u>	10A NCAC 13E .0702
<u>Medication Administration</u>	10A NCAC 13E .0703
<u>Food Procurement and Safety</u>	10A NCAC 13E .0801
<u>Food Preparation and Service</u>	10A NCAC 13E .0802
<u>Menus</u>	10A NCAC 13E .0803
<u>Food Requirements</u>	10A NCAC 13E .0804
<u>Therapeutic Diets</u>	10A NCAC 13E .0805
<u>Assistance with Eating</u>	10A NCAC 13E .0806
<u>Accommodation of Participant Needs and Preferences</u>	10A NCAC 13E .0807
<u>Activities Program</u>	10A NCAC 13E .0901
<u>Adverse Action on Certification</u>	10A NCAC 13F .1702
<u>Renewal of Administrator</u>	10A NCAC 13F .1703
<u>Qualifications of Administrator</u>	10A NCAC 13G .0401
<u>Administrator Approval</u>	10A NCAC 13G .1501
<u>Adverse Action on Administrator</u>	10A NCAC 13G .1502
<u>Renewal of Administrator Approval</u>	10A NCAC 13G .1503
<u>Special Situations</u>	10A NCAC 13P .0203
<u>EMS Provider License Requirements</u>	10A NCAC 13P .0204

MENTAL HEALTH, COMMISSION FOR

<u>Operations</u>	10A NCAC 27G .6702
<u>Scope</u>	10A NCAC 27H .0201

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Training Course Enrollment</u>	12 NCAC 09B .0204
<u>Moral Character</u>	12 NCAC 09G .0206
<u>Minimum Training Specifications</u>	12 NCAC 09H .0102
<u>Filing and Fees</u>	12 NCAC 09H .0105

WILDLIFE RESOURCES COMMISSION

<u>General Provisions</u>	15A NCAC 10A .1401
<u>Wildlife Violator Compact Manual</u>	15A NCAC 10A .1402
<u>Wildlife Violator Compact Conditions for Non-Residents</u>	15A NCAC 10A .1403
<u>Wildlife Violator Compact Conditions for Residents</u>	15A NCAC 10A .1404
<u>Reciprocal Recognition of Suspensions</u>	15A NCAC 10A .1405
<u>Appeals</u>	15A NCAC 10A .1406
<u>Big Game Kill Reports</u>	15A NCAC 10B .0113
<u>Wildlife Collectors</u>	15A NCAC 10B .0119
<u>Bear</u>	15A NCAC 10B .0202
<u>Deer (White Tailed)</u>	15A NCAC 10B .0203
<u>Wild Turkey</u>	15A NCAC 10B .0209
<u>Crows</u>	15A NCAC 10B .0215
<u>Misuse of Tags</u>	15A NCAC 10B .0406
<u>Reciprocal License Agreement</u>	15A NCAC 10C .0203
<u>Public Mountain Trout Waters</u>	15A NCAC 10C .0205
<u>Black Bass</u>	15A NCAC 10C .0305

<u>Crappie</u>	15A NCAC 10C .0306
<u>Striped Bass</u>	15A NCAC 10C .0314
<u>Trout</u>	15A NCAC 10C .0316
<u>White Bass</u>	15A NCAC 10C .0318
<u>Taking Nongame Fishes for Bait or Personal Consumption</u>	15A NCAC 10C .0402
<u>General Regulations Regarding Use</u>	15A NCAC 10D .0102
<u>Hunting On Game Lands</u>	15A NCAC 10D .0103
<u>Fishing on Game Lands</u>	15A NCAC 10D .0104
<u>New Hanover County</u>	15A NCAC 10F .0314
<u>Montgomery County</u>	15A NCAC 10F .0327
<u>Carteret County</u>	15A NCAC 10F .0330
<u>Possession of Reptiles and Amphibians</u>	15A NCAC 10H .1302

PUBLIC HEALTH, COMMISSION FOR

<u>Engineered Option Permit</u>	15A NCAC 18A .1971
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BARBER EXAMINERS, BOARD OF

<u>Complaints</u>	21 NCAC 06C .0912
<u>Apprentice Barber</u>	21 NCAC 06I .0105
<u>Applicants with Military Training and Expertise</u>	21 NCAC 06K .0112
<u>Military Spouses</u>	21 NCAC 06K .0113
<u>Measurements of Barber Shop</u>	21 NCAC 06L .0102
<u>Fees</u>	21 NCAC 06N .0101
<u>Form Bar-11</u>	21 NCAC 06N .0112
<u>Form Bar-12</u>	21 NCAC 06N .0113
<u>Extensions for Members of the Armed Forces</u>	21 NCAC 06N .0114
<u>General Definitions</u>	21 NCAC 06P .0103

CHIROPRACTIC EXAMINERS, BOARD OF

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

<u>License Application</u>	21 NCAC 11 .0104
<u>Disciplinary Action/Hearing</u>	21 NCAC 11 .0108
<u>Fees</u>	21 NCAC 11 .0111
<u>Penalties</u>	21 NCAC 11 .0112

DENTAL EXAMINERS, BOARD OF

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

<u>Documentation; Referrals</u>	21 NCAC 30 .0504
<u>Board Approval</u>	21 NCAC 30 .0601
<u>Definitions</u>	21 NCAC 30 .0602
<u>Admissions</u>	21 NCAC 30 .0618
<u>Program Requirements</u>	21 NCAC 30 .0620
<u>Learning Resources</u>	21 NCAC 30 .0623
<u>Ethical Requirements in Advertising</u>	21 NCAC 30 .0628

<u>Student Enrollment Agreement</u>	21 NCAC 30 .0629
<u>School Catalog</u>	21 NCAC 30 .0630
PODIATRY EXAMINERS, BOARD OF	
<u>Notice of Unlicensed Activity</u>	21 NCAC 52 .0214
<u>Complaints</u>	21 NCAC 52 .0409
REAL ESTATE COMMISSION	
<u>Proof of Licensure</u>	21 NCAC 58A .0101
<u>Broker Name and Address</u>	21 NCAC 58A .0103
<u>Delivery of Instruments</u>	21 NCAC 58A .0106
<u>License Application and Fee</u>	21 NCAC 58A .0302
<u>Waiver of 75-hour Prelicensing Education Requirement</u>	21 NCAC 58A .0304
<u>Firm Licensing</u>	21 NCAC 58A .0502
<u>License Renewal</u>	21 NCAC 58A .0503
<u>Reinstatement of a License</u>	21 NCAC 58A .0505
<u>Duplicate License Fee</u>	21 NCAC 58A .0509
<u>Licensing of Persons Licensed in Another Jurisdiction</u>	21 NCAC 58A .0511
<u>Death or Incapacity of Sole Proprietor</u>	21 NCAC 58A .0512
<u>Continuing Education Requirement</u>	21 NCAC 58A .1702
<u>Continuing Education for License Activation</u>	21 NCAC 58A .1703
<u>Attendance and Participation Requirements</u>	21 NCAC 58A .1705
<u>Equivalent Credit</u>	21 NCAC 58A .1708
<u>Extensions of Time to Complete Continuing Education</u>	21 NCAC 58A .1709
<u>Denial or Withdrawal of Continuing Education Credit</u>	21 NCAC 58A .1710
<u>Continuing Education Required of Nonresident Brokers</u>	21 NCAC 58A .1711
<u>Denial or Withdrawal of Postlicensing Education Credit</u>	21 NCAC 58A .1904
<u>Waiver of 90-Hour Postlicensing Education Requirement</u>	21 NCAC 58A .1905
<u>Applicability Requirement for Approval</u>	21 NCAC 58C .0101
<u>Application for Approval</u>	21 NCAC 58C .0102
<u>Criteria for Approval</u>	21 NCAC 58C .0103
<u>Scope Duration and Renewal of Approval</u>	21 NCAC 58C .0104
<u>Withdrawal or Denial of Approval</u>	21 NCAC 58C .0105
<u>Use of Examination Performance Data</u>	21 NCAC 58C .0107
<u>Student Evaluations of Instructor Performance</u>	21 NCAC 58C .0108
<u>Applicability</u>	21 NCAC 58C .0201
<u>Original Application Fee</u>	21 NCAC 58C .0202
<u>School Name</u>	21 NCAC 58C .0203
<u>Courses</u>	21 NCAC 58C .0204
<u>Additional Course Offerings</u>	21 NCAC 58C .0205
<u>Administration</u>	21 NCAC 58C .0206
<u>Facilities and Equipment</u>	21 NCAC 58C .0207
<u>Bulletins</u>	21 NCAC 58C .0208
<u>Enrollment Procedure and Contracts</u>	21 NCAC 58C .0209
<u>Admissions Policy and Practice</u>	21 NCAC 58C .0210
<u>Records</u>	21 NCAC 58C .0211
<u>Enforcement of Institutional Standards</u>	21 NCAC 58C .0212
<u>Performance Board</u>	21 NCAC 58C .0213

<u>Advertising and Recruitment Standards</u>	21 NCAC 58C .0214
<u>Changes During the Licensing Period</u>	21 NCAC 58C .0216
<u>License Renewal and Fees</u>	21 NCAC 58C .0217
<u>Licensing Exam Confidentiality: School Perform/Licensing</u>	21 NCAC 58C .0218
<u>Violations of the Americans with Disabilities Act</u>	21 NCAC 58C .0219
<u>Student Evaluations of Instructor Performance</u>	21 NCAC 58C .0220
<u>Transfer of School Ownership</u>	21 NCAC 58C .0221
<u>Purpose and Applicability</u>	21 NCAC 58C .0301
<u>Program Structuring and Admission Requirements</u>	21 NCAC 58C .0302
<u>Course Content</u>	21 NCAC 58C .0303
<u>Course Completion Standards</u>	21 NCAC 58C .0304
<u>Course Scheduling</u>	21 NCAC 58C .0305
<u>Textbooks</u>	21 NCAC 58C .0306
<u>Instructors</u>	21 NCAC 58C .0307
<u>Course Completion Reporting</u>	21 NCAC 58C .0309
<u>Course Records</u>	21 NCAC 58C .0310
<u>Instructional Delivery Methods</u>	21 NCAC 58C .0311
<u>Exception for Persons with Disabilities</u>	21 NCAC 58C .0312
<u>Notice of Scheduled Courses</u>	21 NCAC 58C .0313
<u>Purpose and Applicability</u>	21 NCAC 58C .0601
<u>Nature and Scope of Instructor Approval</u>	21 NCAC 58C .0602
<u>Application and Criteria for Original Approval</u>	21 NCAC 58C .0603
<u>Instructor Performance</u>	21 NCAC 58C .0604
<u>Request for Examinations and Video Recordings</u>	21 NCAC 58C .0605
<u>Postlicensing Course Reports</u>	21 NCAC 58C .0606
<u>Expiration Renewal and Reinstatement of Approval</u>	21 NCAC 58C .0607
<u>Denial or Withdrawal of Approval</u>	21 NCAC 58C .0608
<u>Purpose and Applicability</u>	21 NCAC 58E .0101
<u>Update Course Component</u>	21 NCAC 58E .0102
<u>Application for Original Approval</u>	21 NCAC 58E .0103
<u>Criteria for Approval of Update Course Sponsor</u>	21 NCAC 58E .0104
<u>Student Fee for Update Courses</u>	21 NCAC 58E .0105
<u>Purpose and Applicability</u>	21 NCAC 58E .0201
<u>Nature and Scope of Approval</u>	21 NCAC 58E .0202
<u>Application and Criteria for Original Approval</u>	21 NCAC 58E .0203
<u>Active and Inactive Status: Renewal of Approval</u>	21 NCAC 58E .0204
<u>Denial or Withdrawal of Approval</u>	21 NCAC 58E .0205
<u>Request for a Video Recording</u>	21 NCAC 58E .0206
<u>Purpose and Applicability</u>	21 NCAC 58E .0301
<u>Elective Course Component</u>	21 NCAC 58E .0302
<u>Application for Original Approval</u>	21 NCAC 58E .0303
<u>Criteria for Elective Course Approval</u>	21 NCAC 58E .0304
<u>Elective Course Subject Matter</u>	21 NCAC 58E .0305
<u>Elective Course Instructors</u>	21 NCAC 58E .0306
<u>Elective Course Credit Hours</u>	21 NCAC 58E .0307
<u>Request for a Video Recording</u>	21 NCAC 58E .0308
<u>Student Fees for Elective Courses</u>	21 NCAC 58E .0309

<u>Distance Education Courses</u>	21 NCAC 58E .0310
<u>Purpose and Applicability</u>	21 NCAC 58E .0401
<u>Sponsor Eligibility</u>	21 NCAC 58E .0402
<u>Sponsor Name</u>	21 NCAC 58E .0403
<u>Advance Approval Required</u>	21 NCAC 58E .0404
<u>Continuing Education Coordinator</u>	21 NCAC 58E .0405
<u>Course Completion Reporting</u>	21 NCAC 58E .0406
<u>Change in Sponsor Ownership</u>	21 NCAC 58E .0408
<u>Changes During Approval Period</u>	21 NCAC 58E .0409
<u>Course Records</u>	21 NCAC 58E .0410
<u>Renewal of Course and Sponsor Approval</u>	21 NCAC 58E .0411
<u>Denial or Withdrawal of Approval</u>	21 NCAC 58E .0412
<u>Purpose and Applicability</u>	21 NCAC 58E .0501
<u>Scheduling</u>	21 NCAC 58E .0502
<u>Minimum Class Size</u>	21 NCAC 58E .0503
<u>Notice of Scheduled Courses</u>	21 NCAC 58E .0504
<u>Advertising, Providing Course Information</u>	21 NCAC 58E .0505
<u>Classes Open to All Licensees</u>	21 NCAC 58E .0506
<u>Classroom Facilities</u>	21 NCAC 58E .0507
<u>Student Check-In</u>	21 NCAC 58E .0508
<u>Instructor Conduct and Performance</u>	21 NCAC 58E .0509
<u>Monitoring Attendance</u>	21 NCAC 58E .0510
<u>Student Participation Standards</u>	21 NCAC 58E .0511
<u>Solicitation of Students</u>	21 NCAC 58E .0512
<u>Cancellation and Refund Policies</u>	21 NCAC 58E .0513
<u>Course Inspections by Commission Representative</u>	21 NCAC 58E .0514
<u>Accommodations for Persons with Disabilities</u>	21 NCAC 58E .0515
<u>Location</u>	21 NCAC 58G .0102
<u>Definitions</u>	21 NCAC 58G .0103
<u>Definitions</u>	21 NCAC 58H .0101
<u>Applicability</u>	21 NCAC 58H .0201
<u>Application for Original Approval of a Public Real Estate...</u>	21 NCAC 58H .0202
<u>Application for Original Licensure of a Private Real Esta...</u>	21 NCAC 58H .0203
<u>School Director</u>	21 NCAC 58H .0204
<u>Private Real Estate School Bulletin</u>	21 NCAC 58H .0205
<u>Approval of Textbooks</u>	21 NCAC 58H .0206
<u>School Advertising and Recruitment Activities</u>	21 NCAC 58H .0207
<u>Prelicensing and Postlicensing Course Scheduling and Noti...</u>	21 NCAC 58H .0208
<u>Prelicensing and Postlicensing Course Enrollment</u>	21 NCAC 58H .0209
<u>Prelicensing and Postlicensing Course Completion Standards</u>	21 NCAC 58H .0210
<u>Prelicensing and Postlicensing Roster Reporting</u>	21 NCAC 58H .0211
<u>School Records</u>	21 NCAC 58H .0212
<u>Evaluations of Instructor Performance</u>	21 NCAC 58H .0213
<u>Expiration and Renewal of a School Approval or License</u>	21 NCAC 58H .0214
<u>Denial, Withdrawal, or Termination of School Approval or ...</u>	21 NCAC 58H .0215
<u>Prelicensing, Postlicensing, and Update Course Instructor...</u>	21 NCAC 58H .0301
<u>Application and Criteria for Original Prelicensing, Postl...</u>	21 NCAC 58H .0302

<u>Denial or Withdrawal of Instructor Approval</u>	21 NCAC 58H .0303
<u>Instructor Conduct and Performance</u>	21 NCAC 58H .0304
<u>Digital Video Recordings</u>	21 NCAC 58H .0305
<u>Renewal and Expiration of Instructor Approval</u>	21 NCAC 58H .0306
<u>Applicability</u>	21 NCAC 58H .0401
<u>Application for Original Approval of Continuing Education...</u>	21 NCAC 58H .0402
<u>Continuing Education Coordinator</u>	21 NCAC 58H .0403
<u>Renewal of Sponsor Approval</u>	21 NCAC 58H .0404
<u>Denial or Withdrawal of Sponsor Approval</u>	21 NCAC 58H .0405
<u>Approval and Renewal of Elective Course</u>	21 NCAC 58H .0406
<u>Continuing Education Elective Course Requirements</u>	21 NCAC 58H .0407
<u>Commission Created Update Courses</u>	21 NCAC 58H .0408
<u>Records and Commission Review</u>	21 NCAC 58H .0409
<u>Continuing Education Course Scheduling and Notification</u>	21 NCAC 58H .0410
<u>Continuing Education Course Attendance</u>	21 NCAC 58H .0411
<u>Continuing Education Roster Reports and Certificates</u>	21 NCAC 58H .0412
<u>Continuing Education Course Cost, Cancellation, and Refunds</u>	21 NCAC 58H .0413
<u>Advertising</u>	21 NCAC 58H .0414

STATE HUMAN RESOURCES COMMISSION

<u>Permanent and Time-Limited Appointment</u>	25 NCAC 01C .0402
<u>Reduction in Force</u>	25 NCAC 01C .1004
<u>Compensation Plan Philosophy and Plan</u>	25 NCAC 01D .0101
<u>Salary Structures</u>	25 NCAC 01D .0102
<u>Pay Status</u>	25 NCAC 01D .0105
<u>Total State Service Defined</u>	25 NCAC 01D .0112
<u>Break in Service</u>	25 NCAC 01D .0114
<u>Initial Employment</u>	25 NCAC 01D .0201
<u>Promotion</u>	25 NCAC 01D .0301
<u>Demotion and Reassignment</u>	25 NCAC 01D .0401
<u>Reallocation</u>	25 NCAC 01D .0608
<u>Lateral Transfer</u>	25 NCAC 01D .0901
<u>Reinstatement</u>	25 NCAC 01D .1001
<u>Severance Salary Continuation Policy</u>	25 NCAC 01D .2701
<u>Severance Salary Continuation Eligibility</u>	25 NCAC 01D .2702
<u>Performance Management Covered Employees</u>	25 NCAC 01O .0108

ADMINISTRATIVE HEARINGS, OFFICE OF

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

**RRC Determination
Periodic Rule Review
March 16, 2017
Necessary with substantive public interest**

Social Services Commission	10A NCAC 71K .0102	10A NCAC 71L .0102
10A NCAC 71K .0101	10A NCAC 71L .0101	10A NCAC 71L .0103

10A NCAC 71L .0104
 10A NCAC 71L .0105
 10A NCAC 71O .0101
 10A NCAC 71O .0102
 10A NCAC 71O .0103
 10A NCAC 71O .0104
 10A NCAC 71U .0101
 10A NCAC 71U .0201
 10A NCAC 71U .0203
 10A NCAC 71U .0204
 10A NCAC 71U .0205
 10A NCAC 71U .0206
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 10A NCAC 71V .0108
 10A NCAC 71V .0201
 10A NCAC 71V .0202
 10A NCAC 71V .0203
 10A NCAC 71V .0204
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 10A NCAC 71W .0601
 10A NCAC 71W .0602
 10A NCAC 71W .0603
 10A NCAC 71W .0604
 10A NCAC 71W .0605
 10A NCAC 71W .0606
 10A NCAC 71W .0607
 10A NCAC 71W .0704

Auctioneer Licensing Board

21 NCAC 04B .0101
 21 NCAC 04B .0102
 21 NCAC 04B .0103
 21 NCAC 04B .0104
 21 NCAC 04B .0201
 21 NCAC 04B .0202
 21 NCAC 04B .0301
 21 NCAC 04B .0302
 21 NCAC 04B .0303
 21 NCAC 04B .0401
 21 NCAC 04B .0402
 21 NCAC 04B .0403
 21 NCAC 04B .0404
 21 NCAC 04B .0405
 21 NCAC 04B .0501
 21 NCAC 04B .0502
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 21 NCAC 04B .0505
 21 NCAC 04B .0506
 21 NCAC 04B .0601
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 21 NCAC 04B .0605
 21 NCAC 04B .0606
 21 NCAC 04B .0607

21 NCAC 04B .0701
 21 NCAC 04B .0801
 21 NCAC 04B .0802
 21 NCAC 04B .0803
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 21 NCAC 04B .0805
 21 NCAC 04B .0806
 21 NCAC 04B .0807
 21 NCAC 04B .0808
 21 NCAC 04B .0809
 21 NCAC 04B .0810
 21 NCAC 04B .0811
 21 NCAC 04B .0812
 21 NCAC 04B .0813
 21 NCAC 04B .0814
 21 NCAC 04B .0815
 21 NCAC 04B .0816
 21 NCAC 04B .0817
 21 NCAC 04B .0818
 21 NCAC 04B .0819

**Marriage and Family Therapy
 Licensure Board**

21 NCAC 31 .0201
 21 NCAC 31 .0202
 21 NCAC 31 .0203
 21 NCAC 31 .0301
 21 NCAC 31 .0401
 21 NCAC 31 .0403
 21 NCAC 31 .0404
 21 NCAC 31 .0501
 21 NCAC 31 .0502
 21 NCAC 31 .0503
 21 NCAC 31 .0504
 21 NCAC 31 .0505
 21 NCAC 31 .0506
 21 NCAC 31 .0609
 21 NCAC 31 .0701
 21 NCAC 31 .0801
 21 NCAC 31 .0802
 21 NCAC 31 .1001
 21 NCAC 31 .1002

**RRC Determination
 Periodic Rule Review
 March 16, 2017
 Necessary without substantive public interest**

**HHS - Deaf and Hard of Hearing,
 Division of Services for the**
 10A NCAC 17B .0201
 10A NCAC 17C .0101
 10A NCAC 17C .0104
 10A NCAC 17C .0108
 10A NCAC 17C .0201
 10A NCAC 17C .0202

10A NCAC 17C .0203
 10A NCAC 17D .0202
 10A NCAC 17D .0204
 10A NCAC 17D .0205
 10A NCAC 17D .0206
 10A NCAC 17D .0207
 10A NCAC 17D .0208
 10A NCAC 17D .0209

10A NCAC 17D .0210
 10A NCAC 17D .0211
 10A NCAC 17D .0212
 10A NCAC 17D .0213
 10A NCAC 17D .0214
 10A NCAC 17D .0215
 10A NCAC 17D .0216
 10A NCAC 17D .0219

10A NCAC 17D .0220
 10A NCAC 17D .0301
 10A NCAC 17D .0302
 10A NCAC 17D .0303
 10A NCAC 17D .0304

Social Services Commission

10A NCAC 71A .0101
 10A NCAC 71A .0102
 10A NCAC 71A .0201
 10A NCAC 71A .0202
 10A NCAC 71A .0203
 10A NCAC 71A .0204
 10A NCAC 71A .0205
 10A NCAC 71A .0206
 10A NCAC 71A .0207
 10A NCAC 71A .0208
 10A NCAC 71A .0209
 10A NCAC 71A .0301
 10A NCAC 71A .0302
 10A NCAC 71A .0401
 10A NCAC 71A .0402
 10A NCAC 71A .0501
 10A NCAC 71A .0502
 10A NCAC 71A .0503
 10A NCAC 71A .0504
 10A NCAC 71A .0601
 10A NCAC 71A .0602
 10A NCAC 71A .0701
 10A NCAC 71A .0702
 10A NCAC 71A .0801
 10A NCAC 71A .0802
 10A NCAC 71A .0803
 10A NCAC 71A .0804
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 10A NCAC 71A .0806
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 10A NCAC 71A .0902
 10A NCAC 71A .0903
 10A NCAC 71A .0904
 10A NCAC 71A .0905
 10A NCAC 71A .0906
 10A NCAC 71A .0907
 10A NCAC 71A .0908
 10A NCAC 71B .0101
 10A NCAC 71B .0102
 10A NCAC 71C .0101
 10A NCAC 71C .0102
 10A NCAC 71C .0103
 10A NCAC 71C .0104
 10A NCAC 71C .0105
 10A NCAC 71C .0106
 10A NCAC 71C .0107
 10A NCAC 71C .0108
 10A NCAC 71F .0101
 10A NCAC 71F .0102
 10A NCAC 71F .0103
 10A NCAC 71F .0104
 10A NCAC 71F .0105

10A NCAC 71H .0101
 10A NCAC 71H .0102
 10A NCAC 71H .0103
 10A NCAC 71I .0101
 10A NCAC 71I .0102
 10A NCAC 71J .0101
 10A NCAC 71J .0102
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 10A NCAC 71J .0106
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 10A NCAC 71J .0110
 10A NCAC 71J .0111
 10A NCAC 71M .0101
 10A NCAC 71M .0102
 10A NCAC 71M .0103
 10A NCAC 71M .0104
 10A NCAC 71N .0101
 10A NCAC 71P .0101
 10A NCAC 71P .0102
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 10A NCAC 71P .0903
 10A NCAC 71P .0904
 10A NCAC 71P .0905
 10A NCAC 71Q .0101
 10A NCAC 71Q .0102
 10A NCAC 71Q .0201
 10A NCAC 71Q .0202
 10A NCAC 71R .0101
 10A NCAC 71R .0102
 10A NCAC 71R .0103

10A NCAC 71R .0104
 10A NCAC 71R .0105
 10A NCAC 71R .0201
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 10A NCAC 71R .0918
 10A NCAC 71R .0919
 10A NCAC 71S .0101
 10A NCAC 71S .0201
 10A NCAC 71S .0202
 10A NCAC 71S .0204
 10A NCAC 71S .0207
 10A NCAC 71S .0208
 10A NCAC 71T .0101
 10A NCAC 71T .0102
 10A NCAC 71T .0103
 10A NCAC 71T .0104

**RRC Determination
Periodic Rule Review
March 16, 2017
Unnecessary**

**HHS - Deaf and Hard of Hearing,
Division of Services for the**

10A NCAC 17B .0102
10A NCAC 17C .0103
10A NCAC 17D .0203

Social Services Commission

10A NCAC 71D .0101
10A NCAC 71D .0102
10A NCAC 71D .0103

10A NCAC 71G .0101
10A NCAC 71G .0102
10A NCAC 71G .0104
10A NCAC 71P .0507

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

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>DATE</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<u>ALCOHOLIC BEVERAGE CONTROL COMMISSION</u>			
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. Brewsers 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	
<u>BOARD OF SOCIAL WORK</u>			
William B. Shannon v. NC Social Work Certification and Licensure Board	16 BSW 09247	10/17/16	
<u>DEPARTMENT OF PUBLIC SAFETY</u>			
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	
<u>DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES</u>			
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
<u>DEPARTMENT OF HEALTH AND HUMAN SERVICES</u>			
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	
Jessie Buie, George Buie v. DHHS, DMA	15 DHR 07341	05/10/16	
Christopher H Brown v. DHHS, Division of Medical Assistance	15 DHR 08051	08/11/16	
Ashley Cartwright Sr. v. Department of Health and Human Services	15 DHR 08222	06/15/16	
New Hope Adult Care, Frank N. Fisher v. Office of Health and Human Services	15 DHR 08262	06/22/16	
Sandra McKinney Page v. DHHS, Division of Health Service Regulation	15 DHR 09286	05/25/16	
Elaine B. Shelton, Positive Beginnings v. Division of Child Development and Early Education	15 DHR 09330	08/19/16	
Jeannie Ann Kine v. Department of Health and Human Services	16 DHR 00795	05/05/16	
Raiford Testone Jr. v. DHHS, Division of Public Health	16 DHR 01493	09/19/16	
A Brighter Day Group Home Shannon Hairston v. Department of Health and Human Services	16 DHR 01857	05/05/16	
A Brighter Day Group Home Shannon Hairston v. Department of Health and Human Services	16 DHR 01859	05/05/16	
HAL-097-014 Wilkes County Adult Care v. DHHS, Division of Health Service Regulation	16 DHR 02121	07/06/16	
Sagia Grocery Inc d/b/a Red Sea Grocery III v. DHHS, Division of Public Health	16 DHR 02701	05/17/16	
Susan H. Logan v. DHHS, Division of Medical Assistance	16 DHR 03011	06/02/16	
Kathleen B. McGuire v. Department of Health Service Regulation MH Licensure Section	16 DHR 03014	05/13/16	
Kathleen B. McGuire v. Department of Health Service Regulation MH Licensure Section	16 DHR 03015	05/13/16	
Kaitlin Marie Skiba v. DHHS, Division of Health Service Regulation	16 DHR 03101	06/02/16	
Derrell Octavis Moore v. Office of Administrative Hearings-Healthcare Personnel Registry	16 DHR 03127	09/14/16	
Monique Brown Miller v. DHHS, Division of Health Service Regulation	16 DHR 03131	06/22/16	
HAL-082-018 Clinton Health Holdings LLC, Clinton House v. DHHS, Division of Health Service Regulation	16 DHR 03203	08/04/16	
Robin Braswell Ingram v. Nurse Aide Registry	16 DHR 03214	06/10/16	
Sholonda Randolph v. NCDHHS	16 DHR 03217	07/13/16	
Trina C. Sherrill v. DHHS, Division of Health Service Regulation	16 DHR 03315	06/02/16	
William A. Perry v. DHHS, Division of Medical Assistance	16 DHR 03351	10/13/16	
Jacqueline Tate v. DHHS, Division of Medical Assistance	16 DHR 03576	09/01/16	
Dixon Social Interactive Services Inc. v. Trillium Health Resources	16 DHR 03398	07/07/16	
Joanne Marie Cain v. Health Care Personnel Registry	16 DHR 03404	06/02/16	
Crandell's Enterprises inc. v. DHHS, Division of Medical Assistance	16 DHR 03408	08/16/16	
Darrin L Roach v. Medicaid Estate Recovery Unit	16 DHR 03411	07/22/16	
Mariana I Arellanes Owner Liberty Tienda de la Comunidad v. DHHS, Division of Public Health	16 DHR 03475	07/06/16	
Joan Rennea Thomas v. DHHS, Division of Health Service Regulation	16 DHR 03502	06/10/16	
Nathasia Yvonne Lofton v. DHHS, Division of Health Service Regulation	16 DHR 03503	06/10/16	
Cassandra Swaringen Christian v. DHHS	16 DHR 03580	08/30/16	
Patricia Glover v. Department of Health and Human Services	16 DHR 03895	06/29/16	
Quashawn A. Washington v. NCDHHS, Division of Medical Assistance	16 DHR 03899	06/28/16	
Clinton Health holdings, LLC HAL-082-018 v. DHHS, Division of Health Service Regulation	16 DHR 04276	07/07/16	
Dora Zepeda Pastrana v. DHHS	16 DHR 04393	09/06/16	
Tina M Maye, Tina Mayes DCC v. NC Division of Child Development	16 DHR 04471	07/26/16	
Easter Seals United Cerebral Palsy Group Home Park NC 28711 Frank Dinkoski v. Laurel Park Group Home Division of Health Service Regulation	16 DHR 04522	06/29/16	
Valarie Neely v. Department of Health and Human Services	16 DHR 04533	06/21/16	
Deborah Karin Dunham v. NCDHHS	16 DHR 04728	08/19/16	
Home Health Connection Inc. v. DHHS, Division of Medical Assistance	16 DHR 04750	07/01/16	
Christanna M. Griffin-Cradle v. DHHS Program Integrity	16 DHR 04918	07/20/16	
Brian M. Cradle v. DHHS Program Integrity	16 DHR 04920	07/20/16	
Gaffiney Health Services v. DHHS	16 DHR 05209	08/09/16	
Justina Muniz v. DHHS, Division of Health Service Regulation	16 DHR 05469	08/23/16	
Karen Brooks v. Child Development and Early Education	16 DHR 05579	09/02/16	
Ablecare Corporation MHL-034-234 v. Division of Health Service Regulation	16 DHR 05580	09/16/16	
Emilia Ahlimba Akuetevi v. DHHS, Division of health Service Regulation	16 DHR 05743	08/29/16	
Gladys L. Walden v. Halifax County Public Health System	16 DHR 05748	08/16/16	
Tina McNeil v. Division of Child Development and Early Education Department of Health and Human Services	16 DHR 05796	08/30/16	
Foster's BBQ and Grill v. DHHS	16 DHR 05799	08/15/16	
Untaiger Mechelle Hayes v. DHHS, Division of Health Service Regulation	16 DHR 05873	07/28/16	
James Edward Johnson Jr. v. DHHS	16 DHR 06066	10/05/16	
Jason Bradley Riopelle v. CPS (Department of Social Services) Foster Care	16 DHR 06130	08/08/16	
Jason Bradley Riopelle v. Cabarrus County Child Protective Services (Foster Care)	16 DHR 06135	08/08/16	

Joanie Bell Johnson v. Gaston County DSS	16 DHR 06266	08/04/16
Breck Bullock v. DHHS	16 DHR 06281	08/17/16
Katina Armstrong v. DHHS	16 DHR 06331	09/02/16
Cynthia Yvette McAllister	16 DHR 06332	09/02/16
Deja Buckner v. DHHS, Division of Health Service Regulation	16 DHR 06614	08/17/16
Jonathan Michael Cook v. DHHS, Division of Health Service Regulation	16 DHR 06843	09/27/16
Ella Jane Stanley v. DHHS	16 DHR 06940	09/30/16
Jacqueline Freeman v. DHHS SVCS NC Administrative Office of the Courts	16 DHR 07003	08/23/16
Sarah Brown v. Division of Child Development and Early Education, DHHS	16 DHR 07067	08/30/16
Cut Doodles Learning Academy Shalita Powell v. Division of Child Development and Early Education DHHS	16 DHR 07280	09/01/16
Christian L. McMahan v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	16 DHR 07408	10/13/16
Sarah Morgan v. DHHS, Division of Health Service Regulation	16 DHR 07409	09/08/16
Charles H. Daniel v. Murdoch Developmental Center	16 DHR 07443	08/22/16
Improving Life Inc MHL-026-941 v. DHHS, Division of Health Service Regulation	16 DHR 07665	10/18/16
Jahiara Messick v. DHHS, Division of Health Service Regulation	16 DHR 07703	10/24/16
Asheville Plastic Surgery James M McDonough v. DHHS	16 DHR 07822	10/31/16
Charlene A Turner d/b/a Delijah Family Child Care v. Division of Child Development and Early Education, Department of Health and Human Services	16 DHR 07823	10/03/16
Alan Johnson v. DHHS, Division of Health Service Regulation	16 DHR 07824	09/09/16
Melinda Rummage Poole v. DHHS, Division of Health Service Regulation	16 DHR 07833	10/06/16

DEPARTMENT OF JUSTICE

Inah Latonna York v. Sheriffs' Education and Training Standards Commission	15 DOJ 01537	05/16/16	
Lisa Mae Parsons v. Sheriffs' Education and Training Standards Commission	15 DOJ 01540	04/06/16	
Robert Walter Clark v. Criminal Justice Education and Training Standards Commission	15 DOJ 02027	07/22/16	31:08 NCR 779
Crystal Sparks King v. Criminal Justice Education and Training Standards Commission	15 DOJ 02533	10/08/15	
Michael Eugene Rich v. NC Sheriffs' Education and Training Standards Commission	15 DOJ 06163	05/12/16	
Robert Lee Benton v. NC Criminal Justice Education and Training Standards Commission	15 DOJ 07342	04/22/16	
James Philip Davenport v. Sheriffs' Education and Training Standards Commission	15 DOJ 07442	04/19/16	31:01 NCR 67
John Gordon Kaiser v. Criminal Justice Education and Training Standards Commission	15 DOJ 07703	11/28/16	31:15 NCR 1617
Devon Locklear v. NC Criminal Justice Education and Training Standards Commission	15 DOJ 07704	08/19/16	
John James Klaver Jr. v. Criminal Justice Education and Training Standards Commission	15 DOJ 07775	04/06/16	
Timothy Todd Stroupe v. Criminal Justice Education and Training Standards Commission	15 DOJ 08233	06/14/16	31:06 NCR 510
Donald Wayne Shaw v. NC Sheriffs' Education and Training Standards Commission	15 DOJ 08606	06/22/16	31:05 NCR 449
Kevin Michael Weber v. Sheriffs' Education and Training Standards Commission	15 DOJ 08610	04/22/16	31:01 NCR 71
Carson Dean Berry v. Sheriffs' Education and Training Standards Commission	15 DOJ 09661	05/16/16	
Tyree Shawn Stafford v. NC Private Protective Services Board	16 DOJ 00234	05/17/16	
Porsha Denise Patterson v. NC Private Protective Services Board	16 DOJ 00235	05/17/16	
Charlotte Worriax Mendoza v. NC Private Protective Services Board	16 DOJ 00236	08/04/16	
James Edward Alexander v. NC Private Protective Services Board	16 DOJ 03470	06/15/16	
Samuel Porter Lapsley v. NC Sheriffs' Education and Training Standards Commission	16 DOJ 00376	07/29/16	
William Thomas Warren v. NC Criminal Justice Education and Training Standards Commission	16 DOJ 00471	08/25/16	
Thomas Robbins v. NC Department of Justice, Company Police Program	16 DOJ 01197	09/09/16	31:11 NCR 1164
David Shannon Dellinger v. NC Criminal Justice Education and Training Standards Commission	16 DOJ 01719	06/29/16	
Barbara Ann Brown v. NC Sheriffs' Education and Training Standards Commission	16 DOJ 02140	07/19/16	
John Sheetz, Jr. v. NC Sheriffs' Education and Training Standards Commission	16 DOJ 02142	07/20/16	
Bobby Hoskins v. NC Sheriffs' Education and Training Standards Commission	16 DOJ 02145	07/20/16	
Christopher Scott Shepherd v. NC Sheriffs' Education and Training Standards Commission	16 DOJ 02147	08/30/16	
Brandon Wayne King v. NC Private Protective Services Board	16 DOJ 02704	08/23/16	
Austin Raye Hines v. NC Criminal Justice Education and Training Standards Commission	16 DOJ 02998	08/18/16	
Teresa Ann English v. NC Alarm Systems Licensing Board	16 DOJ 03352	06/21/16	
Aaron Arlington Rowe v. NC Private Protective Services Board	16 DOJ 03472	06/21/16	
Brittany Nicole Manley v. Criminal Justice Education and Training Standards Commission	16 DOJ 03584	09/30/16	
Joshua Reid Lomax v. NC Private Protective Services Board	16 DOJ 03788	06/21/16	
Paulette Wells v. NC Private Protective Services Board	16 DOJ 03789	06/28/16	
Arthur Joseph Piwcio v. NC Alarm Systems Licensing Board	16 DOJ 03834	08/04/16	
S3 Special Police and Security v. Company Police Program	16 DOJ 04739	07/18/16	
William Douglas Hyleman Jr. v. Sheriffs' Education and Training Standards Commission	16 DOJ 04757	11/04/16	31:15 NCR 1635
Andre Jama McMillan v. NC Sheriffs' Education and Training Standards Commission	16 DOJ 04759	09/08/16	
Safe and Secure Worldwide Special Police Lance A Jones Sr. v. NC Department of Justice Criminal Justice Standards Division Company Police Program	16 DOJ 06549	09/20/16	

CONTESTED CASE DECISIONS

Sherry D Brown-Easter v. NC Sheriffs' Education and Training Standards Commission	16 DOJ 07830	10/05/16	
<u>DEPARTMENT OF LABOR</u>			
Meriweather Home Nursing, Fran Meriweather v. Department of Labor	15 DOL 05002	08/10/16	
<u>DEPARTMENT OF TRANSPORTATION</u>			
Thomas R. Baggett v. Department of Transportation	15 DOT 09852	05/20/16	
Jacob Phillip Burns v. Department of Transportation	16 DOT 05306	07/20/16	
<u>DIVISION OF EMPLOYMENT SECURITY</u>			
Barrington Boyd v. Travis Morgan, Aaron Parks, and Town of Pineville	16 DSC 04634	11/09/16	31:15 NCR 1641
<u>DEPARTMENT OF STATE TREASURER</u>			
In the Matter of the Board of Trustees of Craven Community College v. Department of the State Treasurer and The Board of Trustees of the Teachers and State Employees Retirement System	16 DST 00053	05/11/16	
Gayle Johnson McLean v. Department of State Treasurer Retirement Systems Division	16 DST 01106	05/16/16	
Johnston County Schools v. Retirement Systems Division Department of State Treasurer	16 DST 03782	09/16/16	
Johnston County Schools v. Retirement Systems Division Department of State Treasurer	16 DST 04761	09/16/16	
Union County Public Schools v. Retirement Systems Division Department of State Treasurer	16 DST 05962	08/25/16	
Union County Public Schools v. Retirement Systems Division Department of State Treasurer	16 DST 06222	08/25/16	
<u>ETHICS COMMISSION</u>			
Anne N. Fischer v. NC Ethics Commission	16 EBD 07486	09/23/16	
<u>STATE BOARD OF EDUCATION</u>			
Crystal A. Kelly v. Department of Public Instruction	15 EDC 01828	05/11/16	31:03 NCR 206
Laura Kerrigan v. Department of Public Instruction	15 EDC 03061	09/21/15	31:01 NCR 76
Charlotte Classical School Inc v. NC State Board of Education	15 EDC 05755	05/24/16	31:03 NCR 215
TPS Publishing Inc. v. State Board of Education	15 EDC 06344	04/29/16	31:01 NCR 89
Crossroads Charter High School v. Department of Public Instruction/NC State Board of Education	16 EDC 01392	06/13/16	31:07 NCR 711
Lenore McDuffie v. David Phillips, Cumberland County School	16 EDC 06553	08/05/16	
<u>DEPARTMENT OF ENVIRONMENTAL QUALITY</u>			
Environmentalee, Chatham Citizens Against Coal Ash Dump, and Blue Ridge Environmental Defense League Inc v. Department of Environment and Natural Resources, Division of Waste Management, and Division of Energy, Mineral, and Land Resources and Green Meadow LLC and Charah Inc.	15 EHR 04772	05/05/16	31:03 NCR 223
Paul and Elizabeth Winchell v. NC Department of Environmental Quality, Division of Coastal Management and Elizabeth Lentendre	15 EHR 05826	07/29/16	32:07 NCR 692
Stephen Owens and Jillanne G. Badawi v. Department of Environmental Quality, division of Every Mineral and Land Resources and Weyerhaeuser Company and Pasquotank County	15 EHR 07012	10/04/16	31:14 NCR 1442
Ronald Sheffield v. NCDMF	16 EHR 02397	10/05/16	31:14 NCR 1453
<u>BOARD OF EXAMINERS FOR ENGINEERS AND SURVEYORS</u>			
Raymond Clifton Parker v. NC Board of Examiners for Engineers and Surveyors	15 ELS 04349	06/27/16	
<u>DEPARTMENT OF INSURANCE</u>			
Angela B. O'Connell v. NC Teachers' and State Employees' Comprehensive Major Medical Plan AKA The State Health Plan	14 INS 08876	06/22/16	31:05 NCR 415
Department of Insurance v. Andre Day	15 INS 07291	04/26/16	31:01 NCR 104
Robert Wayne Williams Jr. v. NC State Health Plan for Teachers and State Employees	16 INS 02135	09/09/16	31:11 NCR 1179
Lynda F. Hodge v. NC State Health Plan	16 INS 03204	05/20/16	
Gina Boccetti v. NC Department of State Treasurer/NC State Health Plan	16 INS 04108	09/21/16	31:11 NCR 1187
<u>MISCELLANEOUS</u>			
Daryl Zenon Bodan v. Judge David W. Aycock et al Catawba County-District 25B	16 MIS 04110	06/06/16	
Department of Insurance, Agent Services Division v. Harold T. Little	16 INS 04230	11/22/16	31:15 NCR 1646
Arthur Donald Darby Jr. v. Hoke County Sheriff's Office Adam Rodriguez	16 MIS 05226	08/10/16	

OFFICE OF STATE HUMAN RESOURCES (formerly OFFICE OF STATE PERSONNEL)

Brandon Lee Faison Sr. v. Eastern Correctional/NCDPS	15 OSP 07975	06/28/16	31:05 NCR 454
Jacqueline Renee Crocker v. Transylvania County Department of Social Services Director Tracy Jones	15 OSP 08687	05/16/16	31:03 NCR 256
Barbara Hayden v. Department of Public Safety	15 OSP 08973	10/14/16	
Kathern Infinger Wherry v. Forsyth County Department of Social Services	15 OSP 10025	06/09/16	
Gloria R. Watlington v. Department of Social Services	16 OSP 00297	07/05/16	
Judith Smith v. Gaston County Government/Gaston County Department of Human Services	16 OSP 00844	06/22/16	
Emily Williams v. Anson County Board of Social Services Ross Streater Chairman	16 OSP 01283	05/19/16	
Cithara Patra v. NCDOR	16 OSP 01808	05/13/16	
Lara Weaver v. Department of Health and Human Services	16 OSP 03540	06/02/16	
Mark Stout v. Department of Public Safety	16 OSP 03894	10/11/16	31:14 NCR 1471
George Wes Little Jr. v. Department of Transportation	16 OSP 05294	09/06/16	31:11 NCR 1194
Julia Nichols v. University of North Carolina at Chapel Hill	16 OSP 06127	07/25/16	
Ivry Cheeks v. Delilah Jackson and Washington County Schools Board of Education WCS Board of Education WCS Board Members (Ruffin Gill, Carlos Riddick, Fred Norman, Jerry Phelps and Lois Clark)	16 OSP 06271	08/16/16	
Lenton C. Brown v. NC Department of Public Safety an agency of the State of NC and Division of Adult Correction and Juvenile Justice, a subunit contained within the NC	16 OSP 06600	09/02/16	
Yajaira Fernandez Ariza v. Pitt County Public Health	16 OSP 06636	09/28/16	
Marcia Hutchison v. NC Department of Justice	16 OSP 06725	08/30/16	
Kimberly H Boling v. Rowan Cabarrus Community College	16 OSP 07702	08/25/16	
Bessie M Toliver-Evans v. Winston Salem State University Camille Kluttz-Leach	16 OSP 07885	09/23/16	

DEPARTMENT OF REVENUE

Deidre L. McBride v. Department of Revenue	15 REV 06334	09/13/16	
Lynn Baldwin Jr. and Vera J. Summerville v. Department of Revenue	15 REV 07692	09/09/16	31:13 NCR 1363
Olethia Davis v. Department of Revenue	16 REV 02286	05/10/16	
Asail Aiken-Odom v. NC Department of Revenue	16 REV 02326	06/29/16	
Jim Vang v. Department of Revenue	16 REV 03114	05/26/16	
John Elton Russell v. NC Department of Revenue	16 REV 03208	07/19/16	
Kiana Harris v. Department of Revenue	16 REV 03304	07/06/16	
Olukayode J. Alabi Kathryn U. Alabi v. Department of Revenue	16 REV 03305	08/02/16	
Janna Marie Stanley v. Department of Revenue	16 REV 03318	05/27/16	
Silas Edward Gray and Dino Laurie Gray v. NC Department of Revenue	16 REV 03410	06/10/16	
Willie A. Westbrook-Bey v. Department of Revenue	16 REV 04104	06/10/16	
Karla Guerra (K&E Drywall, LLC v. Department of Revenue, Edward S. Koonce	16 REV 05177	08/31/16	
Robert Joel Coppedge v. NC Department of Revenue	16 REV 05797	08/19/16	

OFFICE OF THE SECRETARY OF STATE

Angel L. Simpson v. Department of the Secretary of State	15 SOS 07239	04/21/16	
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	
Tiera Antwon Wactor v. NC Department of the Secretary of State	16 SOS 04106	08/11/16	
Tamra Rocha Bradshaw v. Department of the Secretary of State (Notary)	16 SOS 04164	07/01/16	
American Dream Crafter, LLC. d/b/a Boosterbeds v. Charitable Solicitation Licensing Division of NC Department of Secretary of State	16 SOS 06821	08/17/16	
Thomas Davis Defending Dreams Foundation Inc. v. Department of the Secretary of State	16 SOS 08042	09/26/16	

UNIVERSITY OF NORTH CAROLINA HOSPITALS

Marc Alperin v. University of North Carolina Hospitals	15 UNC 08353	06/28/16	
Tiffany R. Brown v. University of North Carolina Hospitals	16 UNC 05615	08/03/16	