

# ***NORTH CAROLINA REGISTER***

**VOLUME 32 • ISSUE 01 • Pages 1 – 54**

**July 3, 2017**

<b>I. EXECUTIVE ORDERS</b>	
Executive Order No. 7 .....	1
Executive Order No. 8 .....	2 – 3
<b>II. PROPOSED RULES</b>	
Public Safety, Department of	
Alarm Systems Licensing Board.....	4 – 5
<b>III. APPROVED RULES.....</b>	<b>6 - 44</b>
Natural and Cultural Resources, Department of	
Historical Commission	
Environmental Quality, Department of	
Wildlife Resources Commission	
Revenue, Department of	
Department	
Occupational Licensing Boards and Commissions	
Dental Examiners, Board of	
Geologists, Board for Licensing of	
Locksmith Licensing Board	
Nursing, Board of	
Veterinary Medical Board	
<b>IV. RULES REVIEW COMMISSION .....</b>	<b>45 - 49</b>
<b>V. CONTESTED CASE DECISIONS</b>	
Index to ALJ Decisions.....	50 - 54

**PUBLISHED BY**

*The Office of Administrative Hearings  
Rules Division  
6714 Mail Service Center  
Raleigh, NC 27699-6714  
Telephone (919) 431-3000  
Fax (919) 431-3104*

*Julian Mann III, Director  
Molly Masich, Codifier of Rules  
Dana Vojtko, Publications Coordinator  
Lindsay Woy, Editorial Assistant*

## **Contact List for Rulemaking Questions or Concerns**

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

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

Office of Administrative Hearings

Rules Division

1711 New Hope Church Road

Raleigh, North Carolina 27609

(919) 431-3000

(919) 431-3104 FAX

contact: Molly Masich, Codifier of Rules

molly.masich@oah.nc.gov

(919) 431-3071

Dana Vojtko, Publications Coordinator

dana.vojtko@oah.nc.gov

(919) 431-3075

Lindsay Woy, Editorial Assistant

lindsay.woy@oah.nc.gov

(919) 431-3078

### **Rule Review and Legal Issues**

Rules Review Commission

1711 New Hope Church Road

Raleigh, North Carolina 27609

(919) 431-3000

(919) 431-3104 FAX

contact: Abigail Hammond, Commission Counsel

abigail.hammond@oah.nc.gov

(919) 431-3076

Amber Cronk May, Commission Counsel

amber.may@oah.nc.gov

(919) 431-3074

Amanda Reeder, Commission Counsel

amanda.reeder@oah.nc.gov

(919) 431-3079

Jason Thomas, Commission Counsel

jason.thomas@oah.nc.gov

(919) 431-3081

Alexander Burgos, Paralegal

alexander.burgos@oah.nc.gov

(919) 431-3080

Julie Brincefield, Administrative Assistant

julie.brincefield@oah.nc.gov

(919) 431-3073

### **Fiscal Notes & Economic Analysis and Governor's Review**

Office of State Budget and Management

116 West Jones Street

Raleigh, North Carolina 27603-8005

(919) 807-4700

(919) 733-0640 FAX

Contact: Anca Grozav, Economic Analyst

osbmruleanalysis@osbm.nc.gov

(919) 807-4740

Carrie Hollis, Economic Analyst

osbmruleanalysis@osbm.nc.gov

(919) 807-4757

NC Association of County Commissioners

215 North Dawson Street

Raleigh, North Carolina 27603

(919) 715-2893

contact: Amy Bason

amy.bason@ncacc.org

NC League of Municipalities

(919) 715-4000

215 North Dawson Street

Raleigh, North Carolina 27603

contact: Sarah Collins

scollins@nclm.org

### **Legislative Process Concerning Rule-making**

545 Legislative Office Building

300 North Salisbury Street

Raleigh, North Carolina 27611

(919) 733-2578

(919) 715-5460 FAX

Karen Cochrane-Brown, Director/Legislative Analysis Division

karen.cochrane-brown@ncleg.net

Jeff Hudson, Staff Attorney

Jeffrey.hudson@ncleg.net

**NORTH CAROLINA REGISTER**  
Publication Schedule for January 2017 – December 2017

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

May 26, 2017

EXECUTIVE ORDER NO. 7

**RECOGNIZING MILITARY APPRECIATION MONTH AND MEMORIAL DAY AND  
AUTHORIZING THE DISPLAY OF THE PRISONER OF WAR/MISSING IN ACTION FLAG  
OVER THE STATE CAPITOL**

**WHEREAS**, nearly 736,000 veterans and their families call North Carolina home; and

**WHEREAS**, North Carolina has identified itself as "The Most Military Friendly State," and its military service members, veterans, and their families continue to make tremendous sacrifices for our country, and further these veterans contribute greatly to the growth and development of our State; and

**WHEREAS**, May 2017 is Military Appreciation Month in North Carolina, a month in which our State recognizes the many sacrifices made by our veterans, service members, wounded warriors, their families, and their survivors; and

**WHEREAS**, Memorial Day will be observed on Monday, May 29, 2017; and

**WHEREAS**, it is appropriate and proper that the people of the State of North Carolina recognize and honor the brave men and women of the Armed Forces who, throughout our Nation's history, have sacrificed their lives defending the founding ideals of our State and Nation.

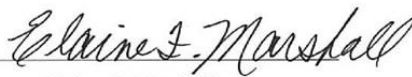
**NOW THEREFORE**, as Governor of the State of North Carolina, I do hereby order and direct the Department of Administration, which is charged with the administration of state owned buildings and grounds, and all agencies, managers, supervisors, and employees under the jurisdiction of the Governor, to take the following actions:

In recognition of Memorial Day, Military Appreciation Month, and in accordance with N.C. Gen. Stat. § 143-345.9, the "Prisoner of War/Missing in Action" flag shall be flown over the State Capitol until otherwise ordered.

**IN WITNESS WHEREOF**, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twenty-sixth day of May in the year of our Lord two thousand and seventeen.

  
Roy Cooper  
Governor

ATTEST:

  
Elaine F. Marshall  
Secretary of State





# State of North Carolina

**ROY COOPER**  
GOVERNOR

May 26, 2017

## EXECUTIVE ORDER NO. 8

### NORTH CAROLINA INTERAGENCY COUNCIL FOR COORDINATING HOMELESS PROGRAMS

**WHEREAS**, homelessness denies individuals and families their basic need for adequate housing; and

**WHEREAS**, homelessness is a barrier to healthcare, academic success, employment opportunities, and overall quality of life; and

**WHEREAS**, state and local agencies, non-profits, and the business community provide programs and services to address issues related to homelessness; and

**WHEREAS**, advocates, service providers, and funders must collaborate, identify best practices, and maximize resources to help eliminate homelessness.

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

#### **Section 1.**      **Establishment**

The North Carolina Interagency Council for Coordinating Homeless Programs (hereinafter the "Interagency Council") is hereby established.

#### **Section 2.**      **Membership**

The Interagency Council shall consist of a Chairperson appointed by the Governor and 26 additional members who shall be appointed by the Governor from the following state agencies, non-profits, and business community, or qualifying category:

- a. One member from the North Carolina Department of Administration.
- b. One member from the North Carolina Housing Finance Agency.
- c. One member from the North Carolina Office of State Budget and Management.
- d. One member from the North Carolina Community College System.
- e. One member from the North Carolina Department of Public Safety.
- f. One member from the North Carolina Department of Commerce.
- g. One member from the North Carolina Department of Military and Veteran Affairs.
- h. Three members from the North Carolina Department of Health and Human Services that represent persons with disabilities, older adults, and the economically disadvantaged.
- i. One member from the North Carolina Department of Public Instruction.
- j. One member from a county government.
- k. One member from a city government.
- l. One member from the faith-based community.

- m. Three members from non-profit agencies that provide services to people that are homeless or at risk of homelessness.
- n. One member from the North Carolina Coalition to End Homelessness.
- o. One member from the North Carolina Housing Coalition.
- p. One member from the business community that develops affordable housing.
- q. One member representing Public Housing Authorities.
- r. One member representing the homeless or formerly homeless.
- s. Two members from the North Carolina Senate.
- t. Two members from the North Carolina House of Representatives.

**Section 3. Term of Membership**

Members of the Interagency Council shall be appointed for a term of three (3) years and serve at the pleasure of the Governor. A vacancy occurring during a term of appointment will be filled by the Governor for the remainder of the unexpired term.

**Section 4. Meetings**

The Interagency Council shall meet quarterly, at the request of the Chairperson, or upon written request from at least five (5) of its members.

**Section 5. Duties**

- 1. The Interagency Council will advise the Governor, Secretary of the North Carolina Department of Health and Human Services, other state agencies, and partners on issues related to housing stabilization for persons that are homeless or at risk of homelessness.
- 2. The Interagency Council will identify and secure resources.
- 3. The Interagency Council will promote evidence-based best practices to address the needs of persons that are homeless and at risk of homelessness.
- 4. The Interagency Council will submit a report annually by December 31 that details its accomplishments, recommends short and long-term policy initiatives that increase permanent housing, identifies barriers, and lists options to enhance the service provision for persons that are homeless or at risk of homelessness.

**Section 6. Administration**

The Department of Health and Human Services shall provide administrative and staff support required by the Interagency Council. Administrative costs, special function expenses and the cost of member per diem, travel, and subsistence expenses shall be paid from State funds appropriated to the North Carolina Department of Health and Human Services.

**Section 7. Effect and Duration**

This Executive Order is effective immediately. It supersedes and replaces all other executive orders on this subject. It shall remain in effect until December 31, 2020, pursuant to N.C. Gen. Stat. § 147-16.2 or until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twenty-sixth day of May 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 14B – DEPARTMENT OF PUBLIC SAFETY**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Alarm Systems Licensing Board intends to amend the rules cited as 14B NCAC 17 .0101, .0102, .0201, .0202, .0204 and .0301.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<https://www.ncdps.gov/DPS-Services/Permits-Licenses/Alarm-System-Licensing-Board>

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

**Public Hearing:**

**Date:** July 19, 2017

**Time:** 3:00 p.m.

**Location:** Alarm Systems Licensing Board Office, 3101 Industrial Drive, Suite 104, Raleigh, NC 27609

**Reason for Proposed Action:** Update board office address; Update the email address used by applicants to send photo required to accompany application; Modify requirements for applicant providing criminal background information; Update the provider for the Technician Level 1 Course required for licensure.

**Comments may be submitted to:** Phil Stephenson, 3101 Industrial Drive, Suite 104, Raleigh, NC 27609; phone (919) 788-5320; fax (919) 788-5365; email phil.stephenson@ncdps.gov

**Comment period ends:** September 1, 2017

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

**Fiscal impact (check all that apply).**

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected
- Analysis submitted to Board of Transportation

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

**CHAPTER 17 - ALARMS SYSTEMS LICENSING BOARD**

**SECTION .0100 - ORGANIZATION AND GENERAL PROVISIONS**

**14B NCAC 17 .0101 PURPOSE**

The Alarm Systems Licensing Board is established within the North Carolina Department of ~~Justice~~ Public Safety for the purpose of administering the licensing of and setting the educational and training requirements for persons, firms, associations and corporations engaged in providing alarm systems and services to citizens of North Carolina.

Authority G.S. 74D-4.

**14B NCAC 17 .0102 LOCATION**

The administrative offices of the Alarm Systems Licensing Board are located at ~~4901 Glenwood Avenue, Suite 200, Raleigh, North Carolina 27612, 3101 Industrial Drive, Suite 104, Raleigh, North Carolina 27609,~~ telephone (919) 788-5320.

Authority G.S. 74D-4; 74D-5.

**SECTION .0200 – PROVISIONS FOR LICENSEES**

**14B NCAC 17 .0201 APPLICATION FOR LICENSE**

(a) Each applicant for a license shall complete an application form provided by the Board. This form and one additional copy shall be submitted to the administrator and shall be accompanied by:

- (1) one set of classifiable fingerprints on an applicant card provided by the Board;
- (2) one head and shoulders digital photograph of the applicant in JPG format of acceptable quality for identification and taken within six months prior to submission and submitted by e-mail to ~~PPSB/ASLB-photos@ncdoj.gov~~ PPSASL-Photos@ncdps.gov or by compact disc;
- (3) for residents of North Carolina statements of the results of a statewide criminal history records search ~~for the past five years conducted by an Administrative Offices of the Courts' approved firm that conducts criminal history searches and bases its search on the criminal history database maintained by the North Carolina Administrative Offices of the Courts;~~



by the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for any state where the applicant has resided within the preceding 60 months;

- (4) ~~for out of state residents, statements of the results of a statewide criminal history records search for the past five years conducted by a Board approved company under contract with, or appointed by, the Board to conduct criminal history searches which bases its search on the criminal history database maintained by the state of residence;~~

- (5)(4) the applicant's application fee; and  
(6)(5) an Equifax credit check run within 30 days of the license application submission date.

(b) Each applicant must provide evidence of high school graduation either by diploma, G.E.D. certificate, or other equivalent documentation.

(c) Each applicant for a license shall meet personally with either a Board investigator, the Screening Committee, the Director, or a Board representative designated by the Director prior to being issued a license. The applicant shall discuss the provisions of G.S. 74D and the administrative rules during the personal meeting. The applicant shall sign a form provided by the Board indicating that the applicant has reviewed the information with the Board's representative and that the applicant has an understanding of G.S. 74D and the administrative rules.

(d) Each applicant for a branch office license shall complete an application form provided by the Board. This form and one additional copy shall be submitted to the administrator and shall be accompanied by the branch office application fee.

*Authority G.S. 74D-2; 74D-3; 74D-5; 74D-7.*

#### **14B NCAC 17 .0202 EXPERIENCE REQUIREMENTS FOR LICENSE**

(a) Applicants for an alarm system license must meet the following requirements which are additional to those specified in G.S. 74D:

- (1) Establish to the Board's satisfaction two year's experience within the past five years in alarm systems installation, service, or alarm systems business management;
- (2) No longer than one year prior to the application date, successfully pass an oral or written examination deemed by the Board to measure an individual's knowledge and competence in the alarm systems business; or
- (3) No longer than one year prior to the application date, successfully complete the Certified Alarm Technician Level I Course offered by the National Burglar and Fire Alarm Association, National Electronic Security Association or Elite CEU's on-line training course.

(b) Any applicant who takes the examination administered by the Board under Subparagraph (a)(2) of this Rule and who does not successfully complete said examination after two attempts, must wait six months before being allowed to take the examination again.

*Authority G.S. 74D-5.*

#### **SECTION .0300 – PROVISIONS FOR REGISTRANTS**

##### **14B NCAC 17 .0301 APPLICATION FOR REGISTRATION**

(a) Each licensee or qualifying agent shall submit and sign an application form for the registration of his employee on a form provided by the Board. This form, when sent to the board, shall be accompanied by:

- (1) one set of classifiable fingerprints on a standard F.B.I. applicant card,
- (2) one head and shoulders digital photograph of the applicant in JPG format of acceptable quality for identification and taken within six months prior to submission and submitted by e-mail to PPSB/ASLB\_photos@ncdoj.gov PPSASL-Photos@ncdps.gov or by compact disc;
- (3) for residents of North Carolina statements of the results of a statewide criminal history records search ~~for the preceding 48 months conducted by an Administrative Offices of the Courts' approved firm that conducts criminal history searches and bases its search on the criminal history database maintained by the North Carolina Administrative Offices of the Courts;~~ by the reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for any state where the applicant has resided within the preceding 60 months; and
- (4) ~~for out of state residents, statements of the results of a statewide criminal history records search for the past 48 months conducted by a Board approved company under contract with, or appointed by, the Board to conduct criminal history search which bases its searches on the criminal history database maintained by the state of residence; and~~
- (5)(4) the registration fee required by Rule .0302 of this Section.

(b) The employer of an applicant who is currently registered with another alarm business shall complete an application form provided by the Board. This form shall be accompanied by the applicant's multiple registration fee.

(c) The employer of each applicant for registration shall retain a copy of the applicant's application in the individual applicant's personnel file in the employer's office.

(d) The employer of each applicant for registration shall complete and submit to the Board a certification of the background and criminal record check of every applicant signed by the licensee or qualifying agent. A copy of this certification shall be retained in the individual applicant's personnel file in the employer's office.

*Authority G.S. 74D-5; 74D-8.*

---

**APPROVED RULES**

---

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

Rules approved by the Rules Review Commission at its meeting on May 18, 2017 Meeting.

**REGISTER CITATION TO THE  
NOTICE OF TEXT****HISTORICAL COMMISSION**

<u>Definitions</u>	07 NCAC 04R .0702	31:14 NCR
<u>Archaeological Investigations on State Lands</u>	07 NCAC 04R .0703	31:14 NCR
<u>Emergency Archaeological Investigation</u>	07 NCAC 04R .0704	31:14 NCR
<u>Application for Archaeological Permits</u>	07 NCAC 04R .0705	31:14 NCR
<u>Qualifications for Permits</u>	07 NCAC 04R .0706	31:14 NCR
<u>Issuance of Permits</u>	07 NCAC 04R .0707	31:14 NCR
<u>Time Limits of Permits</u>	07 NCAC 04R .0708	31:14 NCR
<u>Terms and Conditions of Permits</u>	07 NCAC 04R .0709	31:14 NCR
<u>Permit Denial: Suspension and Revocation</u>	07 NCAC 04R .0710	31:14 NCR
<u>Appeals Relating to Permits</u>	07 NCAC 04R .0711	31:14 NCR
<u>Reporting Requirements for Specific Permits</u>	07 NCAC 04R .0712	31:14 NCR
<u>Reporting Requirements for General Permits</u>	07 NCAC 04R .0713	31:14 NCR
<u>Report Review for Specific Permits</u>	07 NCAC 04R .0714	31:14 NCR
<u>Report Review for General Permits</u>	07 NCAC 04R .0715	31:14 NCR
<u>Custody of Resources Under the Terms of a Specific Permit</u>	07 NCAC 04R .0716	31:14 NCR
<u>Custody/Archaeological Resources Under/Terms: General Permit</u>	07 NCAC 04R .0717	31:14 NCR
<u>Confidentiality</u>	07 NCAC 04R .0718	31:14 NCR

**WILDLIFE RESOURCES COMMISSION**

<u>Clay County</u>	15A NCAC 10F .0308	31:15 NCR
<u>Pender County</u>	15A NCAC 10F .0321	31:15 NCR
<u>Perquimans County</u>	15A NCAC 10F .0355*	31:15 NCR

**REVENUE, DEPARTMENT OF**

<u>Warrant for Tax Collection</u>	17 NCAC 01C .0308*	G.S. 150B-1(d)(4)
<u>Method of Payment</u>	17 NCAC 01C .0502*	G.S. 150B-1(d)(4)
<u>EFT Definitions</u>	17 NCAC 01C .0503*	G.S. 150B-1(d)(4)
<u>When Payment by EFT is Required</u>	17 NCAC 01C .0504*	G.S. 150B-1(d)(4)
<u>EFT Identification and Notification Procedures</u>	17 NCAC 01C .0505*	G.S. 150B-1(d)(4)
<u>Enrollment for ACH Credit and ACH Debit</u>	17 NCAC 01C .0507*	G.S. 150B-1(d)(4)
<u>Methods of Electronic Funds Transfer</u>	17 NCAC 01C .0508*	G.S. 150B-1(d)(4)
<u>EFT Payment Procedures</u>	17 NCAC 01C .0509*	G.S. 150B-1(d)(4)
<u>EFT Payment Procedures - ACH Method</u>	17 NCAC 01C .0510*	G.S. 150B-1(d)(4)
<u>EFT Payment Procedures - ACH Credit Method</u>	17 NCAC 01C .0511*	G.S. 150B-1(d)(4)
<u>Approval Required for Substitute Forms</u>	17 NCAC 01C .0601*	G.S. 150B-1(d)(4)

**DENTAL EXAMINERS, BOARD OF**

<u>General Anesthesia and Sedation Definitions</u>	21 NCAC 16Q .0101*	31:14 NCR
<u>General Anesthesia Credentials and Permit</u>	21 NCAC 16Q .0201*	31:14 NCR

<u>General Anesthesia Equipment and Clinical Requirements</u>	21 NCAC 16Q .0202*	31:14 NCR
<u>Itinerant (Mobile) General Anesthesia Permit, Equipment a...</u>	21 NCAC 16Q .0206*	31:14 NCR
<u>Annual Review of General Anesthesia and Itinerant (Mobile...</u>	21 NCAC 16Q .0207*	31:14 NCR
<u>Credentials and Permits for Moderate Parenteral and Enter...</u>	21 NCAC 16Q .0301*	31:14 NCR
<u>Moderate Parenteral and Enteral Conscious Sedation Clinic...</u>	21 NCAC 16Q .0302*	31:14 NCR
<u>Off Site Use of Moderate Parenteral and Enteral Conscious...</u>	21 NCAC 16Q .0304*	31:14 NCR
<u>Annual Renewal of Moderate Parenteral and Enteral Conscio...</u>	21 NCAC 16Q .0305*	31:14 NCR
<u>Credentials and Permits for Moderate Pediatric Conscious ...</u>	21 NCAC 16Q .0404*	31:14 NCR
<u>Moderate Pediatric Conscious Sedation Clinical Requiremen...</u>	21 NCAC 16Q .0405*	31:14 NCR
<u>Off Site Use of Moderate Pediatric Conscious Sedation Per...</u>	21 NCAC 16Q .0406	31:14 NCR
<u>Annual Renewal of Moderate Pediatric Conscious Sedation P...</u>	21 NCAC 16Q .0407*	31:14 NCR

## **GEOLOGISTS, BOARD FOR LICENSING OF**

<u>Authority: Name and Location of Board</u>	21 NCAC 21 .0101*	31:12 NCR
<u>Organization of the Board</u>	21 NCAC 21 .0103*	31:12 NCR
<u>Duties of Officers</u>	21 NCAC 21 .0104*	31:12 NCR
<u>Requirements for Licensing</u>	21 NCAC 21 .0301*	31:12 NCR
<u>Application Procedure</u>	21 NCAC 21 .0302*	31:12 NCR
<u>Inactive Status</u>	21 NCAC 21 .0303*	31:12 NCR
<u>Continuing Education</u>	21 NCAC 21 .0403*	31:12 NCR
<u>Requirements</u>	21 NCAC 21 .0404*	31:12 NCR
<u>Determination of Credit</u>	21 NCAC 21 .0405*	31:12 NCR
<u>Recordkeeping</u>	21 NCAC 21 .0406*	31:12 NCR
<u>Exemptions</u>	21 NCAC 21 .0407*	31:12 NCR
<u>Filing of Charges and Disciplinary Actions</u>	21 NCAC 21 .0501*	31:12 NCR
<u>Reprimand</u>	21 NCAC 21 .0502*	31:12 NCR
<u>Right to Hearing</u>	21 NCAC 21 .0505*	31:12 NCR
<u>Request for Hearing</u>	21 NCAC 21 .0506*	31:12 NCR
<u>Types of Intervention</u>	21 NCAC 21 .0511*	31:12 NCR
<u>Disqualification of Board Members</u>	21 NCAC 21 .0513*	31:12 NCR
<u>Investigation</u>	21 NCAC 21 .0514*	31:12 NCR
<u>Disciplinary Procedure</u>	21 NCAC 21 .0515*	31:12 NCR
<u>Petition for Rulemaking Hearings</u>	21 NCAC 21 .0803*	31:12 NCR
<u>Disposition of Petitions</u>	21 NCAC 21 .0804*	31:12 NCR
<u>Disposition of Requests</u>	21 NCAC 21 .0903*	31:12 NCR
<u>Rules of Professional Conduct</u>	21 NCAC 21 .1101*	31:12 NCR
<u>Rules of Conduct of Advertising</u>	21 NCAC 21 .1102*	31:12 NCR

## **LOCKSMITH LICENSING BOARD**

<u>Meetings</u>	21 NCAC 29 .0102*	31:12 NCR
<u>Examination Fee</u>	21 NCAC 29 .0201*	31:12 NCR
<u>Requirements of Examinees</u>	21 NCAC 29 .0204*	31:12 NCR
<u>Failure to Attend Scheduled Examination Session</u>	21 NCAC 29 .0205*	31:12 NCR
<u>Special Administration</u>	21 NCAC 29 .0206*	31:12 NCR
<u>Application Form</u>	21 NCAC 29 .0401*	31:12 NCR
<u>Fees</u>	21 NCAC 29 .0404*	31:12 NCR
<u>Fair Business Practices</u>	21 NCAC 29 .0502*	31:12 NCR
<u>Protection of the Public Interest</u>	21 NCAC 29 .0503*	31:12 NCR

---

**APPROVED RULES**

---

<u>Technical Integrity</u>	21 NCAC 29 .0504*	31:12 NCR
<u>Due Date</u>	21 NCAC 29 .0702*	31:12 NCR
<u>Reinstatement of Expired License</u>	21 NCAC 29 .0703*	31:12 NCR
<u>Requirements</u>	21 NCAC 29 .0802*	31:12 NCR
<u>Determination of Credit</u>	21 NCAC 29 .0803*	31:12 NCR
<u>Record Keeping</u>	21 NCAC 29 .0804*	31:12 NCR
<u>Exceptions</u>	21 NCAC 29 .0805*	31:12 NCR
<u>Non Compliance</u>	21 NCAC 29 .0806*	31:12 NCR

**NURSING, BOARD OF**

<u>Definitions</u>	21 NCAC 36 .0120*	31:14 NCR
<u>Revocation, Suspension or Denial of License</u>	21 NCAC 36 .0217*	31:14 NCR

**VETERINARY MEDICAL BOARD**

<u>Limited Veterinary License</u>	21 NCAC 66 .0311*	31:16 NCR
-----------------------------------	-------------------	-----------

---

**TITLE 07 – DEPARTMENT OF NATURAL AND  
CULTURAL RESOURCES***Repealed Eff. June 1, 2017.*

<b>07 NCAC 04R .0702</b>	<b>DEFINITIONS</b>
<b>07 NCAC 04R .0703</b>	<b>ARCHAEOLOGICAL</b>
<b>INVESTIGATIONS ON STATE LANDS</b>	
<b>07 NCAC 04R .0704</b>	<b>EMERGENCY</b>
<b>ARCHAEOLOGICAL INVESTIGATIONS</b>	
<b>07 NCAC 04R .0705</b>	<b>APPLICATION FOR</b>
<b>ARCHAEOLOGICAL PERMITS</b>	
<b>07 NCAC 04R .0706</b>	<b>QUALIFICATIONS FOR</b>
<b>PERMITS</b>	
<b>07 NCAC 04R .0707</b>	<b>ISSUANCE OF PERMITS</b>
<b>07 NCAC 04R .0708</b>	<b>TIME LIMITS OF PERMITS</b>
<b>07 NCAC 04R .0709</b>	<b>TERMS AND CONDITIONS OF</b>
<b>PERMITS</b>	
<b>07 NCAC 04R .0710</b>	<b>PERMIT DENIAL: SUSPENSION</b>
<b>AND REVOCATION</b>	
<b>07 NCAC 04R .0711</b>	<b>APPEALS RELATING TO</b>
<b>PERMITS</b>	
<b>07 NCAC 04R .0712</b>	<b>REPORTING REQUIREMENTS</b>
<b>FOR SPECIFIC PERMITS</b>	
<b>07 NCAC 04R .0713</b>	<b>REPORTING REQUIREMENTS</b>
<b>FOR GENERAL PERMITS</b>	
<b>07 NCAC 04R .0714</b>	<b>REPORT REVIEW FOR</b>
<b>SPECIFIC PERMITS</b>	
<b>07 NCAC 04R .0715</b>	<b>REPORT REVIEW FOR</b>
<b>GENERAL PERMITS</b>	
<b>07 NCAC 04R .0716</b>	<b>CUSTODY OF RESOURCES</b>
<b>UNDER THE TERMS OF A SPECIFIC PERMIT</b>	
<b>07 NCAC 04R .0717</b>	<b>CUSTODY/ARCHAEOLOGICAL</b>
<b>RESOURCES UNDER/TERMS: GENERAL PERMIT</b>	
<b>07 NCAC 04R .0718</b>	<b>CONFIDENTIALITY</b>

---

**TITLE 15A - DEPARTMENT OF ENVIRONMENTAL  
QUALITY****15A NCAC 10F .0308 CLAY COUNTY**

(a) Regulated Areas. It is unlawful to operate any motorboat or vessel at greater than no-wake speed in the following areas on Chatuge Lake:

- (1) within 50 yards of the boat ramp at Ho Hum Campground;
- (2) the waters of Shooting Creek, from a line shore to shore 50 yards west of the High Bridge on NC Highway 175, to a line at the southeast end of Shooting Creek shore to shore, from a point at 35.01960 N, 83.72752 W; to a point at 35.01979 N, 83.72638 W;
- (3) within 50 yards of the Gibson Cove access area;
- (4) within 50 yards of the Chatuge Cove Marina;
- (5) that portion of the cove shore to shore, west of Cottage Court off of NC Highway 175, northeast of a line from a point on the east shore at 35.02576 N, 83.73784 W; to a point on the northwest shore at 35.02609 N, 83.73945 W;
- (6) within 50 yards of the Chatuge Dam Spillway access area; and
- (7) the waters of McCracken Cove.

(b) Restricted Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked public swimming area established with the approval of the Executive Director, or his representative, on the regulated area.

(c) Placement and Maintenance of Markers. The Board of Commissioners of Clay County is designated a suitable agency for placement of the markers implementing this Rule, subject to the approval of the Tennessee Valley Authority and the United States Army Corps of Engineers.

*History Note: Authority G.S. 70-12; 70-13; 70-14; 70-15(a); 70-18; 150B-23 through 150B-37;*

*Eff. February 1, 1985;*

*Amended Eff. June 1, 1989;*

*History Note:* Authority G.S. 75A-3; 75A-15;  
*Eff. February 1, 1976;*  
*Amended Eff. June 1, 2005; July 1, 1998; February 1, 1990; July 1, 1986; March 25, 1978;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;*  
*Amended Eff. June 1, 2017.*

**15A NCAC 10F .0321 PENDER COUNTY**

(a) Regulated Areas. This Rule applies to the following waters in Pender County:

- (1) the canal adjoining Old Point Development;
- (2) the First Finger Canal in New Topsail Beach;
- (3) in the Town of Topsail Beach, those waters on the eastern side of Banks Channel within 100 yards of the shoreline beginning 155 yards west of Bush's Marina, and extending northeast ending 75 yards from the shoreline perpendicular to Haywood Avenue;
- (4) those waters of the Northeast Cape Fear River between the U.S. Highway 117 bridge and the railroad trestle 60 yards east of the Castle Hayne Boating Access Area; and
- (5) in the Town of Surf City, the waters of the channel in Topsail Sound known as Deep Creek, from its mouth at a point at 34.43199 N, 77.54795 W to its end west of Goldsboro Avenue.

(b) Speed Limit. No person shall operate any motorboat or vessel at greater than no-wake speed within the regulated areas described in Paragraph (a) of this Rule.

(c) Placement of Markers. The Board of Commissioners of Pender County with respect to the regulated areas designated in Subparagraphs (1), (2) and (4) of Paragraph (a) of this Rule, the Board of Commissioners of the Town of Topsail Beach, with respect to the regulated area designated in Subparagraph (3) of Paragraph (a) of this Rule, and the Board of Commissioners of the Town of Surf City, with respect to the regulated area designated in Subparagraph (5) of Paragraph (a) of this Rule are designated as suitable agencies for placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

*History Note:* Authority G.S. 75A-3; 75A-15;  
*Eff. May 1, 1976;*  
*Amended Eff. July 1, 1993; December 1, 1991; May 1, 1989; October 1, 1985;*  
*Temporary Amendment Eff. April 1, 1999;*  
*Amended Eff. June 1, 2017; July 1, 2000.*

**15A NCAC 10F .0355 PERQUIMANS COUNTY**

(a) Regulated Areas. This Rule applies to the following waters:

- (1) Perquimans River:
  - (A) The canals of Holiday Island subdivision; and
  - (B) Town of Hertford: that part of the Perquimans River beginning 75 yards northeast of the Perquimans River

Bridge (Hertford S-shaped Bridge) parallel to the bridge, shore to shore, and ending approximately 550 yards southwest, at a line from a point on the north shore 36.19300 N, 76.46962 W to a point on the south shore 36.19150 N, 76.47099 W.

(2) Yeopim River:

- (A) The canal entrance between Navaho Trail and Cherokee Trail;
- (B) The canal entrance between Cherokee Trail and Ashe Street;
- (C) The boat ramp at Ashe and Pine Street;
- (D) The canal entrance between Pine Street and Linden Street;
- (E) The canal entrance and boat ramp between Willow Street and Evergreen Drive;
- (F) The canal entrance between Sago Street and Alder Street;
- (G) The swimming area at the Snug Harbor Park and Beach; and
- (H) Bethel Creek north of a line from a point on the west shore at 36.09552N, 76.47958W to a point on the east shore at 36.095517N, 76.47735W to a line from a point on the west shore at 36.10532N, 76.48080W to a point on the east shore at 36.10516N, 76.48047W.

(3) Yeopim Creek:

- (A) The canal entrance between Mohave Trail and Iowa Trail;
- (B) The canal entrance between Iowa Trail and Shawnee Trail;
- (C) The area within 75 yards of the Albemarle Plantation Marina Piers;
- (D) The area of Beaver Cove as delineated by appropriate markers; and
- (E) The waters of Yeopim Creek adjacent to Heritage Shores North, shore to shore, east of a line from a point on the north shore at 36.11356 N, 76.43138 W to a point on the south shore at 36.11288 N, 76.43173 W, to a line northwest from a point on the east shore at 36.11219 N, 76.42445 W to a point on the west shore at 36.11178 N, 76.42596 W.

(4) Little River: The entrance to the cove known as "Muddy Gut Canal," which extends from the waters known as "Deep Creek."

(b) Speed Limit. No person shall operate any motorboat or vessel at greater than no-wake speed within the regulated area described in Paragraph (a) of this Rule.

(c) Placement of Markers. The Board of Commissioners of Perquimans County is designated a suitable agency for placement of markers implementing this Rule, subject to the approval of the

United States Coast Guard and the United States Army Corps of Engineers.

*History Note:* Authority G.S. 75A-3; 75A-15;  
*Eff. November 1, 1988;*  
*Amended Eff. October 1, 1992;*  
*Temporary Amendment Eff. October 1, 1997;*  
*Amended Eff. July 1, 1998;*  
*Temporary Amendment Eff. February 4, 2000;*  
*Amended Eff. January 1, 2015; September 1, 2013; May 1, 2006;*  
*June 1, 2005; July 1, 2000;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without*  
*substantive public interest Eff. December 6, 2016;*  
*Amended Eff. June 1, 2017.*

## **TITLE 17 - DEPARTMENT OF REVENUE**

### **17 NCAC 01C .0308 WARRANT FOR TAX COLLECTION**

*History Note:* Authority G.S. 105-242; 105-262;  
*Eff. February 1, 1976;*  
*Amended Eff. January 1, 1994;*  
*Repealed Eff. July 1, 2017.*

### **17 NCAC 01C .0502 METHOD OF PAYMENT**

- (a) Methods. -- Tax payments, including penalty and interest, shall be made by cash, warrant, uncertified check, certified check, money order, or another instrument freely negotiable at par through the Federal Reserve System. The Department shall notify the taxpayer at least 30 calendar days in advance if a specific method is to be required.
- (b) U.S. Institutions and Currency. -- Checks, money orders, or other instruments shall be drawn on U.S. financial institutions in U.S. dollars and cents.
- (c) Certified Funds. -- Checks that have been returned to the Department due to insufficient funds in a taxpayer's account at a financial institution or the nonexistence of a taxpayer's account at a financial institution shall be repaid to the Department with certified funds when the penalty required by G.S. 105-236(1) applies. A certified funds payment is a form of payment that is guaranteed by the financial institution certifying the funds.

*History Note:* Authority G.S. 105-241; 105-236(1); 105 262;  
*Eff. October 1, 1993;*  
*Amended Eff. July 1, 2000;*  
*Readopted Eff. July 1, 2017.*

### **17 NCAC 01C .0503 EFT DEFINITIONS**

The terms and phrases used in this Section shall have the meanings prescribed in this Rule, unless a different meaning is indicated by the context in which the term or phrase is used.

- (1) "ACH" or "Automated Clearing House" means a central distribution and settlement network for the electronic clearing of debits and credits between financial institutions rather than the physical movement of paper items.

- (2) "ACH Credit" means an electronic payment where the electronic transfer of funds is initiated by a taxpayer and is cleared through the ACH for credit to the North Carolina Department of Revenue.
- (3) "ACH Debit" means an electronic payment where the electronic transfer of funds from the taxpayer's account at a financial institution is initiated either through the Data Collection Center or online (bank draft) upon the taxpayer's instruction and is cleared through the ACH for deposit to the North Carolina Department of Revenue.
- (4) "ACH Trace Number" means a unique number assigned to an electronic payment transaction by the financial institution originating the transaction.
- (5) "Addenda Record" means the tax information and electronic format required by the Department in accordance with the rules in this Section in an ACH Credit transfer.
- (6) "Call-in Day" means the day on which a taxpayer communicates information to the Data Collection Center to initiate an ACH Debit transaction.
- (7) "CCD+" or "Cash Concentration or Disbursement Plus Addenda" means an ACH transaction format that includes one 80-character addenda record.
- (8) "CB\$" or "Core Banking System" means the Department of State Treasurer's online banking system for state agencies and institutions within the University of North Carolina system for transferring funds electronically.
- (9) "Data Collection Center" or "DCC" means the third party vendor, who, under contract with the Department, collects and processes EFT payment information from taxpayers and initiates ACH Debit transactions.
- (10) "Department" means the North Carolina Department of Revenue.
- (11) "Due Date" means the date on which a payment is required to be made by a taxpayer under a General Statute of the State of North Carolina.
- (12) "Electronic Funds Transfer" or "EFT" means any transfer of funds initiated through an electronic terminal, telephonic instrument, or computer (online) so as to order, instruct, or authorize a financial institution to debit or credit an account using the methods specified in the rules in this Section.
- (13) "Fiscal Year" means July 1 through June 30.
- (14) "Holiday" means a State Holiday or a Holiday recognized by the Federal Reserve.
- (15) "NACHA" means the National Automated Clearing House Association, the regulatory body for the ACH Network.
- (16) "Payment by Merchant Card" means an electronic funds transfer initiated by a card-

holder using a credit card or debit card accepted by the Department.

- (17) "Payment Information" means the data that the Department requires of a taxpayer making an EFT payment and that must be communicated to the Data Collection Center or be provided in the TXP Banking Convention addenda record of an ACH Credit Transaction.
- (18) "Reference Number" means the verification number provided by the Data Collection Center upon receipt of all payment information from the taxpayer that uniquely identifies the completed communication of payment information.
- (19) "Settle" means a deposit of good funds into the State's bank account. Good funds are funds collected in the State's bank account that are usable immediately by the State.
- (20) "Settlement Day or Date" means the day an EFT transaction settles.
- (21) "Taxpayer" means any taxpayer required to remit an amount by electronic funds transfer. For the purpose of the rules in this Section, "taxpayer" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit and includes any political subdivision, municipality, bureau, state agency, or institution within the University of North Carolina system. The term "taxpayer" does not include local school boards or community colleges.
- (22) "Tax Type" means a tax that is subject to EFT, each of which shall be considered a separate category of payment.
- (23) "Treasurer" or "State Treasurer" means the Treasurer of the State of North Carolina.
- (24) "TXP Format" means the CCD+ Addenda record format to be used in ACH Credit transactions approved by Banker's EDI Council of the National Automated Clearing House Association and the Federation of Tax Administrators. This format is required by the Department when a taxpayer selects the ACH Credit payment method.

*History Note: Authority G.S. 105-241; 105-262; Eff. October 1, 1993; Amended Eff. June 1, 2007; November 1, 1994; Readopted Eff. July 1, 2017.*

**17 NCAC 01C .0504 WHEN PAYMENT BY EFT IS REQUIRED**

*History Note: Authority G.S. 105-163.40; 105-242; 105-262; Eff. October 1, 1993; Amended Eff. May 1, 1995; March 1, 1995; November 1, 1994; Temporary Amendment Eff. December 20, 1995;*

*Amended Eff. July 1, 2000; April 1, 1997; October 1, 1996; Repealed Eff. July 1, 2017.*

**17 NCAC 01C .0505 EFT IDENTIFICATION AND NOTIFICATION PROCEDURES**

- (a) The Department shall review annually the payment histories of taxpayers for a 12 consecutive month period, on a tax type by tax type basis, to determine if the taxpayer shall be required to make EFT payments. A taxpayer shall be required to make EFT payments if the taxpayer's annual required payments of a tax for a 12 consecutive month period were at least two hundred and forty thousand dollars (\$240,000).
- (b) Taxpayers required to make EFT payments in accordance with Paragraph (a) of this Rule, shall be notified by the Department 60 calendar days prior to the first day of the month in which the first EFT payment is due.
- (c) The Department shall notify a taxpayer no longer required to make EFT payments 30 calendar days prior to the due date of the first non-EFT payment. A taxpayer shall no longer be required to make EFT payments if the taxpayer's annual required payments of a tax for a 12 consecutive month period were less than two hundred and forty thousand dollars (\$240,000).
- (d) The Department shall not notify a taxpayer whose requirement to make EFT payments has not changed.

*History Note: Authority G.S. 105-241; 105-262; Eff. October 1, 1993; Amended Eff. May 1, 1995; Readopted Eff. July 1, 2017.*

**17 NCAC 01C .0507 ENROLLMENT FOR ACH CREDIT AND ACH DEBIT**

(a) To enroll in ACH Credit or ACH Debit through the Data Collection Center taxpayers shall first enroll with the Department. Taxpayers shall complete and return Payment Method Authorization Agreement Form EFT-100D to enroll with the Department for ACH Debit. Taxpayers shall complete and return Payment Method Authorization Agreement Form EFT-100C to enroll with the Department for ACH Credit. The information required to be provided with the Payment Method Authorization Agreement Forms EFT-100D and EFT-100C includes the following:

- (1) Taxpayer name;
- (2) Taxpayer address;
- (3) Federal employer identification number (FEIN);
- (4) Tax type;
- (5) Account number;
- (6) Contact person (title, address, telephone number, and fax number);
- (7) Bank name;
- (8) Bank address;
- (9) Bank transit/routing number;
- (10) Bank account number;
- (11) Input method; and
- (12) Signature of person authorized to sign checks.

The Payment Method Authorization Agreement Forms EFT-100D and EFT-100C are located on the Department's website at [www.dornnc.gov](http://www.dornnc.gov).

(b) For taxpayers enrolled in the ACH Debit method of payment, the Department shall provide the enrollment information from the Payment Method Authorization Agreement Form EFT-100D to the Data Collection Center.

(c) The Data Collection Center and its employees shall be bound by the same confidentiality requirements as the Department pursuant to G.S. 105-259.

(d) The Department shall provide information regarding the State's depository financial institution to a taxpayer who is enrolled in the ACH Credit method of payment.

(e) A taxpayer shall notify the Department of any change of information required on the Payment Method Authorization Agreement Forms EFT-100C and EFT-100D within 30 calendar days of the change.

*History Note:* Authority G.S. 105-241; 105-259; 105-262;  
*Eff. October 1, 1993;*  
*Amended Eff. November 1, 1994;*  
*Readopted Eff. July 1, 2017.*

**17 NCAC 01C .0508 METHODS OF ELECTRONIC FUNDS TRANSFER**

*History Note:* Authority G.S. 105-241; 105-262;  
*Eff. October 1, 1993;*  
*Amended Eff. July 1, 2007;*  
*Repealed Eff. July 1, 2017.*

**17 NCAC 01C .0509 EFT PAYMENT PROCEDURES**

*History Note:* Authority G.S. 105-236; 105-241; 105-262;  
*Eff. October 1, 1993;*  
*Amended Eff. July 1, 2000; November 1, 1994;*  
*Repealed Eff. July 1, 2017.*

**17 NCAC 01C .0510 EFT PAYMENT PROCEDURES - ACH DEBIT METHOD**

(a) The taxpayer shall initiate an ACH Debit payment by contacting the Data Collection Center and communicating the payment information contained in Subparagraphs (c)(1) through (c)(5) of this Rule. Communication of payment information with the Data Collection Center may be accomplished by the following methods:

- (1) Online batch payments accessible via the Department's ACH Debit Batch Payment System webpage at [www.govone.com/tpp/northcarolina/Account/Login](http://www.govone.com/tpp/northcarolina/Account/Login);
- (2) Touch-tone communication of payment information made by entering data via a touch-tone phone; or
- (3) Voice communication via telephone to a Data Collection Center phone agent at 1-888-729-6282.

(b) The taxpayer shall report payment information to the Data Collection Center no later than 3:45 p.m., Eastern Standard Time, on the call-in day. The Department shall bear the cost of processing EFT payments by the ACH Debit method through the Data Collection Center.

(c) The following payment information is required:

- (1) Taxpayer identification number;
- (2) Tax type;
- (3) Tax period end date;
- (4) Payment type (Tax, Penalty, and Interest); and
- (5) Payment amount.

(d) Upon receipt of the information from the taxpayer, the Data Collection Center shall provide the taxpayer with a reference number. The reference number provides a means of verifying the accuracy of the recorded tax payment and serves as a receipt and audit trail for the transaction.

(e) In the event a taxpayer using the ACH Debit method communicates payment information to the Data Collection Center after 3:45 p.m., Eastern Standard Time, on the business day before the due date, the payment shall be posted to the taxpayer's account on the next business day following the due date and shall constitute a late payment.

*History Note:* Authority G.S. 105-241; 105-262;  
*Eff. October 1, 1993;*  
*Readopted Eff. July 1, 2017.*

**17 NCAC 01C .0511 EFT PAYMENT PROCEDURES - ACH CREDIT METHOD**

(a) To enroll in the ACH Credit method taxpayers shall contact their financial institution to determine if the service is offered and make the necessary arrangements to transfer payments to the Department on or before the due date for a tax. The taxpayer shall bear the cost of an ACH Credit transaction.

(b) An ACH Credit payment shall be credited to the Department's account in its financial institution on or before the applicable due date for a tax. An ACH Credit payment credited to the Department's account in its financial institution after the applicable due date for a tax shall constitute a late payment.

(c) All ACH Credit transactions shall utilize the NACHA CCD+ entry with a TXP Banking Convention addenda record. The TXP Banking Convention addenda record must include the following:

- (1) Taxpayer's identification number;
- (2) Tax type code;
- (3) Tax period end date;
- (4) Payment type (Tax, Penalty and Interest); and
- (5) Amount of payment.

(d) The taxpayer shall provide the financial institution originating the ACH Credit transaction with the information contained in Subparagraphs (c)(1) through (c)(5) of this Rule in order for the financial institution to complete the NACHA CCD+ entry with the TXP Banking Convention addenda record.

(e) The Department shall revoke the right of a taxpayer to use the ACH Credit method of payment if the taxpayer:

- (1) Fails to transmit payments in the TPX Format as required by this Rule three or more times in a 12 consecutive month period;
- (2) Fails to make ACH Credit payments on or before the due date for a tax three or more times in a 12 consecutive month period; or
- (3) Fails to provide the correct addenda record data required by this Rule three or more times in a 12 consecutive month period.



*History Note:* Authority G.S. 105-241; 105-262;  
Eff. October 1, 1993;  
Readopted Eff. July 1, 2017.

**17 NCAC 01C .0601 APPROVAL REQUIRED FOR  
SUBSTITUTE FORMS**

(a) Any person who reproduces a form of the Department for use by a taxpayer shall complete and return the Tax Software Provider Registration Form to enroll with the Department. The information required to be provided with the Software Provider Registration Form includes the following:

- (1) Company name;
- (2) Product name;
- (3) National Association of Computerized Tax Processors (NACTP) member number;
- (4) Company mailing address;
- (5) Company website address/URL;
- (6) Company federal employer identification number (FEIN);
- (7) Primary individual tax forms contact phone;
- (8) Primary individual tax forms contact email;
- (9) Primary business tax forms contact phone;
- (10) Primary business tax forms contact email;
- (11) Type of software product;
- (12) Tax types supported; and
- (13) Tax forms and schedules supported.

The Software Provider Registration Form is located on the Department's website at [www.dornc.com](http://www.dornc.com).

(b) Upon receipt of a completed Software Provider Registration Form, the Department's Forms Coordinator will provide a person with a state substitute form vendor number and credentials to access the Software Developers Information site on the Department's website at [www.dornc.com](http://www.dornc.com). The required grid layout and technical specifications for each form are available on the Software Developers Information site on the Department's website.

(c) Any person who reproduces a form of the Department for use by a taxpayer shall submit a draft of the substitute form to the Department each year for approval. The draft substitute form shall be submitted in portable document format (PDF) to [SDFormsUpdate@dornc.gov](mailto:SDFormsUpdate@dornc.gov).

(d) Upon receipt of the draft substitute form, the Department's Forms Coordinator will review the draft substitute form to verify the draft substitute form complies with the grid layout and technical specifications for that form. If the draft substitute form complies with the grid layout and technical specifications for that form, the Department's Forms Coordinator shall send a letter approving the substitute form for use by taxpayers. If the draft substitute form fails to comply with the required grid layout or technical specification for that form, the Department's Form Coordinator will return the draft substitute form for correction and resubmission to the Department's Forms Coordinator.

(e) A substitute form shall not be made available to the taxpayer until the substitute form is approved in accordance with Paragraph (d) of this Rule.

*History Note:* Authority G.S. 105-241; 105-262;  
Eff. April 1, 1999;  
Amended Eff. July 1, 2000;

Readopted Eff. July 1, 2017.

---

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

**CHAPTER 16 – BOARD OF DENTAL EXAMINERS**

**21 NCAC 16Q .0101 GENERAL ANESTHESIA AND  
SEDATION DEFINITIONS**

For the purpose of these Rules relative to the administration of minimal conscious sedation, moderate conscious sedation, moderate pediatric conscious sedation, or general anesthesia by or under the direction of a dentist, the following definitions shall apply:

- (1) "Analgesia" – the diminution or elimination of pain.
- (2) "Anti-anxiety sedative" – a sedative agent administered in a dosage intended to reduce anxiety without diminishing consciousness or protective reflexes.
- (3) "Anxiolysis" – pharmacological reduction of anxiety through the administration of a single dose of a minor psychosedative, possibly in combination with nitrous oxide, to children or adults prior to commencement of treatment on the day of the appointment that allows for uninterrupted interactive ability in an awake patient with no compromise in the ability to maintain a patent airway independently and continuously. Nitrous oxide may be administered in addition to the minor psychosedative without constituting multiple dosing for purpose of these Rules.
- (4) "ACLS" – Advanced Cardiac Life Support.
- (5) "Administer" – to direct, manage, supervise, control, and have charge of all aspects of selection, dosage, timing, and method of delivery to the patient of any pharmacologic agent intended to reduce anxiety or depress consciousness.
- (6) "ASA" – American Society of Anesthesiologists.
- (7) "Auxiliaries" – non-dentist staff members involved in general anesthesia or sedation procedures.
- (8) "BLS" – Basic Life Support.
- (9) "Behavior control" – the use of pharmacological techniques to control behavior to a level that dental treatment may be performed without injury to the patient or dentist.
- (10) "Behavioral management" – the use of pharmacological or psychological techniques, singly or in combination, to modify behavior to a level that dental treatment may be performed without injury to the patient or dentist.

- |   |  |
|---|--|
| <p>(11) "Competent" – displaying special skill or knowledge derived from training and experience.</p> <p>(12) "Conscious sedation" - an induced state of a depressed level of consciousness that retains the patient's ability to maintain an airway without assistance and respond to physical stimulation and verbal commands, and that is produced by pharmacologic or non-pharmacologic agents, or a combination thereof. All dentists who perform conscious sedation shall have an unexpired sedation permit from the Dental Board.</p> <p>(13) "CRNA" – Certified Registered Nurse Anesthetist.</p> <p>(14) "Deep sedation" – an induced state of a depressed level of consciousness accompanied by partial loss of protective reflexes, including the ability to maintain an airway without assistance or respond to verbal command, produced by pharmacological agents. All dentists who perform deep sedation shall have an unexpired general anesthesia permit from the Dental Board.</p> <p>(15) "Deliver" – to assist a permitted dentist in administering sedation or anesthesia drugs by providing the drugs to the patient pursuant to a direct order from the dentist and while under the dentist's direct supervision.</p> <p>(16) "Direct supervision" – the dentist responsible for the sedation or anesthesia procedure shall be immediately available and shall be aware of the patient's physical status and well being at all times.</p> <p>(17) "Emergencies manual" – a written manual that documents:</p> <ul style="list-style-type: none"> <li>(a) the location of all emergency equipment and medications in each facility;</li> <li>(b) each staff member's role during medical emergencies; and</li> <li>(c) the appropriate treatment for laryngospasm, bronchospasm, emesis and aspiration, respiratory depression and arrest, angina pectoris, myocardial infarction, hypertension, hypotension, allergic reactions, convulsions, syncope, bradycardia, hypoglycemia, cardiac arrest, and airway obstruction.</li> </ul> <p>(18) "Enteral" - the administration of pharmacological agents orally, intranasally, sublingually, or rectally.</p> <p>(19) "ET CO2" —end tidal carbon dioxide.</p> <p>(20) "Facility" – the location where a permit holder practices dentistry and provides anesthesia or sedation services.</p> <p>(21) "Facility inspection" – an on-site inspection to determine if a facility where the applicant proposes to provide anesthesia or sedation is</p> | <p>supplied, equipped, staffed, and maintained in a condition to support provision of anesthesia or sedation services in compliance with the Dental Practice Act set forth in Article 2 of G.S. 90 and the Board's rules of this Chapter.</p> <p>(22) "General anesthesia" - the intended controlled state of a depressed level of consciousness that is produced by pharmacologic agents and accompanied by a partial or complete loss of protective reflexes, including the ability to maintain an airway and respond to physical stimulation and verbal commands. All dentists who perform general anesthesia shall have an unexpired general anesthesia permit from the Dental Board.</p> <p>(23) "Good standing" – a licensee whose license is not suspended or revoked and who is not subject to a current disciplinary order imposing probationary terms.</p> <p>(24) "Immediately available" – on-site in the facility and available for use without delay.</p> <p>(25) "Itinerant general anesthesia provider"- a permittee who has complied with Rule .0206 of this Subchapter and who administers general anesthesia at another practitioner's facility.</p> <p>(26) "Local anesthesia" – the elimination of sensations, including pain, in one part of the body by the regional application or injection of a drug.</p> <p>(27) "Minimal conscious sedation" – conscious sedation characterized by a minimally depressed level of consciousness, in which the patient retains the ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command, provided to patients 13 years or older, by oral or rectal routes of administration of a single pharmacological agent, in one or more doses, not to exceed the manufacturer's maximum recommended dose, at the time of treatment, possibly in combination with nitrous oxide. Minimal conscious sedation may be provided for behavioral management.</p> <p>(28) "Minor psychosedative/Minor tranquilizer" – pharmacological agents that allow for uninterrupted interactive ability in a patient with no compromise in the ability to maintain a patent airway continuously and without assistance and carry a margin of safety wide enough to render unintended loss of consciousness unlikely.</p> <p>(29) "Moderate conscious sedation" – conscious sedation characterized by a drug induced depression of consciousness, during which patients respond to verbal commands, either alone or accompanied by light tactile stimulation, provided to patients 13 years of age or older, by oral, nasal, rectal, or parenteral routes of administration of single or multiple</p> |
|---|--|

- pharmacological agents, in single or multiple doses, within a 24 hour period, including the time of treatment, possibly in combination with nitrous oxide. Moderate conscious sedation may be provided for behavior control by licensed dentists who comply with the terms of Rule .0301 of this Subchapter. A moderate conscious sedation provider shall not use the following:
- (a) drugs designed by the manufacturer for use in administering general anesthesia or deep sedation; or
  - (b) drugs contraindicated for use in moderate conscious sedation.
- (30) "Moderate pediatric conscious sedation" - conscious sedation characterized by a drug induced depression of consciousness, during which patients respond to verbal commands, either alone or accompanied by light tactile stimulation, provided to patients up to 18 years of age, or special needs patients, by oral, nasal, rectal, or parenteral routes of administration of single or multiple pharmacological agents, in single or multiple doses, within a 24 hour period, including the time of treatment, possibly in combination with nitrous oxide. Moderate pediatric conscious sedation may be provided for behavior control by licensed dentists who comply with the terms of Rule .0404 of this Subchapter. A moderate pediatric conscious sedation permit holder shall not use the following:
- (a) drugs designed by the manufacturer for use in administering general anesthesia or deep sedation; or
  - (b) drugs contraindicated for use in moderate pediatric conscious sedation.
- (31) "Parenteral" - the administration of pharmacological agents intravenously, intraosseously, intramuscularly, subcutaneously, submucosally, intranasally, or transdermally.
- (32) "PALS" – Pediatric Advanced Life Support.
- (33) "Protective reflexes" – includes the ability to swallow and cough.
- (34) "RN" – Registered Nurse licensed by the North Carolina Board of Nursing.
- (35) "Sedation Procedure" – process begins when any pharmacological agent is first administered to a patient to induce general anesthesia or sedation and continues until the dentist permit holder determines that the patient has met the recovery and discharge criteria set forth in the applicable rules in this Subchapter.
- (36) "Special needs patients" – patients with diminished mental and or physical capacity who are unable to cooperate to receive ambulatory dental care without sedation or anesthesia.
- (37) "Supplemental dosing" – the oral administration of a pharmacological agent that results in an enhanced level of conscious sedation when added to the primary sedative agent administered for the purpose of oral moderate conscious sedation, and when added to the primary agent, does not exceed the maximum safe dose of either agent, separately or synergistically.
- (38) "Vested adult" – a responsible adult who is the legal parent or guardian, or designee of a legal parent or guardian, entrusted with the care of a patient following the administration of general anesthesia or conscious sedation.

*History Note: Authority G.S. 90-30.1; 90-48; Eff. February 1, 1990; Temporary Amendment Eff. December 11, 2002; Amended Eff. June 1, 2017; July 3, 2008; August 1, 2004.*

## **21 NCAC 16Q .0201 GENERAL ANESTHESIA CREDENTIALS AND PERMIT**

(a) Before a dentist licensed to practice in North Carolina may administer or supervise a CRNA to administer general anesthesia or perform deep sedation, the dentist shall obtain a general anesthesia permit from the Board by completing the application requirements of this Rule and paying a four hundred seventy-five dollar (\$475.00) fee that includes the one-hundred dollar (\$100.00) application fee and the three-hundred seventy-five dollar (\$375.00) inspection fee. The permit shall be renewed annually and shall be displayed with the current renewal at all times in the permit holder's facility where it is visible to patients receiving treatment.

(b) A dentist applying for a general anesthesia permit shall be in good standing with the Board, has an unexpired ACLS certification, and demonstrates that he or she has one of the following qualifications:

- (1) has completed a minimum of two years of advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level;
- (2) has graduated from a program certified by the American Dental Association in Oral and Maxillofacial Surgery;
- (3) is a Diplomate of or eligible for examination by the American Board of Oral and Maxillofacial Surgery; or
- (4) is a Fellow of the American Dental Society of Anesthesiology.

(c) Before receiving a general anesthesia permit, all applicants shall pass an evaluation and inspection as set out in Rule .0202 of this Section. Every location other than a hospital or credentialed surgery center where a general anesthesia permit holder administers general anesthesia shall pass an inspection as set out in Rule .0204 of this Section.

(d) A dentist who holds a general anesthesia permit may administer any level of sedation without obtaining a separate sedation permit.

(e) A dentist who does not hold a general anesthesia permit may not employ a CRNA to administer general anesthesia services. A dentist who holds a general anesthesia permit may employ a CRNA to administer general anesthesia services under supervision of the dentist.

(f) A general anesthesia permit holder may provide general anesthesia at the office of another licensed dentist, regardless of the permit, if any held, by the hosting dentist. The permit holder shall ensure that the facility where the general anesthesia is administered has been inspected and complies with the requirements set out in Rule .0202 of this Section and shall obtain an itinerant general anesthesia permit and comply with the requirements of Rule .0206 of this Section.

*History Note: Authority G.S. 90-28; 90-30.1; 90-39;*

*Eff. February 1, 1990;*

*Amended Eff. April 1, 2001; August 1, 2000;*

*Temporary Amendment Eff. December 11, 2002;*

*Amended Eff. June 1, 2017; February 5, 2008.*

## **21 NCAC 16Q .0202 GENERAL ANESTHESIA EQUIPMENT AND CLINICAL REQUIREMENTS**

(a) A dentist administering general anesthesia shall be responsible to ensure that the facility where the general anesthesia is administered meets the following requirements:

- (1) The facility shall be equipped with the following:
  - (A) an operatory of size and design to permit access of emergency equipment and personnel and to permit emergency management;
  - (B) a CPR board or dental chair without enhancements, suitable for providing emergency treatment;
  - (C) lighting as necessary for specific procedures and back-up lighting; and
  - (D) suction equipment as necessary for specific procedures, including non-electrical back-up suction;
  - (E) positive pressure oxygen delivery system, including full face masks for small, medium, and large patients, and back-up E-cylinder portable oxygen tank apart from the central system;
  - (F) small, medium, and large oral and nasal airways;
  - (G) blood pressure monitoring device;
  - (H) EKG monitor; electrocardiograph;
  - (I) pulse oximeter;
  - (J) defibrillator;
  - (K) precordial stethoscope or capnograph;
  - (L) thermometer;
  - (M) vascular access as necessary for specific procedures, including hardware and fluids;
  - (N) laryngoscope with working batteries;

- (O) intubation forceps and advanced airway devices;
- (P) tonsillar suction with back-up suction;
- (Q) syringes as necessary for specific procedures; and
- (R) tourniquet and tape.

(2) The following unexpired drugs shall be maintained in the facility and with access from the operatory and recovery rooms:

- (A) Epinephrine;
- (B) Atropine;
- (C) antiarrhythmic;
- (D) antihistamine;
- (E) antihypertensive;
- (F) bronchodilator;
- (G) antihypoglycemic agent;
- (H) vasopressor;
- (I) corticosteroid;
- (J) anticonvulsant;
- (K) muscle relaxant;
- (L) appropriate reversal agents;
- (M) nitroglycerine; and
- (N) antiemetic.

(3) The permit holder shall maintain written emergency and patient discharge protocols and training to familiarize auxiliaries in the treatment of clinical emergencies shall be provided;

(4) The permit holder shall maintain the following records for 10 years:

- (A) Patient's current written medical history, including a record of known allergies and previous surgeries;
- (B) Consent to general anesthesia, signed by the patient or guardian, identifying the risks and benefits, level of anesthesia, and date signed;
- (C) Consent to the procedure, signed by the patient or guardian identifying the risks, benefits, and date signed; and
- (D) Patient base line vital signs, including temperature, SPO2, blood pressure, and pulse;

(5) The anesthesia record shall include:

- (A) base line vital signs, blood pressure (unless patient behavior prevents recording), oxygen saturation, ET CO2 if capnography is utilized, pulse and respiration rates of the patient recorded in real time at 15 minute intervals;
- (B) procedure start and end times;
- (C) gauge of needle and location of IV on the patient, if used;
- (D) status of patient upon discharge; and
- (E) documentation of complications or morbidity; and

(6) The facility shall be staffed with at least two BLS certified auxiliaries, one of whom shall be

dedicated to patient monitoring and recording general anesthesia or sedation data throughout the sedation procedure. This Subparagraph shall not apply if the dentist permit holder is dedicated to patient care and monitoring regarding general anesthesia or sedation throughout the sedation procedure and is not performing the surgery or other dental procedure.

(b) During an inspection or evaluation, the applicant or permit holder shall demonstrate the administration of anesthesia while the evaluator observes, and shall demonstrate competency in the following areas:

- (1) monitoring of blood pressure, pulse, ET CO<sub>2</sub> if capnography is utilized, and respiration;
- (2) drug dosage and administration;
- (3) treatment of untoward reactions including respiratory or cardiac depression;
- (4) sterile technique;
- (5) use of BLS certified auxiliaries;
- (6) monitoring of patient during recovery; and
- (7) sufficiency of patient recovery time.

(c) During an inspection or evaluation, the applicant or permit holder shall verbally demonstrate competency in the treatment of the following clinical emergencies:

- (1) laryngospasm;
- (2) bronchospasm;
- (3) emesis and aspiration;
- (4) respiratory depression and arrest;
- (5) angina pectoris;
- (6) myocardial infarction;
- (7) hypertension and hypotension;
- (8) syncope;
- (9) allergic reactions;
- (10) convulsions;
- (11) bradycardia;
- (12) hypoglycemia;
- (13) cardiac arrest; and
- (14) airway obstruction.

(d) A general anesthesia permit holder shall evaluate a patient for health risks before starting any anesthesia procedure.

(e) Post-operative monitoring and discharge shall include the following:

- (1) vital signs shall be continuously monitored when the sedation is no longer being administered and the patient shall have direct continuous supervision until oxygenation and circulation are stable and the patient is recovered as defined by Subparagraph (e)(2) of this Rule and is ready for discharge from the office; and
- (2) recovery from general anesthesia shall include documentation of the following:
  - (A) cardiovascular function stable;
  - (B) airway patency uncompromised;
  - (C) patient arousable and protective reflexes intact;
  - (D) state of hydration within normal limits;

- (E) patient can talk, if applicable;
- (F) patient can sit unaided, if applicable;
- (G) patient can ambulate, if applicable, with minimal assistance; and
- (H) for the special needs patient or a patient incapable of the usually expected responses, the pre-sedation level of responsiveness or the level as close as possible for that patient shall be achieved; and

(3) before allowing the patient to leave the office, the dentist shall determine that the patient has met the recovery criteria set out in Subparagraph (e)(2) of this Rule and the following discharge criteria:

- (A) oxygenation, circulation, activity, skin color, and level of consciousness are sufficient, stable, and have been documented;
- (B) explanation and documentation of written postoperative instructions have been provided to the patient or a responsible adult at time of discharge; and
- (C) vested adult is available to transport the patient after discharge.

*History Note: Authority G.S. 90-28; 90-30.1; 90-48; Eff. February 1, 1990; Amended Eff. June 1, 2017; November 1, 2013; August 1, 2002; August 1, 2000.*

## **21 NCAC 16Q .0206 ITINERANT (MOBILE) GENERAL ANESTHESIA PERMIT, EQUIPMENT AND EVALUATION**

(a) A dentist who holds a general anesthesia permit from the Board and who wishes to provide general anesthesia or other sedation services in the office of another practitioner shall obtain a mobile general anesthesia permit from the Board by completing the application requirements of this Rule and paying a one hundred (\$100.00) application fee. No mobile permit shall be required to administer general anesthesia in a hospital or credentialed surgery center.

(b) Before a mobile general anesthesia permit may be issued, a general anesthesia permit holder appointed by the Board shall inspect the applicant's equipment and medications to ensure that they comply with Paragraphs (c) and (d) of this Rule.

(c) The permit holder shall maintain the following equipment:

- (1) positive pressure ventilation system and back-up E cylinder portable oxygen tank;
- (2) standard ASA monitors with back-up power;
- (3) EKG monitor;
- (4) precordial stethoscope or capnograph;
- (5) small, medium, and large oral airways and nasal trumpets;
- (6) small, medium, and large laryngoscope blades and back-up laryngoscope;
- (7) small, medium, and large nasal and oral endotracheal tubes;

- (8) Magill forceps;
- (9) small, medium, and large supraglottic airway devices;
- (10) back-up suction;
- (11) defibrillator with pediatric capability;
- (12) small, medium, and large anesthesia circuits;
- (13) back-up lighting;
- (14) gastric suction device;
- (15) endotracheal tube and pulmonary suction device;
- (16) equipment for performing emergency cricothyrotomies and delivering positive pressure ventilation;
- (17) back-up ventilation measurement;
- (18) rebreathing device;
- (19) scavenging system;
- (20) intermittent compression devices;
- (21) CPR board or dental chair without enhancements suitable for providing emergency treatment;
- (22) laryngoscope with working batteries; and
- (23) tourniquet and tape.

(d) The following unexpired medications shall be immediately available to the permit holder:

- (1) Epinephrine;
- (2) Atropine;
- (3) antiarrhythmic;
- (4) antihistamine;
- (5) antihypertensive;
- (6) bronchodilator;
- (7) antihypoglycemic agent;
- (8) vasopressor;
- (9) corticosteroid;
- (10) anticonvulsant;
- (11) muscle relaxant;
- (12) appropriate reversal agents;
- (13) nitroglycerine;
- (14) antiemetic;
- (15) neuromuscular blocking agent; and
- (16) anti-malignant hyperthermia agent.

(e) The evaluation and on-site inspection shall be conducted as set out in Rule .0204 of this Section.

(f) Before administering general anesthesia or sedation at another provider's office, the mobile permit holder shall inspect the host facility to ensure that:

- (1) the operatory's size and design permit emergency management and access of emergency equipment and personnel;
- (2) there is a CPR board or dental chair without enhancements suitable for providing emergency treatment;
- (3) there is lighting to permit performance of all procedures planned for the facility;
- (4) there is suction equipment, including non-electrical back-up suction; and
- (5) the facility shall be staffed with at least two BLS certified auxiliaries, one of whom shall be dedicated to patient monitoring and recording general anesthesia or sedation data throughout

the sedation procedure. This Subparagraph shall not apply if the dentist permit holder is dedicated to patient care and monitoring regarding general anesthesia or sedation throughout the sedation procedure and is not performing the surgery or other dental procedure.

(g) At least 24 hours before the procedure is scheduled to begin, the mobile permit holder shall send written notice to the Board office confirming that the facility where the general anesthesia or sedation will be performed meets the requirements of Paragraph (f) of this Rule and documenting when the inspection was conducted. The permit holder shall retain a copy of the written notice for 10 years following the procedure. No procedure shall be performed until the report required by this Paragraph is filed.

(h) The mobile general anesthesia permit shall be displayed in the host facility where it is visible to patients receiving treatment.

(i) All applicants for mobile general anesthesia permit shall be in good standing with the Board.

*History Note: Authority G.S. 90-28; 90-30.1; 90-39; 90-48; Eff. June 1, 2017.*

#### **21 NCAC 16Q .0207 ANNUAL RENEWAL OF GENERAL ANESTHESIA AND ITINERANT (MOBILE) GENERAL ANESTHESIA PERMIT REQUIRED**

(a) General anesthesia permits shall be renewed by the Board annually at the same time as dental licenses by paying a one hundred dollar (\$100.00) fee and completing the application requirements of this Rule. . If the completed renewal application and renewal fee are not received before January 31 of each year, a one hundred dollar (\$100.00) late fee shall be paid.

(b) Itinerant general anesthesia permits shall be renewed by the Board annually at the same time as dental licenses by paying a one hundred dollar (\$100.00) fee and completing an application available from the Board's website: [www.ncdentalboard.org](http://www.ncdentalboard.org). If the completed itinerant general sedation permit and renewal fee are not received before January 31 of each year, a one hundred dollar (\$100.00) late fee shall be paid.

(c) Any dentist who fails to renew a general anesthesia permit or itinerant general anesthesia permit before March 31 of each year shall complete a reinstatement application, pay the renewal fee, late fee, and comply with all conditions for renewal set out in this Rule. Dentists whose anesthesia permits or itinerant general anesthesia permits have been lapsed for more than 12 calendar months shall pass an inspection and an evaluation as part of the reinstatement process.

(d) A dentist who administers general anesthesia in violation of this Rule shall be subject to the penalties prescribed by Rule .0701 of this Subchapter.

(e) As a condition for renewal of the general anesthesia and itinerant general anesthesia permit, the permit holder shall maintain the clinical equipment and requirements set out in Rules .0202 and .0206 of this Section and shall document the following:

- (1) six hours of continuing education each year in one or more of the following areas, which may be counted toward fulfillment of the continuing education required each calendar year for license renewal:

- (A) sedation;
- (B) medical emergencies;
- (C) monitoring IV sedation and the use of monitoring equipment;
- (D) pharmacology of drugs and agents used in general anesthesia and IV sedation;
- (E) physical evaluation, risk assessment, or behavioral management; or
- (F) airway management;
- (2) unexpired ACLS certification, which shall not count towards the six hours required in Subparagraph (e)(1) of this Rule;
- (3) that the permit holder and all auxiliaries involved in anesthesia or sedation procedures have practiced responding to dental emergencies as a team at least once every six months in the preceding year;
- (4) that the permit holder and all auxiliaries involved in anesthesia or sedation procedures have read the practice's emergency manual in the preceding year; and
- (5) that all auxiliaries involved in sedation procedures have completed BLS certification and three hours of continuing education annually in any of the areas set forth in Subparagraph (e)(1) of this Rule.

(f) All permit holders applying for renewal of a general anesthesia or itinerant general anesthesia permit shall be in good standing and their office shall be subject to inspection by the Board.

*History Note: Authority G.S. 90-28; 90-30.1; 90-31; 90-39(12); 90-48; Eff. June 1, 2017.*

**21 NCAC 16Q .0301 CREDENTIALS AND PERMITS FOR MODERATE PARENTERAL AND ENTERAL CONSCIOUS SEDATION**

(a) Before a dentist licensed to practice in North Carolina may administer or supervise a CRNA employed to administer or RN employed to deliver moderate conscious sedation, the dentist shall obtain a permit from the Board by completing the application requirements in this Rule and paying a fee of three hundred seventy five dollars (\$375.00) fee that includes the one-hundred dollar (\$100.00) application fee and the two-hundred seventy-five dollar (\$275.00) inspection fee. The permit shall be renewed annually and shall be displayed with the current renewal at all times in the facility of the permit holder where it is visible to patients receiving treatment.

(b) The permit holder shall provide supervision to any CRNA employed to administer or RN employed to deliver sedation, and shall ensure that the level and duration of the sedation does not exceed the permit holder's permit.

(c) A dentist applying for a permit to administer moderate conscious sedation shall document the following:

- (1) Training which may consist of either:
  - (A) Completion of 60 hours of Board approved didactic training in intravenous conscious sedation, and

30 hours of clinical training that shall include successful management of a minimum of 20 live patients, under supervision of the course instructor, using intravenous sedation. Training shall be provided by one or more individuals who meet the American Dental Association Guidelines for Teaching Pain Control and Sedation to Dentists that is hereby incorporated by reference, including subsequent amendments and editions. The guidelines may be found at [www.ada.org/coda](http://www.ada.org/coda); or

- (B) Completion of a pre-doctoral dental or postgraduate program that included intravenous conscious sedation training equivalent to that defined in Part (c)(1)(A) of this Rule;

(2) Unexpired ACLS certification; and

(3) That all auxiliaries involved in sedation procedures have unexpired BLS certification.

(d) All applicants for a moderate conscious sedation permit shall be in good standing with the Board.

(e) Prior to issuance of a moderate conscious sedation permit, the applicant shall pass an evaluation and a facility inspection. The applicant shall be responsible for passing the evaluation and inspection of his or her facility within 90 days of notification. An extension of no more than 90 days shall be granted if the designated evaluator or applicant requests one by contacting the Board in writing.

(f) A dentist who holds a moderate conscious sedation permit shall not intentionally administer deep sedation.

*History Note: Authority G.S. 90-30.1; 90-39; 90-48; Eff. February 1, 1990; Amended Eff. April 1, 2001; August 1, 2000; January 1, 1994; Temporary Amendment Eff. December 11, 2002; Amended Eff. June 1, 2017; July 1, 2010, July 3, 2008; August 1, 2004.*

**21 NCAC 16Q .0302 MODERATE PARENTERAL AND ENTERAL CONSCIOUS SEDATION CLINICAL REQUIREMENTS AND EQUIPMENT**

(a) A dentist administering moderate conscious sedation or supervising any CRNA employed to administer or RN employed to deliver moderate conscious sedation shall be responsible to ensure that the facility where the sedation is administered meets the following requirements:

- (1) The facility shall be equipped with the following:

- (A) an operatory of size and design to permit access of emergency equipment and personnel and to permit emergency management;

- (B) a CPR board or a dental chair without enhancements, suitable for providing emergency treatment;

- (C) lighting as necessary for specific procedures and back-up lighting; and
- (D) suction equipment as necessary for specific procedures, including non-electrical back-up suction;
- (E) positive oxygen delivery system, including full face masks for small, medium, and large patients and back-up E-cylinder portable oxygen tank apart from the central system;
- (F) small, medium, and large oral and nasal airways;
- (G) blood pressure monitoring device;
- (H) pulse oximeter;
- (I) automatic external defibrillator (AED);
- (J) EKG monitor;
- (K) precordial stethoscope or capnograph;
- (L) thermometer;
- (M) vascular access set-up as necessary for specific procedures, including hardware and fluids;
- (N) syringes as necessary for specific procedures;
- (O) tourniquet and tape;
- (P) advanced airway devices; and
- (Q) tonsillar suction with back-up suction.
- (2) The following unexpired drugs shall be maintained in the facility and with access from the operatory and recovery rooms:
  - (A) injectable epinephrine;
  - (B) injectable Atropine;
  - (C) injectable appropriate reversal agents;
  - (D) injectable antihistamine;
  - (E) injectable corticosteroid;
  - (F) nitroglycerine;
  - (G) bronchodilator;
  - (H) injectable antiemetic;
  - (I) Dextrose; and
  - (J) injectable anti-arrhythmic.
- (3) The permit holder shall maintain written emergency and patient discharge protocols and training to familiarize auxiliaries in the treatment of clinical emergencies shall be provided; and
- (4) The dentist shall maintain the following records for at least 10 years:
  - (A) Patient's current written medical history and pre-operative assessment; and
  - (B) Drugs administered during the procedure, including route of administration, dosage, strength, time, and sequence of administration.
- (5) The sedation record shall include:
  - (A) base line vital signs, blood pressure (unless patient behavior prevents recording), oxygen saturation, ET CO2 if capnography is utilized, pulse and respiration rates of the patient recorded in real time at 15 minute intervals;
  - (B) procedure start and end times;
  - (C) gauge of needle and location of IV on the patient, if used;
  - (D) status of patient upon discharge;
  - (E) documentation of complications or morbidity; and
  - (F) consent form, signed by the patient or guardian, identifying the procedure, risks and benefits, level of sedation, and date signed.
- (6) The following conditions shall be satisfied during a sedation procedure:
  - (A) The facility shall be staffed with at least two BLS certified auxiliaries, one of whom shall be dedicated to patient monitoring and recording sedation data throughout the sedation procedure. This Subparagraph shall not apply if the dentist permit holder is dedicated to patient care and monitoring regarding general anesthesia or sedation throughout the sedation procedure and is not performing the surgery or other dental procedure.
  - (B) If IV sedation is used, IV infusion shall be administered before the start of the procedure and maintained until the patient is ready for discharge.
- (b) During an inspection or evaluation, the applicant or permit holder shall demonstrate the administration of moderate conscious sedation on a patient, including the deployment of an intravenous delivery system, while the evaluator observes. During the demonstration, the applicant or permit holder shall demonstrate competency in the following areas:
  - (1) monitoring blood pressure, pulse, ET CO2 if capnography is utilized, and respiration;
  - (2) drug dosage and administration;
  - (3) treatment of untoward reactions including respiratory or cardiac depression if applicable;
  - (4) sterile technique;
  - (5) use of BLS certified auxiliaries;
  - (6) monitoring of patient during recovery; and
  - (7) sufficiency of patient recovery time.
- (c) During an inspection or evaluation, the applicant or permit holder shall verbally demonstrate competency to the evaluator in the treatment of the following clinical emergencies:
  - (1) laryngospasm;
  - (2) bronchospasm;
  - (3) emesis and aspiration;
  - (4) respiratory depression and arrest;
  - (5) angina pectoris;
  - (6) myocardial infarction;
  - (7) hypertension and hypotension;
  - (8) allergic reactions;
  - (9) convulsions;



- (10) syncope;
- (11) bradycardia;
- (12) hypoglycemia;
- (13) cardiac arrest; and
- (14) airway obstruction.

(d) A moderate conscious sedation permit holder shall evaluate a patient for health risks before starting any sedation procedure as follows:

- (1) a patient who is medically stable and who is ASA I or II shall be evaluated by reviewing the patient's current medical history and medication use or;
- (2) a patient who is not medically stable or who is ASA III or higher shall be evaluated by a consultation with the patient's primary care physician or consulting medical specialist regarding the potential risks posed by the procedure.

(e) Post-operative monitoring and discharge:

- (1) vital signs shall be continuously monitored when the sedation is no longer being administered and the patient shall have direct continuous supervision until oxygenation and circulation are stable and the patient is recovered as defined in Subparagraph (e)(2) of this Rule and is ready for discharge from the office.
- (2) recovery from moderate conscious sedation shall include documentation of the following:
  - (A) cardiovascular function stable;
  - (B) airway patency uncompromised;
  - (C) patient arousable and protective reflexes intact;
  - (D) state of hydration within normal limits;
  - (E) patient can talk, if applicable;
  - (F) patient can sit unaided, if applicable;
  - (G) patient can ambulate, if applicable, with minimal assistance; and
  - (H) for special needs patients or patients incapable of the usually expected responses, the pre-sedation level of responsiveness or the level as close as possible for that patient shall be achieved.
- (3) before allowing the patient to leave the office, the dentist shall determine that the patient has met the recovery criteria set out in Subparagraph (e)(2) of this Rule and the following discharge criteria:
  - (A) oxygenation, circulation, activity, skin color, and level of consciousness are stable, and have been documented;
  - (B) explanation and documentation of written postoperative instructions have been provided to the patient or a responsible adult at time of discharge; and

- (C) a vested adult is available to transport the patient after discharge.

*History Note: Authority G.S. 90-28; 90-30.1; 90-48; Eff. February 1, 1990; Amended Eff. August 1, 2002; August 1, 2000; Temporary Amendment Eff. December 11, 2002; Amended Eff. June 1, 2017; November 1, 2013; July 1, 2010; July 3, 2008; August 1, 2004.*

**21 NCAC 16Q .0304 OFF SITE USE OF MODERATE PARENTERAL AND ENTERAL CONSCIOUS SEDATION PERMITS**

The holder of a moderate conscious sedation permit may travel to the office of a licensed dentist and provide moderate conscious sedation for the patients of that dentist who are undergoing dental procedures. The permit holder shall be responsible to ensure that the facility where the sedation is administered has passed inspection by the Board and meets the requirements set out in Rule .0302 of this Section. The permit holder shall be responsible to ensure that the facility is staffed with at least two BLS certified auxiliaries, one of whom shall be dedicated to patient monitoring and recording general anesthesia or sedation data throughout the sedation procedure. This Subparagraph shall not apply if the dentist permit holder is dedicated to patient care and monitoring regarding general anesthesia or sedation throughout the sedation procedure and is not performing the surgery or other dental procedure.

*History Note: Authority G.S. 90-28; 90-30; 90-30.1; 90-48; Recodified from 21 NCAC 16Q .0302(e)(f), Eff. November 1, 2013; Amended Eff. June 1, 2017.*

**21 NCAC 16Q .0305 ANNUAL RENEWAL OF MODERATE PARENTERAL AND ENTERAL CONSCIOUS SEDATION PERMIT REQUIRED**

- (a) Moderate conscious sedation permits shall be renewed by the Board annually at the same time as dental licenses by paying a one hundred dollar (\$100.00) fee and completing the application requirements in this Rule.
- (b) If the completed permit renewal application and renewal fee are not received before January 31 of each year, a one hundred dollar (\$100.00) late fee shall be paid.
- (c) Any dentist who fails to renew a moderate conscious sedation permit before March 31 of each year shall complete a reinstatement application, pay the renewal fee, late fee, and comply with all conditions for renewal set out in this Rule. Dentists whose sedation permits have been lapsed for more than 12 calendar months shall pass an inspection and an evaluation as part of the reinstatement process.
- (d) A dentist who administers moderate conscious sedation in violation of this Rule shall be subject to the penalties prescribed by Rule .0701 of this Subchapter.
- (e) As a condition for renewal of the moderate conscious sedation permit, the permit holder shall meet the clinical and equipment requirements of Rule .0302 of this Section and shall document the following:

- (1) six hours of continuing education each year in one or more of the following areas, which may be counted toward fulfillment of the continuing education required each calendar year for license renewal:
  - (A) sedation;
  - (B) medical emergencies;
  - (C) monitoring IV sedation and the use of monitoring equipment;
  - (D) pharmacology of drugs and agents used in IV sedation;
  - (E) physical evaluation, risk assessment, or behavioral management; or
  - (F) airway management;
- (2) unexpired ACLS certification, which shall not count towards the six hours of continuing education required in Subparagraph (e)(1) Rule;
- (3) that the permit holder and all auxiliaries involved in sedation procedures have practiced responding to dental emergencies as a team at least once every six months in the preceding year;
- (4) that the permit holder and all auxiliaries involved in sedation procedures have read the practice's emergency manual in the preceding year; and
- (5) that all auxiliaries involved in sedation procedures have completed BLS certification and three hours of continuing education annually in any of the areas set forth in Subparagraph (e)(1) of this Rule.

(f) All permit holders applying for renewal of a moderate conscious sedation permit shall be in good standing and their office shall be subject to inspection by the Board.

*History Note: Authority G.S. 90-28; 90-30.1; 90-31; 90-39(12); 90-48; Eff. June 1, 2017.*

**21 NCAC 16Q .0404 CREDENTIALS AND PERMITS FOR MODERATE PEDIATRIC CONSCIOUS SEDATION**

(a) Before a dentist licensed to practice in North Carolina may administer moderate pediatric conscious sedation, the dentist shall obtain a general anesthesia or moderate pediatric conscious sedation permit from the Board by completing the application requirements of this Rule and paying a fee of three hundred seventy-five dollars (\$375.00) that includes the one-hundred dollar (\$100.00) application fee and the two-hundred seventy-five dollar (\$275.00) inspection fee. The permit shall be renewed annually and shall be displayed with the unexpired renewal at all times in the permit holder's facility where it is visible to patients receiving treatment.

(b) A dentist applying for a permit to administer moderate pediatric conscious sedation shall meet at least one of the following criteria:

- (1) completion of a postgraduate program that included pediatric intravenous conscious sedation training;

- (2) completion of a Commission On Dental Accreditation (CODA) approved pediatric residency that included intravenous conscious sedation training; or
  - (3) completion of a pediatric degree or pediatric residency at a CODA approved institution that includes training in the use and placement of IVs or intraosseous vascular access. A list of CODA approved institutions that is hereby incorporated by reference, including subsequent amendments and editions, appears at [www.ada.org/coda](http://www.ada.org/coda) and is available at no cost.
- (c) All applicants for moderate pediatric conscious sedation permits shall have completed the training required by Paragraph (b) of this Rule within the last two years or show evidence of moderate pediatric conscious sedation practice within the last two years in another state or U.S. Territory.
- (d) All applicants for moderate pediatric conscious sedation permits shall be in good standing with the Board.

*History Note: Authority G.S. 90-30.1; 90-39; 90-48; Eff. June 1, 2017.*

**21 NCAC 16Q .0405 MODERATE PEDIATRIC CONSCIOUS SEDATION CLINICAL REQUIREMENTS AND EQUIPMENT**

(a) A dentist administering moderate pediatric conscious sedation shall be responsible to ensure that the facility where the sedation is administered meets the following requirements:

- (1) The facility shall be equipped with the following:
  - (A) an operatory of size and design to permit access of emergency equipment and personnel and to permit emergency management;
  - (B) a CPR board or a dental chair without enhancements, suitable for providing emergency treatment;
  - (C) lighting as necessary for specific procedures and back-up lighting;
  - (D) suction equipment as necessary for specific procedures, including non-electrical back-up suction;
  - (E) positive oxygen delivery system, including full face masks for small, medium, and large patients and back-up E-cylinder portable oxygen tank apart from the central system;
  - (F) oral and nasal airways of various sizes;
  - (G) blood pressure monitoring device;
  - (H) pulse oximeter;
  - (I) precordial stethoscope or capnograph;
  - (J) defibrillator;
  - (K) EKG monitor;
  - (L) thermometer;
  - (M) vascular access set-up as necessary for specific procedures, including hardware and fluids;

- (N) syringes as necessary for specific procedures;
- (O) advanced airways; and
- (P) tourniquet and tape.
- (2) The following unexpired drugs shall be maintained in the facility and with access from the operatory and recovery rooms:
  - (A) epinephrine;
  - (B) Atropine;
  - (C) appropriate reversal agents;
  - (D) antihistamine;
  - (E) corticosteroid;
  - (F) nitroglycerine;
  - (G) bronchodilator;
  - (H) antiemetic; and
  - (I) Dextrose.
- (3) The permit holder shall maintain written emergency and patient discharge protocols and training to familiarize auxiliaries in the treatment of clinical emergencies shall be provided;
- (4) The following records are maintained for at least 10 years:
  - (A) patient's current written medical history and pre-operative assessment;
  - (B) drugs administered during the procedure, including route of administration, dosage, strength, time, and sequence of administration;
  - (C) a sedation record;
  - (D) a consent form, signed by the patient or a guardian, identifying the procedure, risks and benefits, level of sedation, and date signed.
- (5) The sedation record shall include:
  - (A) base line vital signs, blood pressure (unless patient behavior prevents recording), oxygen saturation, ET CO<sub>2</sub> if capnography is utilized, pulse and respiration rates of the patient recorded in real time at 15 minute intervals;
  - (B) procedure start and end times;
  - (C) gauge of needle and location of IV on the patient, if used;
  - (D) status of patient upon discharge; and
  - (E) documentation of complications or morbidity; and
- (6) The following conditions shall be satisfied during a sedation procedure:
  - (A) the facility shall be staffed with at least two BLS certified auxiliaries, one of whom shall be dedicated to patient monitoring and recording sedation data throughout the sedation procedure. This Subparagraph shall not apply if the dentist permit holder is dedicated to patient care and monitoring regarding general anesthesia or sedation throughout the sedation procedure and is not performing the surgery or other dental procedure; and
  - (B) when IV sedation is used, IV infusion shall be administered before the commencement of the procedure and maintained until the patient is ready for discharge.
- (b) During an inspection or evaluation, applicants and permit holders who use intravenous sedation shall demonstrate the administration of moderate pediatric conscious sedation on a live patient, including the deployment of an intravenous delivery system, while the evaluator observes. Applicants and permit holders who do not use IV sedation shall describe the proper deployment of an intravenous delivery system to the evaluator and shall demonstrate the administration of moderate pediatric conscious sedation on a live patient while the evaluator observes.
- (c) During the demonstration, all applicants and permit holders shall demonstrate competency in the following areas:
  - (1) monitoring blood pressure, pulse, and respiration;
  - (2) drug dosage and administration;
  - (3) treatment of untoward reactions including respiratory or cardiac depression if applicable;
  - (4) sterile technique;
  - (5) use of BLS certified auxiliaries;
  - (6) monitoring of patient during recovery; and
  - (7) sufficiency of patient recovery time.
- (d) During an inspection or evaluation, the applicant or permit holder shall verbally demonstrate competency in the treatment of the following clinical emergencies:
  - (1) laryngospasm;
  - (2) bronchospasm;
  - (3) emesis and aspiration;
  - (4) respiratory depression and arrest;
  - (5) angina pectoris;
  - (6) myocardial infarction;
  - (7) hypertension and hypotension;
  - (8) allergic reactions;
  - (9) convulsions;
  - (10) syncope;
  - (11) bradycardia;
  - (12) hypoglycemia;
  - (13) cardiac arrest;
  - (14) airway obstruction; and
  - (15) vascular access.
- (e) A moderate pediatric conscious sedation permit holder shall evaluate patients for health risks before starting any sedation procedure as follows:
  - (1) a patient who is medically stable and who is ASA I or II shall be evaluated by reviewing the patient's current medical history and medication use; or
  - (2) a patient who is not medically stable or who is ASA III or higher shall be evaluated by a consultation with the patient's primary care physician or consulting medical specialist

regarding the potential risks posed by the procedure.

(f) Patient monitoring:

- (1) Patients who have been administered moderate pediatric conscious sedation shall be monitored for alertness, responsiveness, breathing, and skin coloration during waiting periods before operative procedures.
- (2) Vital signs shall be continuously monitored when the sedation is no longer being administered and the patient shall have direct continuous supervision until oxygenation and circulation are stable and the patient is recovered as defined in Subparagraph (f)(3) of this Rule and is ready for discharge from the office.
- (3) Recovery from moderate pediatric conscious sedation shall include documentation of the following:
  - (A) cardiovascular function stable;
  - (B) airway patency uncompromised;
  - (C) patient arousable and protective reflexes intact;
  - (D) state of hydration within normal limits;
  - (E) patient can talk, if applicable;
  - (F) patient can sit unaided, if applicable;
  - (G) patient can ambulate, if applicable, with minimal assistance; and
  - (H) for the special needs patient or a patient incapable of the usually expected responses, the pre-sedation level of responsiveness or the level as close as possible for that patient shall be achieved.
- (4) Before allowing the patient to leave the office, the dentist shall determine that the patient has met the recovery criteria set out in Subparagraph (f)(3) of this Rule and the following discharge criteria:
  - (A) oxygenation, circulation, activity, skin color, and level of consciousness are sufficient and stable, and have been documented;
  - (B) explanation and documentation of written postoperative instructions have been provided to a responsible adult at time of discharge;
  - (C) a vested adult is available to transport the patient after discharge; and
  - (D) a vested adult shall be available to transport patients for whom a motor vehicle restraint system is required and an additional responsible individual shall be available to attend to the patients.

*History Note: Authority G.S. 90-28; 90-30.1; 90-48; Eff. June 1, 2017.*

**21 NCAC 16Q .0406 OFF SITE USE OF MODERATE PEDIATRIC CONSCIOUS SEDATION PERMITS**

The holder of a moderate pediatric conscious sedation permit may travel to the office of a licensed dentist and provide moderate pediatric conscious sedation. The permit holder shall be responsible to ensure that the facility where the sedation is administered has been inspected by the Board as required by Rule .0404 of this Section, and that the equipment, facility, and auxiliaries meet the requirements of Rule .0405 of this Section.

*History Note: Authority G.S. 90-28; 90-30.1; 90-48; Eff. June 1, 2017.*

**21 NCAC 16Q .0407 ANNUAL RENEWAL OF MODERATE PEDIATRIC CONSCIOUS SEDATION PERMIT REQUIRED**

- (a) Moderate pediatric conscious sedation permits shall be renewed by the Board annually at the same time as dental licenses by paying a one hundred (\$100.00) fee and completing the application requirements in this Rule.
- (b) If the completed renewal application and renewal fee are not received before January 31 of each year, a one hundred (\$100.00) late fee shall be paid.
- (c) Any dentist who fails to renew a moderate pediatric conscious sedation permit before March 31 of each year shall complete a reinstatement application, pay the renewal fee, late fee, and comply with all conditions for renewal set out in this Rule. Dentists whose sedation permits have been lapsed for more than 12 calendar months shall pass an inspection and an evaluation as part of the reinstatement process.
- (d) A dentist who administers moderate pediatric conscious sedation in violation of this Rule shall be subject to the penalties prescribed by Rule .0701 of this Subchapter.
- (e) As a condition for renewal of the moderate pediatric conscious sedation permit, the permit holder shall meet the clinical and equipment requirements of Rule .0405 of this Section and shall document the following:

- (1) six hours of continuing education each year in one or more of the following areas, which may be counted toward fulfillment of the continuing education required each calendar year for license renewal:
  - (A) sedation;
  - (B) medical emergencies;
  - (C) monitoring IV sedation and the use of monitoring equipment;
  - (D) pharmacology of drugs and agents used in IV sedation;
  - (E) physical evaluation, risk assessment, or behavioral management; or
  - (F) airway management;
- (2) unexpired PALS certification, which shall not count towards the six hours of continuing education required in Subparagraph (e)(1) of this rule;
- (3) that the permit holder and all auxiliaries involved in sedation procedures have practiced responding to dental emergencies as a team at

least once every six months in the preceding year.

- (4) that the permit holder and all auxiliaries involved in sedation procedures have read the practice's emergency manual in the preceding year; and
- (5) that all auxiliaries involved in sedation procedures have completed BLS certification and three hours of continuing education annually in any of the areas set forth in Subparagraph (e)(1) of this Rule.

(f) All permit holders applying for renewal of a moderate pediatric conscious sedation permit shall be in good standing and their office shall be subject to inspection by the Board.

*History Note: Authority G.S. 90-28; 90-30.1; 90-31; 90-39(12); 90-48;*  
*Eff. June 1, 2017.*

\*\*\*\*\*

## **CHAPTER 21 – BOARD FOR LICENSING OF GEOLOGISTS**

### **21 NCAC 21 .0101 AUTHORITY, NAME AND LOCATION OF BOARD**

The North Carolina Board for Licensing of Geologists (the "Board") is governed by Chapter 89E of the General Statutes of North Carolina. Unless otherwise directed, all communications shall be addressed to the Board at Post Office Box 41225, Raleigh, North Carolina 27629.

*History Note: Authority G.S. 89E-4;*  
*Eff. February 1, 1986;*  
*Amended Eff. April 1, 1989;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014;*  
*Amended Eff. June 1, 2017.*

### **21 NCAC 21 .0103 ORGANIZATION OF THE BOARD**

- (a) Meetings shall be open and public except that the Board may meet in closed sessions to prepare, approve, administer, or grade examinations; to deliberate the qualifications of an applicant for license; or to deliberate on the disposition of a proceeding to discipline a licensed geologist.
- (b) The Board shall have power to compel the attendance of witnesses, to administer oaths, and to take testimony and proofs of all matters within its jurisdiction as allowed by Article 3A of G.S. 150B.
- (c) The Chair and ex-officio member shall be full voting members of the Board.

*History Note: Authority G.S. 89E-4; 89E-5; 143-318.18(6); 150B-39; 150B-40;*  
*Eff. February 1, 1986;*  
*Amended Eff. April 1, 1989;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014;*

*Amended Eff. June 1, 2017.*

### **21 NCAC 21 .0104 DUTIES OF OFFICERS**

(a) Board Chair:

- (1) The Chair shall preside at all meetings when present, appoint all committees, sign all certificates issued, and perform all other duties pertaining to his office.
- (2) The Chair, together with the Board Counsel and Board Executive Director, shall determine if a complaint submitted to the Board is complete pursuant to the requirements of G.S. 89-17 and Rules .0501 and .0514 of this Chapter and, if so, shall forward it to an investigator. In addition, the Chair shall be responsible for evaluating the investigative report and proposing further action as authorized by Rule .0515 of this Chapter. If the Chair identifies a conflict of interest as defined by G.S.138A-36(a) or Rule .0513 of this Chapter, the Vice-Chair shall review the Complaint. If both Chair and Vice-Chair have a conflict of interest, the Secretary-Treasurer shall review the Complaint. If none of these persons can serve, then the Chair shall designate another Board member to review the Complaint.

(b) Board Vice-Chair. The Vice-Chair, in the absence of the Chair, shall perform all of the duties of the Chair. The Vice-Chair shall sign all certificates issued.

(c) Secretary- Treasurer:

- (1) The Secretary-Treasurer, with the assistance of an Executive Director or such other officers or employees as may be approved by the Board, shall conduct and care for all the correspondence of the Board, keep the minutes of all the meetings, keep all books and records, and sign all certificates issued. The Secretary-Treasurer shall have charge, care and custody of the official documents of the Board. The Secretary-Treasurer shall provide due notice of the time and place of all meetings of the Board to each member of the Board.
- (2) The Secretary-Treasurer, with the assistance of an Executive Director or such other officers or employees as may be approved by the Board, shall receive all moneys from applicants for annual renewal or other fees and deposit them in an authorized depository of the Board. The Secretary-Treasurer shall give bond to be conditioned on the faithful performance of the duties of this office and on the faithful accounting of all monies and other property as shall come into this officer's hands.
- (3) The Secretary-Treasurer, with the assistance of an Executive Director or such other officers or employees as may be approved by the Board, shall provide to each applicant for a license or registration a current copy of G.S. 89E and the rules of this Chapter. Copies of the Geologists

Licensing Act and the rules of this Chapter shall be provided by mail with the application packet or in electronic format on the Board's Internet website ([www.ncblg.org](http://www.ncblg.org)) with the on-line application packet.

*History Note: Authority G.S. 89E-4; 89E-5; 89-17; Eff. February 1, 1986; Amended Eff. April 1, 2003; April 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014; Amended Eff. June 1, 2017.*

## **21 NCAC 21 .0301 REQUIREMENTS FOR LICENSING**

(a) Education. In determining whether an applicant meets the education requirements of the Geologists Licensing Act, the Board shall accept transcripts from colleges and universities that are accredited by a national or regional accrediting organization such as the Southern Association of Colleges and Schools. An applicant shall have:

- (1) graduated from an accredited college or university and have a degree with a major in geology, engineering geology or geological engineering, or related geological science; or
- (2) completed 30 hours of geological study or the equivalent in geological science courses leading to a major in geology, of which at least 24 hours of the equivalent shall have been upper-level undergraduate courses or graduate courses in areas such as geology, geophysics, geochemistry, oceanography, paleontology, hydrology, soil science, economic geology, and engineering geology.

(b) References. Five letters of reference submitted to the Board which shall satisfy the Board as to the character, reputation, responsibility, integrity and competence of the applicant. These letters of reference must be submitted by licensed geologists or engineers. No member of the Board shall act as a reference for any applicant for licensing. At least two of the five letters of reference must be submitted by licensed geologists who are familiar with the applicant's work in the field of geology.

(c) Written Examination. Except as provided in Paragraph (e) of this Rule, applicants shall pass the written examination administered by the Board in conjunction with the National Association of State Boards of Geology (A.S.B.O.G.). The applicant shall be notified, not less than 30 days before the examination, of the time and place of the examination. An applicant having a record of three failures shall not be allowed to take that examination again until the applicant makes a written appeal to the Board and the Board confirms the applicant is qualified for examination pursuant to the rules in this Section. The applicant shall demonstrate to the Board that actions have been taken to improve the applicant's possibility of passing the exam, such as taking additional classes or gaining additional experience in the field.

(d) Experience. In determining whether an applicant meets the experience requirements of the Geologists Licensing Act, the Board shall consider the total work experience record of the

applicant. The Board shall look for the applicant's ability to conduct geological work in a satisfactory manner with little or no supervision.

(e) Certificate by comity. The Board shall grant a license without further examination to a person who has been licensed by another jurisdiction to engage in the practice of geology when the applicant meets the following conditions:

- (1) the applicant has filed an application for license and paid the fee required by Rule .0107 of this Chapter;
- (2) the applicant has provided evidence of education and experience equal to the requirements of Paragraphs (a), (b), and (d) of this Rule as indicated in Rule .0302 of this Section;
- (3) the applicant is in good standing with the agency regulating the practice of geology in any jurisdiction in which the applicant holds a license to practice geology; and
- (4) the applicant has successfully passed a written examination equivalent to the examination required by the Board pursuant to G.S. 89E-9 and Paragraph (c) of this Rule.

*History Note: Authority G.S. 89E-7; 89E-8; 89E-9; 89E-11; Eff. February 1, 1986; Amended Eff. April 1, 2003; April 1, 1990; April 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014; Amended Eff. June 1, 2017.*

## **21 NCAC 21 .0302 APPLICATION PROCEDURE**

(a) All applicants for licensing shall furnish the following with their applications:

- (1) an official copy of their college transcript and verification of graduation sent directly from the institution to the Board;
- (2) verification of experience in the practice of geology on forms provided by the Board and available on the Board's website, stating:
  - (A) the dates of employment;
  - (B) the name and contact information for the applicant's supervisor at each place of employment;
  - (C) a brief description of the applicant's duties and responsibilities at each place of employment; and
  - (D) each employer's opinion of the applicant's competency;
- (3) five references as defined in Rule .0301(b) of this Section;
- (4) a notarized copy of a completed application form as prescribed by the Board and available on the Board's website, stating:
  - (A) the applicant's name and contact information, birth date, and social security number;
  - (B) professional experience and education;

- (C) information as to whether the applicant has ever been convicted of a felony or misdemeanor;
- (D) a list of references,
- (E) list of other licenses or registrations held by the applicant;
- (F) the applicant's professional affiliations; and
- (G) whether the applicant has been denied a license or certification or been subject to a disciplinary action; and
- (5) the application fee as prescribed in Rule .0107 of this Chapter.

(b) Applicants for reinstatement of an expired, suspended, or inactive license or registration shall submit a reinstatement application and shall submit the fee as provided by Rule .0107 of this Chapter.

(c) Applicants for reinstatement of a revoked license or registration shall submit such information as is required by the Board to determine eligibility for reinstatement pursuant to G.S. 89E-21, such as an explanation of why the license was revoked and information showing the applicant has cured the situation that resulted in the revocation of the license or registration, and shall submit the fee as provided by Rule .0107 of this Chapter.

(d) Additional information required by the Board to approve or deny approval on any application shall be filed with the Board within 60 days of the applicant's receipt of notice to provide such information. This may include any of the applicant's written reports, maps, published articles, or other materials the Board determines are appropriate to document the applicant's experience as a geologist. Failure to submit the supplemental information requested within the time specified by this Rule may result in the Board's rejection of the application without further notice prior to such rejection. Examples of factors that may result in the rejection of an application include information that another state has revoked applicant's license to practice geology or information that an applicant by comity is unable to show that the exam taken was equivalent to that required by the Board.

*History Note: Authority G.S. 89E-7; 89E-8; 89E-9; 89E-11; 89E-12; 89E-21;*

*Eff. February 1, 1986;*

*Amended Eff. April 1, 2003; April 1, 1990; April 1, 1989; March 1, 1988;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014;*

*Amended Eff. June 1, 2017.*

#### **21 NCAC 21 .0303 INACTIVE STATUS**

- (a) The board shall grant inactive status to a licensee if:
- (1) the licensee submits a letter in writing to the Board before the current license has expired, requesting inactive status; and
  - (2) at the time the letter request is submitted, the licensee's license has not been suspended, surrendered, or revoked.
- The Board shall notify the licensee that he or she has been granted inactive status or the reason the request was not granted.

(b) If the licensee seeking inactive status be the person identified as the North Carolina licensed geologist for a corporation registered with the Board, another licensee who meets the statutory requirements shall be identified in order to maintain the professional corporation's registration with the Board. If this is not done before the licensee is granted inactive status, the Board shall suspend the professional corporation's registration and shall send notification of this suspension to the professional corporation by certified mail the same day the licensee is notified that the request for inactive status was granted.

(c) A geologist or registered corporation with an inactive or suspended license shall not engage in the public practice of geology in North Carolina.

(d) A geologist with an inactive license shall no longer seal and certify documents with his or her seal.

(e) The Board shall maintain a list of all inactive licensees.

(f) Any reference to an inactive geologist on a letter, title, sign, card, or devise shall list such geologist as "Retired Geologist" or "N.C. Geology License No. \_\_\_\_ (inactive)."

(g) An individual who wishes to convert their license from inactive to active status shall submit an application for reinstatement, proof of 12 hours of continuing education taken in the 12 months prior to the reinstatement request, and payment of the reinstatement fee set forth in Rule .0107 of this Chapter.

(h) In no case shall an individual remain on inactive status for more than five years without permission of the Board. If an individual has been on inactive status for five years and does not request additional time to hold an inactive license, the license shall expire.

(i) A geologist who has been granted inactive status is not required to fulfill continuing education requirements.

*History Note: Authority G.S. 89E-4; 89E-5;*  
*Eff. June 1, 2017.*

#### **21 NCAC 21 .0403 INTRODUCTION**

Beginning July 1, 2017 and before July 1, 2018, each person holding an active geology license shall complete 12 hours of continuing professional education relating to geology as a condition for licensure renewal.

*History Note: Authority G.S. 89E-4; 89E-5;*  
*Eff. June 1, 2017.*

#### **21 NCAC 21 .0404 REQUIREMENTS**

(a) Each application for renewal shall include information, attested to by the licensee under penalty of perjury on a form provided by the Board and available on the Board's website, establishing that the licensee has completed the minimum required contact hours of approved continuing education, and shall state the following information:

- (1) the licensee's name;
- (2) the licensee number;
- (3) the licensee contact information;
- (4) the name of entity providing continuing education;
- (5) a description of continuing education taken;
- (6) the dates and hours the licensee participated in continuing education; and

(7) the amount of continuing education credit claimed.

(b) Each licensee shall obtain 12 contact hours of continuing education during each renewal period. If a licensee exceeds the annual requirement in any renewal period, a maximum of 12 hours may be carried forward to the next renewal period.

(c) A contact hour is defined as actual instruction time (credited to the nearest one-quarter of an hour) received in-person or through an online class that includes interaction between the teacher and student or through any other similar format.

(d) In order to meet the requirements of this Section, courses and activities shall be in accordance with the continuing education Guidelines approved by the Board. The Board will provide a list posted on the Board's website of the professional societies whose courses have been preapproved for continuing education credit. Continuing education credit may be earned through any of the following activities:

- (1) teaching or completing for-credit courses at any accredited university or college;
- (2) teaching or completing continuing education courses, seminars, field trips, or workshops sponsored by a professional geological society or an accredited university or college;
- (3) teaching or completing course work sponsored by other professional or educational organizations approved by the Board;
- (4) presenting or attending seminars, workshops, or professional or technical presentations made at conventions, conferences of professional organizations, or at accredited universities or colleges;
- (5) presenting or attending seminars, workshops, or professional or technical presentations made by or sponsored by employers who apply geoscience skills to accomplish their organizational missions;
- (6) a licensee may receive double credits for each hour he or she teaches or presents. Teaching credit is valid for teaching a course or seminar for the first time only; and
- (7) a licensee may receive a maximum of six hours continuing education credit for a published peer reviewed book or article.

(e) Courses offered by professional societies that have not been pre-approved by the Board may be submitted, by either the licensee or course provider, for review and approval within 90 days before or 180 days after the licensee takes the course.

*History Note: Authority G.S. 89E-4; 89E-5;  
Eff. June 1, 2017.*

**21 NCAC 21 .0405 DETERMINATION OF CREDIT**

(a) The Board shall review all information provided by the licensee on the form required by Rule .0404(a) of this Section as part of the annual license renewal. The Board may request additional information from the licensee as required to verify the continuing education earned.

(b) The Board shall determine the amount of continuing education credit earned by each licensee, based on materials

submitted. The Board determination of credit shall consider the following factors:

- (1) the relevance of course material to the practice of geology, and
- (2) the number of credit hours requested.

*History Note: Authority G.S. 89E-4; 89E-5;  
Eff. June 1, 2017.*

**21 NCAC 21 .0406 RECORDKEEPING**

(a) Records substantiating Board-approved continuing education activities shall include the following:

- (1) a log that shows the type of activity claimed; title or specific subject; the name of the organization that provided the continuing education; the location, duration, date, and instructor's or speaker's name; credit hours earned; and other information on a form as prescribed by the Board;
- (2) copies of registration receipts and brochures identifying the continuing-education activities attended by the licensee;
- (3) attendance verification records in the form of completion certificates; and
- (4) other documents that support evidence of attendance.

(b) The licensee shall maintain records that support the claimed credit hours for Board-approved continuing education activities. These records shall be maintained for a period of three years and copies may be requested by the Board for audit verification purposes.

(c) The licensee shall provide to the Board's Executive Director electronic copies of the records substantiating the continuing education activities for which he or she is claiming credit.

*History Note: Authority G.S. 89E-4; 89E-5;  
Eff. June 1, 2017.*

**21 NCAC 21 .0407 EXEMPTIONS**

A licensee is exempt from the annual continuing education requirements as long as any of the following exceptions apply:

- (1) New licensees by way of examination shall be required to show proof of 12 hours of continuing education when his or her geology license is renewed for the second time.
- (2) New licensees by way of comity shall show proof of 12 hours of continuing education the first time his or her North Carolina license is renewed.
- (3) If currently licensed by and in good standing (license is not surrendered, suspended, or revoked) with the Board, a licensee who is serving on active duty as a member of the armed forces of the United States and who is eligible for an extension of time to file a tax return pursuant to G.S. 105-249.2 may request a waiver of the mandatory continuing education requirements for the time period disregarded



pursuant to the Internal Revenue Code, 26 U.S.C. 7508, as follows:

- (a) The licensee shall notify the Board of eligibility before the current license expires. Upon such notification, the Board shall maintain the license in active status through the extension period.
  - (b) If the licensee fails to notify the Board of eligibility for the extension period before the current license expires, upon receipt and acceptance of a renewal application within the extension period and presentation of proof that the licensee was eligible on the date that is the deadline for renewal, the expired license or registration shall be deemed retroactively to have not expired.
  - (c) The licensee who submits a renewal application within the extension period shall not be deemed to hold a lapsed license subject to reinstatement fees.
  - (d) The licensee may renew the license within the extension period despite failing to complete the specified continuing education requirements.
  - (e) A licensee shall provide proof of eligibility for the extension period when the licensee or registrant submits the renewal application, which shall include:
    - (i) a copy of military orders denoting the respective active duty period; or
    - (ii) a copy of form DD-214 denoting each respective active duty period.
- (4) If currently licensed by and in good standing (license is not surrendered, suspended, or revoked) with the Board, a licensee who is serving in a reserve component of the armed forces of the United States and completes an aggregate of 90 days active duty in a given calendar year in accordance with 10 U.S.C. 12301(a); 10 U.S.C. 12302; 10 U.S.C. 12304; or 14 U.S.C. 712 may request a waiver of the mandatory continuing education requirements during the year in which the 90-day aggregate active duty occurred, as follows:
- (a) The licensee shall notify the Board of eligibility before the current license expires. Upon such notification, the Board shall maintain the license in active status through the extension period.
  - (b) If the licensee fails to notify the Board of eligibility for the extension period before the current license expires, upon receipt and acceptance of a renewal application within the extension period and presentation of proof that the licensee was eligible on the date that is the deadline for renewal, the expired license or registration shall be deemed retroactively to have not expired.
  - (c) The licensee who submits a renewal application within the extension period shall not be deemed to hold a lapsed license subject to reinstatement fees.
  - (d) The licensee may renew the license within the extension period despite failing to complete the specified continuing education requirements.
  - (e) A licensee shall provide proof of eligibility for the extension period when the licensee or registrant submits the renewal application, which shall include:
    - (i) a copy of military orders denoting the respective active duty period; or
    - (ii) a copy of form DD-214 denoting the respective active duty period.
- (5) The Board may grant an exemption at a licensee's request if the Board determines that the licensee is experiencing physical disability, illness, or other extenuating circumstances that prevent the licensee from obtaining continuing education hours. Supporting documentation shall be furnished to the Board along with a written request.
- (6) Licensees who list their occupation as "Inactive" on the Board-approved renewal form and who are no longer providing geological services are not required to earn continuing education credits. In the event such a person elects to return to active practice of geology, 12 hours of continuing education shall be earned in the year prior to the licensee's return to active practice.

*History Note: Authority G.S. 89E-4; 89E-5; Eff. June 1, 2017.*

#### **21 NCAC 21 .0501 FILING OF CHARGES AND DISCIPLINARY ACTIONS**

(a) Any person may file a complaint with the Board against a geologist for disciplinary action based on a violation of G.S. 89E or of these Rules on a form-provided by the Board. This form is on the Board's website at [www.ncblg.org](http://www.ncblg.org) and may be requested from the Board. The complainant shall provide the following information:

- (1) the name and contact information of the person making the complaint;
  - (2) the name and contact information of persons with information about the incident leading to the complaint;
  - (3) information regarding the complaint, such as the address where work was performed, a description of the work performed, and the specific plan, survey, or report documenting the work performed; and
  - (4) the statute or rule which was allegedly violated.
- (b) The complaint shall set forth the facts upon which the complaint is based. The complainant shall swear or affirm that the facts stated in the complaint are true.
- (c) Upon receipt of a complaint or upon the Board's own initiative, the Board's Executive Director, Board Chair, and counsel to the Board shall meet to determine whether the Board has jurisdiction over the complaint and whether there is good cause to proceed with an investigation.
- (d) If it is determined there are grounds to proceed, the Board's professional staff shall open a case file, notify the complainant that the complaint has been received and a file opened, notify and provide a copy of the complaint to the respondent-licensee named in the complaint and request a response, and initiate an investigation of the allegations in the complaint.
- (e) Based upon a review of the complaint or the results of the investigation, and consistent with procedures required by G.S. 150B, the Board may suspend or revoke the license or certificate of registration, may issue a reprimand as provided in Rule .0502 of this Section, or may, upon a statement of the reasons therefore, dismiss the charge as unfounded or trivial, which statement shall be mailed to the geologist and the complainant. If the Board determines that a licensee is professionally incompetent, the Board may require the licensee to demonstrate fitness to practice as allowed in G.S. 89E-19(b). In making this determination, the Board shall consider whether the licensee acted in conformance with the requirements of G.S. 89E and this Chapter. In addition to issuing a reprimand or suspending or revoking a license or certificate of registration, the Board, may impose a civil penalty pursuant to the requirements set forth in G.S. 89-19E.
- (f) The Board shall notify the complainant and the respondent-licensee in any complaint filed with the Board of the disposition of the case and may publish in the Board's newsletter or other public media any disciplinary action taken against a licensee or registrant or any legal action taken against any person found to be in violation of G.S. 89E or these Rules after all rights to appeal have been exhausted.

*History Note:* Authority G.S. 89E-5; 89E-17; 89E-19; 89E-20;  
 Eff. February 1, 1986;  
 Amended Eff. April 1, 1989;  
 Temporary Amendment Eff. November 24, 1999;  
 Amended Eff. April 1, 2003; August 1, 2000;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014;  
 Amended Eff. June 1, 2017.

## **21 NCAC 21 .0502 REPRIMAND**

- (a) If evidence of a violation is found, but it is determined that a disciplinary hearing is not warranted, the Board may issue a reprimand to the accused party. A record of such reprimand shall be mailed to the accused party, and within 15 days after receipt of the reprimand the accused party may refuse the reprimand and request that a hearing be held pursuant to G.S. 150B. Such refusal and request shall be addressed to the Board and filed with the Executive Director of the Board.
- (b) Upon timely filing of a notice refusing the reprimand and requesting a hearing, the Board shall determine whether the Board shall conduct the evidentiary hearing or whether it shall refer the matter to the Office of Administrative Hearings for designation of an administrative law judge to conduct the hearing. If the Board elects to conduct the hearing, the legal counsel for the Board shall prepare and file a Notice of Hearing.
- (c) If the Letter of Reprimand is accepted, a copy of the reprimand shall be maintained in the office of the Board. If a party receiving a reprimand wishes to file a letter rebutting his or her reprimand, he or she may in writing waive his or her right to hearing and submit a letter of rebuttal to be placed in his or her file.

*History Note:* Authority G.S. 89E-5; 89E-19; 89E-20;  
 Eff. February 1, 1986;  
 Amended Eff. April 1, 1989;  
 Temporary Amendment Eff. November 24, 1999;  
 Amended Eff. April 1, 2003; August 1, 2000;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014;  
 Amended Eff. June 1, 2017.

## **21 NCAC 21 .0505 RIGHT TO HEARING**

When the Board initiates a disciplinary action that affects or may affect a licensee pursuant to Sections .0500 and .0600 of this Chapter, the Board shall give, by certified mail to each affected licensee at his or her last known address, a notice of the proposed action and of his or her right to a hearing.

*History Note:* Authority G.S. 89E-20; 150B-11; 150B-38;  
 Eff. February 1, 1986;  
 Amended Eff. April 1, 1989;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014;  
 Amended Eff. June 1, 2017.

## **21 NCAC 21 .0506 REQUEST FOR HEARING**

- (a) When an individual believes his or her rights, duties, or privileges have been or may be affected by the Board's administrative action, but has not received notice of a right to an administrative hearing, he or she may file a request for a hearing.
- (b) The request shall bear the notation: RE: REQUEST FOR ADMINISTRATIVE HEARING. That request shall contain the following information:

- (1) name and address of the petitioner;
- (2) a concise statement of the action taken by the Board which is challenged;
- (3) a concise statement of the way in which the petitioner has been aggrieved; and
- (4) a clear and specific request for a hearing.

(c) Such a request shall be acknowledged and, if deemed appropriate under Rule 21 NCAC 21 .0507, a hearing shall be scheduled.

*History Note: Authority G.S. 89E-20; 150B-11; 150B-38; Eff. February 1, 1986; Amended Eff. April 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014; Amended Eff. June 1, 2017.*

**21 NCAC 21 .0511 TYPES OF INTERVENTION**

The Board shall allow intervention as provided by Rule 24 of the North Carolina Rules of Civil Procedure.

*History Note: Authority G.S. 89E-20; 150B-38; Eff. February 1, 1986; Amended Eff. April 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014; Amended Eff. June 1, 2017.*

**21 NCAC 21 .0513 DISQUALIFICATION OF BOARD MEMBERS**

(a) Self-disqualification. If for any reason a Board member determines that personal bias or other factors render him or her unable to participate in a contested case hearing and perform all duties in an impartial manner, he or she shall submit, in writing, to the Board, his or her disqualification and the reasons.

(b) Petition for Disqualification. If for any reason any party in a contested case believes that a Board member is personally biased or otherwise unable to participate in a contested case hearing and perform all duties in an impartial manner, the party may file a sworn, notarized affidavit with the Board. The title of such affidavit shall bear the notation: AFFIDAVIT OF DISQUALIFICATION OF BOARD MEMBER IN THE CASE OF [name of case].

(c) Contents of Affidavit. The affidavit shall state all facts the party deems relevant to the disqualification of the Board member.

(d) Timeliness and Effect of Affidavit. An affidavit of disqualification shall be considered timely if filed ten days before the commencement of the hearing or at the first opportunity after the party becomes aware of facts set forth in the affidavit. Where a petition for disqualification is filed less than ten days before or during the course of a hearing, the hearing shall continue with the challenged Board member sitting. Petitioner shall have the opportunity to present evidence supporting his or her petition, and the petition and any evidence relative thereto presented at the hearing shall be made a part of the record. The Board, before rendering its decision, shall decide whether the evidence justifies disqualification. In the event of disqualification, the disqualified member shall not participate in further deliberation or decision of the case.

(e) Procedure for Determining Disqualification:

- (1) the Board shall appoint a Board member to investigate the allegations of the affidavit;
- (2) the investigator shall report to the Board the findings of the investigation;

- (3) the Board shall decide whether to disqualify the challenged individual;
- (4) the person whose disqualification is to be determined shall not participate in the decision but may be called upon to furnish information to the other members of the Board;
- (5) when a Board member is disqualified prior to the commencement of the hearing or after the hearing has begun, such hearing shall continue with the remaining members sitting provided that the remaining members still constitute a majority of the Board; and
- (6) if three or more members of the Board are disqualified pursuant to this Rule, the Board shall petition the Office of Administrative Hearings to appoint an administrative law judge to hear the contested case pursuant to G.S. 150B-40(e).

*History Note: Authority G.S. 89E-20; 150B-11; 150B-38; 150B-40; Eff. February 1, 1986; Amended Eff. April 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014; Amended Eff. June 1, 2017.*

**21 NCAC 21 .0514 INVESTIGATION**

(a) Complaints received by the Board which are determined to be within the jurisdiction of the Board following review by the Board Chair, the Executive Director, and the Board's Counsel and to provide the information required by Rule .0501 of this Section shall be forwarded to an investigator for further inquiry as to whether the acts or omissions alleged violate the provisions of G.S. 89E, the Board's Rules of Professional Conduct, or any other rules of this Chapter. The Board's Executive Director shall notify the licensee or corporate registrant of the complaint that:

- (1) the licensee or corporate registrant has a duty to cooperate fully with the investigation by the Board; and
- (2) the licensee or corporate registrant may submit a written response to the complaint.

(b) The investigator shall collect all information needed to determine whether a violation has occurred and the nature and severity of the violation. Information gathered during the course of an investigation shall be treated by the Board as confidential information in accordance with G.S. 89E-17(c) until the Board takes disciplinary action against the licensee or registered corporation.

(c) After collecting information relevant to the complaint, the investigator shall submit a report that consists of the complaint, information gathered in the course of investigation, and the investigator's conclusion to a peer-review committee for evaluation. The peer-review committee shall consist of at least two licensed geologists. The peer reviewers and investigator may consult to discuss the investigation into the complaint and their conclusions regarding the complaint. The peer reviewers shall prepare a written evaluation that documents whether any violation

of the provisions of G.S. 89E, the Board's Rules of Professional Conduct, or any other rules of this Chapter has occurred.

(d) The investigation report (including the supporting information relevant to the complaint) and the written evaluation of the peer-review committee shall be submitted to the Executive Director of the Board to be added to—the licensee's written response to the complaint, if any, for further proceedings in accordance with Rule .0515 of this Section.

*History Note: Authority G.S. 89E-5; 89E-17; 89E-20;*

*Temporary Adoption Eff. November 24, 1999;*

*Eff. August 1, 2000;*

*Amended Eff. April 1, 2003;*

*Pursuant to G.S. 150B 21.3A, rule is necessary without substantive public interest Eff. December 16, 2014;*

*Amended Eff. June 1, 2017.*

## **21 NCAC 21 .0515 DISCIPLINARY PROCEDURE**

(a) Upon receipt of an investigation report and evaluation from the Board's investigator and peer review committee in accordance with Rule .0514 of this Section, the Board's Executive Director shall forward to the Chair of the Board (or to a member of the Board designated by the Chair) and the Board's counsel the investigation report, evaluation, and the supporting documentation along with the licensee's or registrant's written response to the complaint, if any.

(b) The Chair or his or her designee, in consultation with the Board's counsel, shall propose the disciplinary action for the violation revealed by the investigation, consistent with the provisions of G.S. 89E-19. The Chair (or a member of the Board designated by the Chair) may issue a summary suspension pursuant to G.S. 150B-3(c). The Chair or his or her designee, may also propose dismissal of the complaint.

(c) After review of the investigation report, evaluation, and supporting documentation, the Chair shall notify the licensee or registrant of the proposed disciplinary action by certified mail sent to the last known address of the licensee or registrant as indicated in the Board's official roster. This notification shall contain a summary of the alleged facts or conduct upon which the proposed disciplinary action is based, the effective date of the proposed disciplinary action, and an explanation of the licensee's or registrant's hearing rights pursuant to G.S. 150B, Article 3A. Notification for summary suspensions shall meet the requirements of G.S. 150B-3(c).

(d) Requests for hearing shall be submitted, in writing, at the Board's office no later than 5:00 p.m. on the 15<sup>th</sup> day after receipt of notification of proposed disciplinary action. If the licensee or registrant does not file a written request for hearing with the Board, the Board shall receive the Chair's recommendation on disciplinary action at its next meeting. If, after review of a summary of the facts of the case that does not include identifying information such as the licensee's name or license number, a majority of the Board agrees with the Chair's recommendation, the proposed disciplinary action shall become a final agency decision. If a majority of the Board does not agree with the Chair's recommendation, the Board shall review of the investigator's report without supporting documentation for the purpose of proposing an appropriate disciplinary action or dismissal. The Chair shall not participate in the deliberations or the voting with

regard to either his or her recommendation or the Board's decision regarding a substitute disciplinary action. A new notice of proposed disciplinary action shall be sent to the licensee or registrant, if necessary, in accordance with the procedure set out in Paragraph (c) of this Rule, and the licensee or registrant may file a request for hearing, in writing, at the Board's office no later than 5:00 p.m. on the 15<sup>th</sup> day after receipt of the new notice of proposed disciplinary action.

(e) The licensee or registrant may request a settlement conference; however, neither the request for settlement conference nor the Board's agreement to enter into settlement negotiations shall extend the 15-day deadline for requesting an opportunity for a hearing or any other deadlines in the hearing process. The Chair or his or her designee Chair is delegated authority to negotiate a settlement; however, the settlement agreement shall be approved by a majority of the members of the Board before the proposed disciplinary action will be rescinded.

(f) Upon receipt of written request for hearing, the Board may conduct an administrative hearing as authorized by G.S. 150B-38 or the Board may request the Office of Administrative Hearings to conduct the hearing as authorized by G.S. 150B-40. Hearings shall be conducted in accordance with the rules of this Chapter.

(g) A majority of the members of the Board other than the Chair or his or her designee shall render the final agency decision, in accordance with G.S. 150B-42, after a hearing on the proposed disciplinary action. The Chair or his or her designee who proposed the disciplinary action after a full review of the facts available to the investigator and peer review committee shall not participate in the discussion of the contested case and shall not vote on the final decision for disciplinary action. Nothing in this Rule shall prevent members of the Board from participating in the discussion and vote on a final agency decision with regard to proposed disciplinary action if they have reviewed the investigator's report without supporting documentation solely for the purpose of determining whether probable cause existed to support the allegations of violation and for the purpose of proposing an appropriate disciplinary action.

*History Note: Authority G.S. 89E-5; 89E-19; 89E-20; 150B-3; 150B-38 through 150B-42;*

*Temporary Adoption Eff. November 24, 1999;*

*Eff. August 1, 2000;*

*Amended Eff. April 1, 2003;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014;*

*Amended Eff. June 1, 2017.*

## **21 NCAC 21 .0803 PETITION FOR RULEMAKING HEARINGS**

(a) Any person wishing to submit a petition requesting the adoption, amendment, or repeal of a rule (the "proposed rule") by the Board shall file the petition with the Board. The first page of the petition shall clearly bear the notation: RULEMAKING PETITION RE and then [state the subject area]. The Petition shall contain the following information:

- (1) the text of the proposed rule for adoption or amendment;

- (2) a statement of the reasons for adoption or amendment of the proposed rule or the repeal of an existing rule;
- (3) a statement of the proposed rule's effect on existing rules or orders;
- (4) the name and address of the petitioner; and
- (5) a request to present the petition to the Board, if desired.

(b) In its review of the proposed rule, the Board shall consider whether it has authority to adopt the rule; the effect of the proposed rule on existing rules, programs, and practices; probable costs and cost factors of the proposed rule; and the impact of the rule on the public and licensees. The petitioner may include the following information with the request:

- (1) the statutory authority for the agency to promulgate the rule;
- (2) a statement of the effect of the proposed rule(s) on existing practices in the area involved, including the cost for persons affected by the proposed rule;
- (3) a statement explaining the computation of the cost;
- (4) a description, including the names and addresses, if known, of those most likely to be affected by the proposed rule; and
- (5) documents and data supporting the proposed rule.

(c) An original and eight copies of the petition and supporting documents shall be filed with the Board.

(d) Filings that do not contain the information required by this Rule shall not be accepted and shall be returned by the Chair to the person making the filing.

*History Note: Authority G.S. 89E-5; 150B-20; Eff. February 1, 1986; Amended Eff. April 1, 2003. Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014; Amended Eff. June 1, 2017.*

#### **21 NCAC 21 .0804 DISPOSITION OF PETITIONS FOR RULEMAKING**

(a) The Chair may request additional information from the petitioner, may contact any interested person or persons likely to be affected by the proposed rule and request comments, and may use any other appropriate method to obtain additional information.

(b) When deemed complete by the Chair, petitions for rulemaking shall be presented to the Board for its consideration and determination at a regularly-scheduled meeting of the Board within 120 days following submission of the complete petition. The Chair shall determine the order and duration of discussion regarding the petition, including discussion by members of the public if any.

(c) Within 120 days following submission of the complete petition requesting rulemaking, unless the parties have agreed to an extension of time, the Board shall:

- (1) initiate rulemaking proceedings in accordance with G.S. 150B-20 and notify the petitioner in writing; or
- (2) deny the petition in writing with the reason for the denial and send the written denial to the petitioner.

*History Note: Authority G.S. 89E-5; 150B-20; Eff. February 1, 1986; Amended Eff. April 1, 2003; April 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 16, 2014; Amended Eff. June 1, 2017.*

#### **21 NCAC 21 .0903 DISPOSITION OF REQUESTS**

(a) The Board's Chair shall make a determination on the completeness of the request for declaratory ruling based on the requirements of Rule .0902 of this Section, and he or she shall make a recommendation to the Board on whether to issue or decline to issue a declaratory ruling.

(b) Before deciding the merits of the request, the Board may:

- (1) request additional written submissions from petitioner(s);
- (2) request a written response from any other person; or
- (3) hear oral argument upon written request from the petitioner or other persons on the issues raised by the request if the Board determines oral argument would be helpful to its consideration of the request.

(c) No party shall offer testimony or conduct cross-examination before the Board in a declaratory ruling proceeding.

(d) Whenever the Board determines for good cause that the issuance of a declaratory ruling is undesirable, the Board may refuse to issue such ruling. The Board shall notify in writing the person that requested the ruling of the reasons for the refusal to issue a ruling on the request.

(e) For purposes of Paragraph (d) of this Rule, the Board shall determine whether good cause exists by considering factors such as the following:

- (1) whether the facts are in dispute;
- (2) whether there has been a similar determination in a previous contested case or declaratory ruling;
- (3) whether the matter is the subject of a pending contested case hearing or litigation in any North Carolina or federal court;
- (4) whether the factual context put forward as the subject of the declaratory ruling was specifically considered upon the adoption of the rule being questioned, as evidenced by the rulemaking record; and
- (5) whether no genuine controversy exists as to the application of a statute or rule to the specific factual situation presented.

(f) The requesting party may agree to allow the Board to extend the time by which to issue a ruling on the merits of the request pursuant to G.S. 150B-4.

*History Note: Authority G.S. 89E-5; 89E-20; 150B-4;  
Eff. February 1, 1986;  
Amended Eff. April 1, 2003; April 1, 1989;  
Pursuant to G.S. 105B 21.3A, rules is necessary without  
substantive public interest Eff. December 16, 2014;  
Amended Eff. June 1, 2017.*

**21 NCAC 21 .1101 RULES OF PROFESSIONAL CONDUCT**

(a) Each geologist licensed by the Board and each partnership, corporation, or other legal entity authorized to offer or perform geological services in this State shall comply with these Rules of Professional Conduct.

(b) The geologist shall conduct his or her practice in order to protect the public health, safety, and welfare:

- (1) The geologist shall at all times recognize his or her primary obligation to protect the safety, health, and welfare of the public in the performance of his or her professional duties. If his or her geologic judgment is overruled under circumstances where the safety, health, and welfare of the public are endangered, he or she shall inform his or her employer of the possible consequences and notify other proper authority of the situation.
- (2) The geologist shall protect the public health, safety, and welfare by maintaining sufficient personal on-site involvement and continual direction and review of the activities of subordinates that constitute public practice of geology while such activities are in progress. The licensee shall provide such supervision and have sufficient knowledge of the project and site conditions necessary to assure accuracy and compliance with all applicable laws and regulations, including G.S. 89E and the rules of this Chapter.

(c) The geologist shall perform his or her services only in areas of his or her competence:

- (1) The geologist shall undertake to perform geologic assignments only when qualified by education or experience in the specific technical field of geology involved.
- (2) The geologist may accept an assignment requiring education or experience outside of his or her own field of competence, but only to the extent that his or her services are restricted to those phases of the project in which he or she is qualified. All other phases of such project shall be performed by qualified associates, consultants, or employees.
- (3) The geologist shall not affix his or her signature and seal to any document dealing with subject matter for which he or she lacks competence by virtue of education or experience or to any such plan or document not prepared under his or her direct supervisory control, except that the geologist may affix his or her seal and signature to drawings and documents depicting the work

of two or more professionals provided he or she designates by note under his or her seal the specific subject matter for which he or she is responsible.

(d) The geologist shall issue public statements only in an objective and truthful manner:

- (1) The geologist shall be completely objective and truthful in all professional reports, statements, or testimony. He or she shall include all relevant and pertinent information in such reports, statements, or testimony.
- (2) The geologist when serving as an expert or technical witness before any court, commission, or other tribunal shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy of his or her testimony.
- (3) The geologist shall issue no statements, criticisms, or arguments on geologic matters connected with public policy that are inspired or paid for by an interested party or parties unless he or she has prefaced his or her comments by explicitly identifying himself, by disclosing the identities of the party or parties on whose behalf he or she is speaking, and by revealing the existence of any pecuniary interest he or she may have in the instant matters.
- (4) The geologist shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice, or employment of another geologist, nor shall he or she maliciously criticize another geologist's work in public. If he or she believes that another geologist is guilty of misconduct or illegal practice, he or she shall present such information to the Board.

(e) The geologist shall not attempt to supplant another geologist in a particular employment after becoming aware that the other has been selected for the employment.

(f) The geologist shall avoid conflicts of interest:

- (1) The geologist shall conscientiously avoid conflicts of interest with his or her employer or client but, when unavoidable, the geologist shall disclose the circumstances to his or her employer or client.
- (2) The geologist shall avoid all known conflicts of interest with his or her employer or client and shall promptly inform his or her employer or client of any business association, interest, or circumstances which could influence his or her judgment or the quality of his or her services.
- (3) The geologist shall not accept compensation, financial or otherwise, from more than one party for services on the same project or for services pertaining to the same project, unless

the circumstances are fully disclosed and agreed to by all those parties.

- (4) The geologist shall not solicit or accept financial or other valuable consideration from material or equipment suppliers for specifying their products.
- (5) The geologist shall not solicit or accept any gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with his or her client or employer in connection with work for which he or she is responsible.
- (6) When in public service as a member, advisor, or employee of a governmental body or department, the geologist shall not participate in considerations or actions with respect to services provided by him or his or her organization in private geological practices.
- (7) The geologist shall not solicit or accept a contract for geological services from a governmental body on which a principal or officer of his or her business serves as a member.
- (g) The geologist shall solicit or accept work only on the basis of his or her qualifications:
  - (1) The geologist shall not offer to pay, either directly or indirectly, any commission, political contribution, gift, or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies.
  - (2) The geologist shall compete for professional employment on the basis of qualification and competence for proper accomplishment of the work. He or she shall not solicit or submit proposals for professional services that contain a false, fraudulent, misleading, deceptive, or unfair statement or claim regarding the cost, quality, or extent of services to be rendered.
  - (3) The geologist shall not falsify or permit misrepresentation of his or her academic or professional qualifications nor of the qualifications of his or her associates. He or she shall not misrepresent or exaggerate his or her degree of responsibility for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, joint ventures, or their past accomplishments with the intent and purpose of enhancing his or her qualifications and those of his or her work associates.
- (h) The geologist shall associate only with reputable persons or organizations:
  - (1) The geologist shall not knowingly associate with or permit the use of his or her name or firm name in a business venture by any person or firm which he or she knows, or has reason to

believe, is engaging in business or professional practices of a fraudulent or dishonest nature.

- (2) If the geologist has knowledge or reason to believe that another person or firm may be in violation of any of these provisions or of the North Carolina Geologist Licensing Act, he or she shall present such information to the Board and furnish such further information or assistance as may be required by the Board.
- (i) Conviction of a felony without restoration of civil rights or the revocation or suspension of the license of a geologist by another jurisdiction, if for a cause which in the State of North Carolina would constitute a violation of G.S. 89E or of these rules, shall be grounds for a charge of violation of these Rules, for revocation of the certificate of licensure or corporate registration issued by this Board, and for the imposition of a civil penalty not to exceed five thousand dollars (\$5,000).

*History Note: Authority G.S. 89E-5; 89E-16;  
Temporary Adoption Eff. November 24, 1999;  
Eff. August 1, 2000;  
Pursuant to G.S. 150B 21.3A, rule is necessary without substantive public interest Eff. December 16, 2014;  
Amended Eff. June 1, 2017.*

## **21 NCAC 21 .1102 RULES OF CONDUCT OF ADVERTISING**

- (a) The geologist shall not make exaggerated, misleading, `deceptive, or false statements or claims about his or her professional qualifications, experience, or performance in his or her brochures, correspondence, listing, or other public communications.
- (b) The prohibitions listed in this Rule include the use of statements that contain a material misrepresentation of fact or omitting a material fact necessary to keep the statement from being misleading; statements intended or likely to create an unjustified expectation, statements containing prediction of future success, or statements containing an opinion as to the quality of services.
- (c) Consistent with the foregoing, the geologist may advertise for the recruitment of personnel.
- (d) Consistent with the foregoing, the geologist may prepare articles for the lay or technical press. Such articles shall not imply credit to the author for work performed by others.

*History Note: Authority G.S. 89E-5; 89E-16;  
Temporary Adoption Eff. November 24, 1999;  
Eff. August 1, 2000;  
Pursuant to G.S. 21.3A, rule is necessary without substantive public interest Eff. December 16, 2014;  
Amended Eff. June 1, 2017.*

\*\*\*\*\*

## **CHAPTER 29 - LOCKSMITH LICENSING BOARD**

### **21 NCAC 29 .0102 MEETINGS**

- (a) The Board shall meet during January and August and at other times agreed upon by a majority of the Board.

(b) Notification of the time and place of all meetings shall be published on the North Carolina Locksmith Licensing Board website, [www.nclocksmithboard.org](http://www.nclocksmithboard.org), not less than 15 days prior to the meeting.

*History Note: Authority G.S. 74F-5(g);  
Temporary Adoption Eff. August 13, 2002;  
Eff. August 1, 2004;  
Readopted Eff. June 1, 2017.*

**21 NCAC 29 .0201 EXAMINATION FEE**

- (a) The Board shall charge the examination fee as follows:
- (1) Two hundred dollars (\$200.00) for first time test takers;
  - (2) Fifty dollars (\$50.00) for second time applicants who fail to pass pursuant to 21 NCAC 29 .0203; and
  - (3) Two hundred dollars (\$200.00) for third and subsequent test takers.
- (b) The applicant may take the examination at a commercial testing center that charges a fee. However, the examination fee required in this Rule shall not be affected and the Board shall not be responsible for any additional fee assessed by the testing center.

*History Note: Authority G.S. 74F-6; 74F-9;  
Temporary Adoption Eff. October 17, 2002;  
Eff. August 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016;  
Amended Eff. June 1, 2017.*

**21 NCAC 29 .0204 REQUIREMENTS OF EXAMINEES**

- (a) Applicants at an examination session shall present a photo ID to the examination proctor before the beginning of the examination session.
- (b) The applicant shall not bring books, calculators, or other items that may compromise the exam, such as a study guide or objects that are disruptive into the examination room.
- (c) Cellphones shall be turned off during the examination. Applicants shall not speak with others during the examination session.
- (d) Applicants shall obey instructions from the proctor regarding when to begin and cease work on the examination.
- (e) Applicants shall be excused from the room during the examination only with permission from the proctor.
- (f) Failure to abide by any of the Paragraphs of this Rule shall result in invalidation of the applicant's examination results.

*History Note: Authority G.S. 74F-6; 74F-7;  
Temporary Adoption Eff. November 13, 2002;  
Eff. August 1, 2004;  
Readopted Eff. June 1, 2017.*

**21 NCAC 29 .0205 FAILURE TO ATTEND SCHEDULED EXAMINATION SESSION**

Applicants who fail to appear for a scheduled examination session without prior notification to the Board shall forfeit their

examination fee and shall submit a new examination fee pursuant to 21 NCAC 29 .0201(a)(1) for a different session. The Board shall waive the new examination fee upon the applicant's request if it finds that the applicant's failure to attend as scheduled was the result of a hardship or emergency.

*History Note: Authority G.S. 74F-6; 74F-7;  
Temporary Adoption Eff. November 13, 2002;  
Eff. August 1, 2004;  
Readopted Eff. June 1, 2017.*

**21 NCAC 29 .0206 SPECIAL ADMINISTRATION**

Applicants with disabilities as defined by the Americans with Disabilities Act of 1990 (ADA), which is hereby incorporated by reference, including subsequent amendments and editions, available at no cost at [www.ada.gov](http://www.ada.gov), and documented by a licensed medical professional shall be administered the NC Locksmith Licensing Exam under conditions that shall minimize the effect of the disabilities on their performance. Special test administrations shall be as comparable as possible to a standard administration and shall be granted upon request of the applicant and Board approval.

*History Note: Authority G.S. 74F-6; 74F-7;  
Eff. November 1, 2007;  
Readopted Eff. June 1, 2017.*

**21 NCAC 29 .0401 APPLICATION FORM**

- (a) All applications for licensure shall be submitted on the form found on the Board website for this purpose. The application shall request the applicant's name, address, and contact information.
- (b) Applications shall be accompanied by the following:
- (1) two frontal photos of the applicant's face, taken within the preceding three months;
  - (2) documentation that the applicant has submitted the applicant's fingerprints to the applicant's local law enforcement for submission of the fingerprints to be delivered by local law enforcement directly to the SBI or a copy of the applicant's fingerprints to the Board;
  - (3) a completed examination registration request containing the requested exam date;
  - (4) a written explanation of affirmative responses to questions on the application regarding criminal history and military service, if applicable;
  - (5) payment in full of all applicable fees;
  - (6) a copy of the applicant's legal resident documents, if the applicant is not a U.S. citizen;
  - (7) a copy of a Locksmith License from another state, if applicable;
  - (8) a copy of the applicant's military discharge document (DD-214 or equivalent), if the applicant has served in any branch of the armed forces;
  - (9) a notarized Authorization for Records Release form provided by the State Bureau of Investigation, and found in the Locksmith License application; and



- (10) a copy of any national locksmith certifications, if applicable.

*History Note: Authority G.S. 74F-6; 74F-18(b);  
Temporary Adoption Eff. August 13, 2002;  
Eff. August 1, 2004;  
Readopted Eff. June 1, 2017.*

**21 NCAC 29 .0404 FEES**

The license issuance fee shall be one hundred dollars (\$100.00). The license issuance fee shall accompany the application for licensure. In the event the applicant is denied licensure, the fee shall be refunded.

*History Note: Authority G.S. 74F-6; 74F-7; 74F-9;  
Temporary Adoption Eff. October 17, 2002;  
Eff. August 1, 2004;  
Readopted Eff. June 1, 2017.*

**21 NCAC 29 .0502 FAIR BUSINESS PRACTICES**

- (a) Locksmiths shall conduct all business in compliance with all applicable local, State, and federal laws.  
(b) Locksmiths shall analyze security problems and advance the best practicable solution for the protection of the client.  
(c) Locksmiths shall refrain from associating themselves with or allowing the use of their name (personal or professional) by any enterprise that in any way supports fraud or misrepresentation.  
(d) Locksmiths shall not misrepresent the features of any product or service they offer. Examples include the following:

- (1) Representing to a client that non-restricted or widely available keys (whether stamped "Do Not Duplicate" or not) provide any measure of assurance against unauthorized duplication; or
- (2) Selling a used product as new.

- (e) Locksmiths shall avoid using any improper means of soliciting business. Examples of prohibited practices include:

- (1) Affixing stickers to permanent fixtures such as doors or door frames or in any way defacing the property of any person without his or her express written consent.
- (2) Installing stickers or any other promotions in such fashion that they falsely represent that the locksmith or company has previously serviced the hardware in that location.
- (3) Installing or supplying hardware that curtails the customer's ability to choose a different company or technician for product support or service, unless the locksmith obtains the customer's express written consent.
- (4) Modifying the customer's hardware in any fashion that will curtail the customer's ability to choose a different company or technician for later product support or service or cause him or her to incur additional expense by doing so, unless the locksmith obtains the customer's express written consent.
- (5) Direct solicitation in violation of a non-compete agreement, such as an employee offering

competing bids to customers of his or her employer.

- (6) Using a name in advertising that is similar enough to a competitor's name to cause confusion among consumers.

*History Note: Authority G.S. 74F-6;  
Temporary Adoption Eff. August 13, 2002;  
Eff. August 1, 2004;  
Readopted Eff. June 1, 2017.*

**21 NCAC 29 .0503 PROTECTION OF THE PUBLIC INTEREST**

- (a) Locksmiths shall refrain from allowing their specialized skills, knowledge, or access to tools and information to be used in a manner that puts the safety and security of the public at risk.  
(b) Locksmiths shall reserve the right to refuse service when intent and ownership cannot be verified and shall notify law enforcement within a jurisdiction when a locksmith suspects criminal intent.  
(c) Locksmiths shall not deliberately breach a restricted key system.  
(d) Locksmiths shall record the identity of the customer for all service calls in which the locksmith opens a vehicle, building, room, or secured container, originates a key, or in any other fashion provides the customer with access to any such property.  
(e) Locksmiths shall endeavor to install all locking devices in compliance with the International Building Code, which is incorporated by reference, including subsequent amendments and editions, available at no cost at [www.iccsafe.org](http://www.iccsafe.org); National Fire Protection Association (NFPA) codes, which are incorporated by reference, including subsequent amendments and editions, available at no cost at [www.nfpa.org](http://www.nfpa.org); the Americans with Disabilities Act; and any local codes or ordinances that regulate architectural hardware. Locksmiths shall not install a locking device that produces a threat to life or safety. If such a (pre-existing) condition is encountered, the locksmith shall inform the client and may recommend appropriate remedial action.  
(f) Locksmiths shall refuse to provide service when there is an unresolved dispute of ownership or authority. Only instructions from a uniformed law enforcement officer or a court order shall be accepted as resolution of any such dispute.  
(g) Locksmiths shall not interfere with the maintenance of a known master key system. When master keyed cylinders are encountered, the key presented without its corresponding master key shall be presumed to be a subordinate key until otherwise determined. The locksmith shall attempt to determine the holder of the master key and seek authorization for cylinder changes or key origination before the service is performed.  
(h) Locksmiths shall keep key biting arrays, file keys, and all client information confidential. Locksmiths shall not release any information or security device, such as a master key or safe combination, to any person without verifying with the owner that the recipient is entitled to receive it.

*History Note: Authority G.S. 74F-6;  
Temporary Adoption Eff. August 13, 2002;  
Eff. August 1, 2004;  
Amended Eff. April 1, 2012;*

*Readopted Eff. June 1, 2017.*

**21 NCAC 29 .0504 TECHNICAL INTEGRITY**

- (a) Locksmiths shall service and install security devices at the highest level of security afforded by the manufacturer of the product.
- (b) Locksmiths shall inform clients of the dangers of introducing new keys into a master keyed system without reference to the original biting array. Locksmiths shall not introduce random keys into a master keyed system without obtaining the signature of the client on a written warning notice of the compromised system.
- (c) Locksmiths shall inform clients of the dangers in keying a mechanical lock to operate on several keys in a fashion that requires multiple chambers to be left empty or stacked with more than two master wafers in any chamber (maison keying). Locksmiths shall not key mechanical lock cylinders in this fashion without obtaining the signature of the client on a written warning notice of the compromised system.
- (d) Locksmiths shall follow industry and manufacturer standards and insure random and complete recombination of cylinders and combination locks for optimal security maintenance. Examples include the following:
  - (1) The repeated use of a standard key or combination for multiple customers or job sites.
  - (2) Filing the plug on a mechanical lock cylinder as a means to enlarge the shear line.
  - (3) Leaving multiple chambers of a mechanical lock empty without written notice required by Paragraph (b) of this Rule.
- (e) Locksmiths shall follow manufacturer recommendations for the proper installation of locking devices and shall not omit or disable any security feature, such as a safe relocking assembly or deadlatch, to the detriment of the client's safety and security.

*History Note: Authority G.S. 74F-6;  
Temporary Adoption Eff. August 13, 2002;  
Eff. August 1, 2004;  
Readopted Eff. June 1, 2017.*

**21 NCAC 29 .0702 DUE DATE**

- (a) Applications for license renewal shall be submitted a minimum of 30 days prior to the date of license expiration.
- (b) Licensees who submit their applications for renewal after the due date but before the license expiration date shall pay a late fee of one hundred fifty dollars (\$150.00), in addition to the license renewal fee set forth in Rule .0404 of this Chapter.
- (c) The Board shall deem applications submitted on the date of their postmark or upon receipt by staff at the Board's offices, whichever is earlier.

*History Note: Authority G.S. 74F-6; 74F-9; 74F-10;  
Eff. July 1, 2005;  
Amended Eff. January 1, 2013;  
Readopted Eff. June 1, 2017.*

**21 NCAC 29 .0703 REINSTATEMENT OF EXPIRED LICENSE**

- (a) A licensee with an expired license may apply for reinstatement only if he or she has completed at least eight contact

hours of continuing education within one year preceding the application.

- (b) Applicants for reinstatement shall pay the following fees:

- (1) A license renewal fee as set forth in Rule .0404 of this Chapter;
- (2) A late fee as set forth in Rule .0702 of this Section; and
- (3) A reinstatement fee of one hundred fifty dollars (\$150.00).

*History Note: Authority G.S. 74F-6; 74F-9; 74F-10;  
Eff. July 1, 2005;  
Readopted Eff. June 1, 2017.*

**21 NCAC 29 .0802 REQUIREMENTS**

- (a) Every licensee shall obtain 24 contact hours of continuing education during each 3-year renewal cycle, except:
  - (1) Persons exempted from eight contact hours in Rule .0805 of this Section; and
  - (2) Persons who:
    - (A) are at least 62 years of age;
    - (B) have at least 15 years of experience as locksmiths;
    - (C) have been North Carolina licensed locksmiths for at least nine years; and
    - (D) are not subject to an investigation by the Board.
- (b) The contact hours of continuing education shall be in technical and professional subjects related to the practice of locksmithing.
- (c) Licensees shall not carry forward any contact hours of continuing education into the subsequent renewal period.
- (d) Licensees shall verify completion of the contact hours of continuing education for the previous license period on their application for license renewal.

*History Note: Authority G.S. 74F-6;  
Eff. February 1, 2005;  
Amended Eff. April 1, 2012;  
Readopted Eff. June 1, 2017.*

**21 NCAC 29 .0803 DETERMINATION OF CREDIT**

- (a) The Board has final authority with respect to approval of course sponsors, courses, programs, and contact hours.
- (b) The Board shall not pre-approve individual courses or programs. The Board may approve sponsors and enter into agreements with course and program sponsors in which the sponsor agrees to offer courses and programs that comply with the subject matter requirements of Rule .0802 of this Section and agrees to maintain for a period of four years the records of course content and attendance. In addition, the sponsor shall agree to permit a representative of the Board to monitor or review any course or program the sponsor offers to North Carolina Licensed Locksmiths for credit. Provided the sponsor complies with the sponsor agreement, the Board shall accept as valid contact hours earned by licensees from approved sponsors.
- (c) Credit for teaching or instructing qualifying courses shall earn continuing education credit for the instructor at the same rate as for participants.

(d) Licensees may claim credit for contact hours for courses or programs that have not been presented by approved sponsors but only credit from approved sponsors shall be valid. The Board may audit the compliance of individual licensees and may require proof of participation in courses or programs that conform with the content and contact hour calculation contained in the rules of this Section. Such proof shall be in the form of records maintained pursuant to Rule .0804 of this Section.

*History Note: Authority G.S. 74F-6;  
Eff. February 1, 2005;  
Readopted Eff. June 1, 2017.*

**21 NCAC 29 .0804 RECORD KEEPING**

The licensee shall maintain records to support credits claimed and supply such records to the Board at time of renewal. The Board requires any of the following as proof of education:

- (1) A log showing the type of activity claimed, sponsoring organization, location, duration, the name of the instructor or speaker, and the contact hours earned;
- (2) Attendance certificates or other written evidence of participation issued by the approved sponsor or presenter; or
- (3) A transcript from an approved sponsor detailing the licensee's attendance.

*History Note: Authority G.S. 74F-6;  
Eff. February 1, 2005;  
Readopted Eff. June 1, 2017.*

**21 NCAC 29 .0805 EXCEPTIONS**

A licensee shall be exempt from eight hours of the continuing education requirement per renewal cycle for any of the following reasons:

- (1) A licensee serving on temporary active duty in the armed forces of the United States for a period exceeding 120 consecutive days within the year.
- (2) A licensee experiencing physical disability or illness if supporting documentation is provided by the licensee. Such documentation shall be in the form of a statement from a physician or medical records that show that the disability or illness prevented the licensee's participation in the following:
  - (a) a course in which the licensee had enrolled; or
  - (b) a continuing education program for at least 120 consecutive days in a year.
- (3) A licensee whose licensed apprentice passes the North Carolina Locksmith Licensing Exam and receives a North Carolina Locksmith License.

*History Note: Authority G.S. 74F-6; 93B-15;  
Eff. February 1, 2005;  
Amended Eff. November 1, 2007;  
Readopted Eff. June 1, 2017.*

**21 NCAC 29 .0806 NON COMPLIANCE**

If the Board does not approve credits claimed by an applicant, then the licensee shall have 90 calendar days after written notification from the Board to substantiate the original claim as stated in Rule .0804 of this Section or obtain other contact hours to meet the minimum requirements. If the licensee fails to meet this requirement within the 90 days, the applicant's license shall expire.

*History Note: Authority G.S. 74F-6;  
Eff. February 1, 2005;  
Readopted Eff. June 1, 2017.*

\*\*\*\*\*

**CHAPTER 36 – BOARD OF NURSING**

**21 NCAC 36 .0120 DEFINITIONS**

The following definitions apply throughout this chapter unless the context indicates otherwise:

- (1) "Administrative Law Counsel" means an attorney whom the Board of Nursing has retained to serve as procedural officer for contested cases.
- (2) "Academic term" means one semester of a school year.
- (3) "Accountability/Responsibility" means being answerable for action or inaction of self, and of others in the context of delegation or assignment.
- (4) "Accredited institution" means an institution accredited by a United States Department of Education approved institutional accrediting body.
- (5) "Active Practice" means activities that are performed, either for compensation or without compensation, consistent with the scope of practice for each level of licensee as defined in G.S. 90-171.20(4), (7), and (8).
- (6) "Advanced Practice Registered Nurse (APRN)" means a nurse practitioner, nurse anesthetist, nurse-midwife or clinical nurse specialist.
- (7) "Assigning" means designating responsibility for implementation of a specific activity or set of activities to a person licensed and competent to perform such activities.
- (8) "Clinical experience" means application of nursing knowledge in demonstrating clinical judgment in a current or evolving practice setting where the student provides care to clients under the supervision of faculty or a preceptor.
- (9) "Clinical judgment" means the application of the nursing knowledge, skills, abilities, and experience in making decisions about client care.
- (10) "Competent" means having the knowledge, skills, and ability to safely perform an activity or role.

- (11) "Continuing Competence" means the on-going acquisition and application of knowledge and the decision-making, psychomotor, and interpersonal skills expected of the licensed nurse resulting in nursing care that contributes to the health and welfare of clients served.
- (12) "Contact Hour" means 60 minutes of an organized learning experience.
- (13) "Continuing Education Activity" means a planned, organized learning experience that is related to the practice of nursing or contributes to the competency of a nurse as outlined in 21 NCAC 36 .0223 Subparagraph (a)(2).
- (14) "Controlling institution" means the degree-granting organization or hospital under which the nursing education program is operating.
- (15) "Curriculum" means an organized system of teaching and learning activities directed toward the achievement of specified learning objectives and outcomes.
- (16) "Delegation" means transferring to a competent individual the authority to perform a selected nursing activity in a selected situation. The nurse retains accountability/responsibility for the delegation.
- (17) "Debriefing" means an activity that follows a clinical or simulated experience and is led by a trained faculty facilitator. Students' reflective thinking is encouraged, and feedback is provided regarding the students' performance during discussion of various aspects of the completed experiences.
- (18) "Dimensions of Practice" means those aspects of nursing practice that include professional responsibility, knowledge-based practice, ethical and legal practice, and collaborating with others, consistent with G.S. 90-171.20(4), (7), and (8).
- (19) "Distance education" means teaching and learning strategies used to meet the learning needs of students when the students and faculty are not in the same location.
- (20) "External standardized examination" means a commercially available standardized predictive test that provides individual student scores that are linked to a probability of passing the NCLEX™ examination.
- (21) "Faculty directed clinical practice" means clinical experiences provided under the accountability/responsibility and direction of nursing program faculty.
- (22) "Focused client care experience" means a clinical experience that emulates an entry-level work experience in nursing. The intent is to assist the student to transition to an entry-level nursing practice. There is no specific setting requirement. Supervision may be by faculty and preceptor dyad or direct faculty supervision.
- (23) "Interdisciplinary faculty" means faculty from professions other than nursing.
- (24) "Interdisciplinary team" means all individuals involved in providing a client's care who cooperate, collaborate, communicate, and integrate care to ensure that care is continuous and reliable.
- (25) "Learning resources" means materials that faculty use to assist students in meeting the expectations for learning defined by the curriculum.
- (26) "Level of Licensure" means practice of nursing by either a Licensed Practical Nurse or a Registered Nurse as defined in G.S. 90-171.20(7) and (8).
- (27) "Level of student" means the point in the program to which the student has progressed.
- (28) "Maximum enrollment" means the total number of pre-licensure students that can be enrolled in the nursing program at any one time. The number reflects the capacity of the nursing program based on demonstrated resources sufficient to implement the curriculum.
- (29) "Methods of Instruction" means the planned process through which teacher and student interact with selected environment and content so that the response of the student gives evidence that learning has taken place. It is based upon stated course objectives and outcomes for learning experiences in classroom, laboratory, simulation and clinical settings.
- (30) "National Credentialing Body" means a credentialing body that offers certification or re-certification in the licensed nurse's or Advanced Practice Registered Nurse's specialty area of practice.
- (31) "NCLEX-PN™" means the National Council Licensure Examinations for Practical Nurses.
- (32) "NCLEX-RN™" means the National Council Licensure Examinations for Registered Nurses.
- (33) "Nursing Accreditation body" means a national nursing accrediting body, recognized by the United States Department of Education.
- (34) "Nursing program faculty" means individuals employed full or part-time by academic institution responsible for developing, implementing, evaluating and updating nursing curricula.
- (35) "Nursing project" means a project or research study of a topic related to nursing practice that includes a problem statement, objectives, methodology and summary of findings.
- (36) "Participating in" means to have a part in or contribute to the elements of the nursing process.
- (37) "Pattern of noncompliance" means episodes of recurring non-compliance with one or more Rules in Section .0300.

- (38) "Preceptor" means a registered nurse at or above the level of licensure that an assigned student is seeking, who may serve as a teacher, mentor, role model and supervisor for a faculty directed clinical experience.
- (39) "Prescribing Authority" means the legal permission granted by the Board of Nursing and Medical Board for the nurse practitioner and nurse midwife to procure and prescribe legend and controlled pharmacological agents and devices to a client in compliance with Board of Nursing rules and other applicable federal and state law and regulations.
- (40) "Program Closure" means to cease operation of a nursing program.
- (41) "Program" means a course of study that prepares an individual to function as an entry-level practitioner of nursing. The three "Program Types" are:
- (a) BSN - Curriculum components for Bachelor of Science in Nursing provides for the attainment of knowledge and skill sets in the current practice in nursing, nursing theory, nursing research, community and public health, health care policy, health care delivery and finance, communications, therapeutic interventions and current trends in health care. For this program type, the client is the individual, family, group, and community.
  - (b) Associate Degree in Nursing (ADN)/Diploma in Registered Nursing - Curriculum components for the ADN/Diploma in Registered Nursing provides for the attainment of knowledge and skill sets in the current practice in nursing, community concepts, health care delivery, communications, therapeutic interventions and current trends in health care. For this program type, client is the individual, group of individuals, and family.
  - (c) Practical Nurse Diploma - Curriculum prepares for providing direct nursing care under the supervision of a registered nurse or other health care provider as defined by the Nursing Practice Act. Curriculum components provide for the attainment of knowledge and skill sets in the current practice of practical nursing, communications, therapeutic interventions, including pharmacology, growth and development, and current trends in health care. For this program type client is the individual or group of individuals.
- (42) "Review" means collecting and analyzing information to assess compliance with Section .0300 of this Chapter. Information may be collected by multiple methods, including review of written reports and materials, on-site observations, review of documents, and in-person or telephone interview(s) and conference(s).
- (43) "Rescind Approval" means a Board action that removes the approval status previously granted by the Board.
- (44) "Self-Assessment" means the process whereby an individual reviews her or his own nursing practice and identifies the knowledge and skills possessed as well as those skills to be strengthened or acquired.
- (45) "Simulation" means a technique, not a technology, to replace or amplify clinical experiences with guided experiences that evoke or replicate substantial aspects of the real world of nursing practice in a fully interactive manner.
- (46) "Specialty" means a broad, population-based focus of study encompassing the common health-related problems of a particular group of patients and the likely co-morbidities, interventions, and responses to those problems.
- (47) "Supervision" means the provision of guidance or direction, evaluation, and follow-up by a licensed nurse to accomplish an assigned or delegated nursing activity or set of activities.
- (48) "Survey" means an on-site visit for the purpose of gathering data in relation to reviewing a nursing program's compliance with Section .0300 of this Chapter.

*History Note: Authority G.S. 90-171.23; 90-171.38; Eff. April 1, 2003; Amended Eff. June 1, 2017; December 1, 2016; July 1, 2012; November 1, 2008; May 1, 2006; December 1, 2005; August 1, 2005.*

## **21 NCAC 36 .0217 INVESTIGATIONS; DISCIPLINARY HEARINGS**

(a) Behaviors and activities that may result in disciplinary action by the Board include the following:

- (1) drug or alcohol abuse or use of any substance or other agents while on duty or on call to the extent that such use impairs the nurse's ability to practice nursing;
- (2) testing positive on a drug screen for a non-prescribed drug or illicit substance;
- (3) illegally obtaining, possessing, or distributing drugs or alcohol for personal or other use, or other violations of the North Carolina Controlled Substances Act, G.S. 90-86 et seq.;

- (4) conviction of any crime that bears on a licensee's fitness to practice nursing as set forth in G.S. 90-171.37(a);
  - (5) failure to make available to another health care professional any client information;
  - (6) practicing or offering to practice beyond the scope permitted by law;
  - (7) accepting and performing professional responsibilities that the licensee knows or has reason to know that he or she is not competent to perform;
  - (8) performing, without supervision, professional services that the licensee is authorized to perform only under the supervision of a licensed professional;
  - (9) abandoning an assigned client without making arrangements for the continuation of equivalent nursing care;
  - (10) neglecting a client in need of nursing care;
  - (11) threatening, harassing, abusing, or intimidating a client;
  - (12) failing to maintain an accurate record of all pertinent health care information as defined in Rule .0224(f)(2) or .0225(f)(2) for each client;
  - (13) failing to exercise supervision over persons who are authorized to practice only under the supervision of the licensed professional;
  - (14) exercising influence on the client for the financial or personal gain of the licensee;
  - (15) directly or indirectly offering, giving, soliciting, or receiving or agreeing to receive, any fee or other consideration to or from a third party for the referral of a client, or other violations of G.S. 90-401;
  - (16) failing to file a report, or filing a false report, required by law or by the Board or impeding or obstructing such filing or inducing another person to do so;
  - (17) obtaining, accessing, or revealing healthcare information from a client record or other source, except as required by professional duties or authorized by law;
  - (18) presenting false or fraudulent licensure information for any purpose;
  - (19) assigning or delegating professional responsibilities to a person when the licensee assigning or delegating these responsibilities knows or has reason to know that such person is not qualified by training, experience or licensure;
  - (20) assigning or delegating responsibilities to a person when the licensee assigning or delegating knows or has reason to know that the competency of that person is impaired by sleep deprivation, physical or psychological conditions, or by alcohol or other agents, prescribed or not;
  - (21) accepting responsibility for client care while impaired by sleep deprivation, physical or psychological conditions, or by alcohol or other agents, prescribed or not;
  - (22) falsifying a client's record or the controlled substance records;
  - (23) violating boundaries of a professional relationship including but not limited to physical, sexual, emotional, or financial exploitation of the client or the client's family member or caregiver. Financial exploitation includes accepting or soliciting money, gifts, or the equivalent during the professional relationship;
  - (24) misappropriating, in connection with the practice of nursing, anything of value or benefit, including but not limited to, any property, real or personal of the client, employer, or any other person or entity, or failing to take precautions to prevent such misappropriation. Failure to take precautions to prevent misappropriations includes failing to secure anything of value or benefit, such as medication or property, of the client, employer, or any other person or entity; or
  - (25) violating any term of probation, condition, or limitation imposed on the licensee by the Board.
- (b) If a summary suspension is issued pursuant to G.S. 150B-3(c), the order is effective on the date specified in the order or on service of the certified copy of the order at the last known address of the licensee, whichever is later, and continues to be effective during the proceedings. Failure to receive the order because of refusal of service or unknown address does not invalidate the order.
- (c) All motions related to a contested case, except motions for continuance and those made during the hearing, shall be in writing and submitted to the Board of Nursing at least 10 calendar days before the hearing. Pre-hearing motions shall be heard at a pre-hearing conference or at the contested case hearing prior to the commencement of testimony. The designated administrative law counsel shall hear the motions and the response from the non-moving party pursuant to Rule 6 of the General Rules of Practice for the Superior and District Courts and rule on the motions.
- (d) Motions for a continuance of a hearing may be granted upon a showing of good cause. Motions for a continuance shall be in writing and received in the office of the Board of Nursing no less than seven calendar days before the hearing date. In determining whether good cause exists, consideration shall be given to the ability of the party requesting a continuance to proceed without a continuance. A motion for a continuance filed less than seven calendar days from the date of the hearing shall be denied unless the reason for the motion could not have been ascertained earlier. Motions for continuance filed prior to the date of the hearing shall be ruled on by the administrative law counsel of the Board. Motions for continuance filed on the date of hearing shall be ruled on by the Board.
- (e) The Board of Nursing shall designate an administrative law counsel who shall advise the Board.

(f) When a majority of the members of the Board of Nursing is unable or elects not to hear a contested case, the Board of Nursing shall request the designation of an administrative law judge from the Office of Administrative Hearings to preside at the hearing. The provisions of G.S. 150B, Article 3A and this Rule shall govern a contested case in which an administrative law judge is designated as the Hearing Officer.

(g) Sworn affidavits may be introduced by mutual agreement from all parties.

*History Note: Authority G.S. 90-171.23(b)(3); 90-171.23(b)(7); 90-171.37; 90-171.47; 90-401; 150B-3(c); 150B-38; 150B-39; 150B-40; 150B-41; 150B-42;*

*Eff. February 1, 1976;*

*Amended Eff. October 1, 1989; November 1, 1988; July 1, 1986; July 1, 1984;*

*Temporary Amendment Eff. December 7, 1990 for a period of 180 days to expire on June 5, 1991;*

*ARRC Objection Lodged December 20, 1990;*

*Amended Eff. January 1, 1991;*

*ARRC Objection Removed February 25, 1991;*

*Temporary Amendment Eff. February 26, 1991 for a period of 35 days to expire on April 1, 1991;*

*Amended Eff. January 1, 1996; February 1, 1995; April 1, 1991;*

*Temporary Amendment Eff. March 5, 2001;*

*Amended Eff. June 1, 2017; January 1, 2007; August 2, 2002.*

\*\*\*\*\*

## **CHAPTER 66 - VETERINARY MEDICAL BOARD**

### **21 NCAC 66 .0311 LIMITED VETERINARY LICENSE**

(a) A "limited veterinary license" or "limited license" is a license as defined in G.S. 90-181(4).

(b) Unless otherwise provided in G.S. 90, Article 11 or in a Board rule, the provisions of G.S. 90, Article 11 and this Chapter are applicable to limited veterinary licenses.

(c) The terms and restrictions of the scope or areas of practice of veterinary medicine of the holder of the limited veterinary license shall be determined by the Board upon consideration of all criteria deemed relevant by the Board to effectuate the purposes of the limited license, including:

- (1) whether the applicant is licensed to practice veterinary medicine in other states of the United States, or other countries or jurisdictions, whether those licenses are active, and whether there are any investigations or pending complaints against the licenses at the time of the consideration of the application;
- (2) the length of time the applicant has been licensed in good standing to practice veterinary medicine;
- (3) the reasons that the applicant offers for requesting a limited veterinary license;
- (4) whether facts available to the Board indicate the applicant's application has merit; and
- (5) any information affecting the applicant's capability and need for a limited veterinary

license, determined on a case-by-case basis, including the applicant's record of any criminal charges and convictions.

(d) Upon written application, the Board may issue a limited veterinary license to a person employed by the North Carolina Department of Agriculture and Consumer Services (NCDA&CS) in a position with the North Carolina Veterinary Diagnostic Laboratory System (NCVDLS), provided the applicant meets the criteria for issuance of this limited veterinary license. The following provisions are applicable to this limited veterinary license:

- (1) The criteria for eligibility for this limited veterinary license are:
  - (A) The applicant is not eligible for a license as a veterinarian under G.S. 90, Article 11 and this Chapter.
  - (B) The applicant:
    - (i) is a graduate of a veterinary medical education program at an institution accredited by the American Veterinary Medical Association (AVMA); or
    - (ii) is a graduate of a veterinary medical education program at an institution of higher education or its equivalent, not accredited by the AVMA, that qualifies a graduate to practice veterinary medicine in the country where the institution of higher education is located.
  - (C) The applicant completes an application form from the Board, which shall request the following information from the applicant:
    - (i) full legal name;
    - (ii) mailing address;
    - (iii) telephone number;
    - (iv) email address;
    - (v) social security number;
    - (vi) date of birth; and
    - (vii) veterinary college information and year of graduation.
  - (D) The applicant has achieved a passing score on the written North Carolina examination administered by the Board.
  - (E) There is no disciplinary proceeding or unresolved complaint pending against the applicant in any State, territory, or district of the United States, or in a foreign country where the applicant is or has been licensed or permitted to practice veterinary medicine.
  - (F) That any disciplinary actions taken against the applicant or his or her

- license by any State, territory, or district of the United States, or by a Board or agency with jurisdiction in a foreign country where the applicant is licensed to practice veterinary medicine will not affect the applicant's ability and competency to practice veterinary medicine within the limitations and restrictions of the employment position with NCVDLS.
- (G) The applicant submits with the application the fee for a limited veterinary license set forth in Rule .0108 of this Chapter.
- (H) The applicant provides to the Board with the application a written statement from the Director of Laboratories of the NCVDLS that:
- (i) describes the duties of the applicant's prospective employment position with NCVDLS that require this limited veterinary license; and
  - (ii) advises the Board that the applicant has been offered and has agreed to accept the described employment position with NCVDLS contingent upon the applicant receiving a limited veterinary license from the Board.
- (2) The applicant shall request for the limited veterinary license to be renewed annually each calendar year.
- (3) The Board may issue a temporary permit for this limited veterinary license as follows:
- (A) The applicant meets the criteria for eligibility for this limited veterinary license except for not achieving a passing score on the written North Carolina examination.
  - (B) The temporary permit shall expire 60 days after it is issued by the Board, but upon written request from the applicant, the Board shall renew the temporary permit for 120 days in order for the applicant to achieve a passing score on the written North Carolina examination.
  - (C) The temporary permit shall contain restrictions as to time, place, and supervision of the licensee.
  - (D) The holder of a temporary permit for this limited veterinary license shall be supervised by a veterinarian licensed by the Board who is employed by the NCDA&CS in the NCVDLS.
  - (4) This limited veterinary license shall be restricted in scope to the duties of the license holder's employment position with NCDA&CS and NCVDLS and shall automatically expire when the license holder's employment with NCDA&CS and NCVDLS ends.
  - (5) The following sections of G.S. 90, Article 11, and of this Chapter are not applicable to the licensing requirements for this limited veterinary license: G.S. 90-187(c); G.S. 90-187.3; G.S. 90-187.4; Rules .0301(a),(b),(c),(e),(f), .0305, .0306 and .0309.

*History Note:* Authority 90-181(4); 90-185(1); 90-185(6); 90-187.8;  
*Eff. May 1, 1996;*  
*Amended Eff. June 1, 2017.*



*This Section contains information for the meeting of the Rules Review Commission July 20, 2017 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-431-3000. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2<sup>nd</sup> business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.*

**RULES REVIEW COMMISSION MEMBERS****Appointed by Senate**

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

**Appointed by House**

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

**COMMISSION COUNSEL**

Abigail Hammond	(919)431-3076
Amber Cronk May	(919)431-3074
Amanda Reeder	(919)431-3079
Jason Thomas	(919)431-3081

**RULES REVIEW COMMISSION MEETING DATES**

July 20, 2017	August 17, 2017
September 21, 2017	October 19, 2017

---

**AGENDA****RULES REVIEW COMMISSION****THURSDAY, JULY 20, 2017 10:00 A.M.****1711 New Hope Church Rd., Raleigh, NC 27609**

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
  - A. Commission for Mental Health, Developmental Disabilities and Substance Abuse Services - 10A NCAC 27H .0202, .0203, .0204, .0205, .0206 (May)
  - B. Department of Insurance - 11 NCAC 05A .0501, .0505, .0508, .0511 (Hammond)
  - C. Locksmith Licensing Board - 21 NCAC 29 .0402, .0601 (Reeder)
- IV. Review of Log of Filings (Permanent Rules) for rules filed May 23, 2017 through June 20, 2017
  - Department of Commerce - Credit Union Division (Hammond)
  - Department of Natural and Cultural Resources (May)
  - Social Services Commission – 10A NCAC 70E, 70F, 70G (Thomas)
  - Social Services Commission – 10A NCAC 70I, 70K (Reeder)
  - Social Services Commission – 10A NCAC 97 (Reeder)
  - Board of Physical Therapy Examiners (Hammond)
- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
- VI. Existing Rules Review
  - Review of Reports
    - 1. 02 NCAC 29 – Board of Crop Seed Improvement (Hammond)
    - 2. 02 NCAC 31 – Board of Agriculture (Hammond)
    - 3. 02 NCAC 39 - Board of Agriculture (Hammond)
    - 4. 02 NCAC 43A - Board of Agriculture (Hammond)
    - 5. 02 NCAC 43B - Board of Agriculture (Hammond)
    - 6. 02 NCAC 43C – Board of Agriculture (Hammond)

- 7. 02 NCAC 43D - Board of Agriculture (Hammond)
- 8. 02 NCAC 43E - Board of Agriculture (Hammond)
- 9. 02 NCAC 43G - Board of Agriculture (Hammond)
- 10. 02 NCAC 43L - Board of Agriculture (Hammond)
- 11. 02 NCAC 43M - Board of Agriculture (Hammond)
- 12. 02 NCAC 53 - Board of Agriculture (Hammond)
- 13. 02 NCAC 58 - Commissioner of Agriculture (Hammond)
- 14. 18 NCAC 02 - Department of the Secretary of State (Hammond)
- 15. 18 NCAC 08 - Department of the Secretary of State (Hammond)
- 16. 18 NCAC 11 - Department of the Secretary of State (Hammond)
- 17. 18 NCAC 12 - Department of the Secretary of State (Hammond)
- 18. 24 NCAC 01 - NC Housing Finance Agency (Reeder)

VII. Commission Business

- Next meeting: Thursday, August 17, 2017
- 

**Commission Review**  
*Log of Permanent Rule Filings*  
**May 23, 2017 through June 20, 2017**

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

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

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

Business Loans  
 Amend/\*

04 NCAC 06C .0407

**NATURAL AND CULTURAL RESOURCES, DEPARTMENT OF**

The rules in Subchapter 13B concern parks and recreation areas including general provisions (.0100); preservation of the park (.0200); bathing (.0300); refuse and rubbish (.0400); traffic and parking (.0500); boating and camping (.0600); sports and games (.0700); hunting and fishing (.0800); firearms, explosives, fires, etc. (.0900); disorderly conduct, public nuisance, etc. (.1000); commercial enterprises, advertising, meetings, exhibitions, etc. (.1100); and miscellaneous (.1200).

Fishing  
 Amend/\*

07 NCAC 13B .0802

**SOCIAL SERVICES COMMISSION**

The rules in Chapter 70 concern children's services.

The rules in Subchapter 70E concern licensing of family foster homes including foster mutual home assessment (.0100); forms (.0200); definitions (.0300); standards for licensing (.0400); licensing regulations and procedures (.0500); general (.0600); licensing regulations and procedures (.0700); mutual home assessment (.0800); forms (.0900); capacity (.1000); and standards for licensing (.1100).

Definitions  
 Amend/\*

10A NCAC 70E .0602

<u>Responsibility</u> Amend/*	10A NCAC 70E .0702
<u>Periodic Reassessment of Home</u> Amend/*	10A NCAC 70E .0805
<u>Agency Foster Parents' Agreement</u> Amend/*	10A NCAC 70E .0902
<u>Client Rights</u> Amend/*	10A NCAC 70E .1101
<u>Physical Restraints</u> Amend/*	10A NCAC 70E .1103
<u>Relationship to Supervising Agency</u> Amend/*	10A NCAC 70E .1107
<u>Criminal History Checks</u> Amend/*	10A NCAC 70E .1116
<u>Training Requirements</u> Amend/*	10A NCAC 70E .1117

The rules in Subchapter 70F concern maternity homes and children's camps including general provisions (.0100); and organization and administration (.0200).

<u>Responsibilities of the Governing Body</u> Amend/*	10A NCAC 70F .0202
<u>Responsibility to Licensing Authority</u> Amend/*	10A NCAC 70F .0205
<u>Confidentiality</u> Amend/*	10A NCAC 70F .0208
<u>Normalcy for Foster Children</u> Adopt/*	10A NCAC 70F .0214

The rules in Subchapter 70G concern foster care agencies and placements including general provisions (.0400); minimum licensing standards (.0500); and best practice standards (.0300).

<u>Definitions</u> Amend/*	10A NCAC 70G .0402
<u>Personnel</u> Amend/*	10A NCAC 70G .0501
<u>Placement Services</u> Amend/*	10A NCAC 70G .0503
<u>Out-of-Home Family Services Agreement for Children Receiv...</u> Amend/*	10A NCAC 70G .0504
<u>Client Records</u> Amend/*	10A NCAC 70G .0506
<u>Client Rights</u> Amend/*	10A NCAC 70G .0507
<u>Health Services</u> Amend/*	10A NCAC 70G .0510
<u>Physical Restraint Holds, Behavior Management and Discipline</u> Amend/*	10A NCAC 70G .0512
<u>Critical Incidents</u> Amend/*	10A NCAC 70G .0513

The rules in Subchapter 70I concern the minimum licensing standards for residential child-care including general licensing requirements (.0100); minimum licensure standards (.0200); organization and administration (.0300); personnel (.0400); service planning (.0500); service delivery (.0600); buildings, grounds and equipment (.0700); best practice standards (.0800); and physical plant (.0900).

<u>Licensing Actions</u>	10A	NCAC	70I	.0101
Readopt without Changes/*				
<u>Definitions</u>	10A	NCAC	70I	.0201
Readopt with Changes/*				
<u>Responsibility to Licensing Authority</u>	10A	NCAC	70I	.0202
Amend/*				
<u>Responsibilities of the Governing Body</u>	10A	NCAC	70I	.0302
Amend/*				
<u>Recordkeeping and Reporting</u>	10A	NCAC	70I	.0305
Amend/*				
<u>Client Rights</u>	10A	NCAC	70I	.0306
Amend/*				
<u>Normalcy for Foster Children</u>	10A	NCAC	70I	.0308
Adopt/*				
<u>Personnel Positions</u>	10A	NCAC	70I	.0405
Readopt with Changes/*				
<u>Admission Agreement</u>	10A	NCAC	70I	.0503
Amend/*				
<u>Orientation</u>	10A	NCAC	70I	.0504
Amend/*				
<u>Client Records</u>	10A	NCAC	70I	.0506
Amend/*				
<u>Program Policies and Practices</u>	10A	NCAC	70I	.0601
Amend/*				
<u>Health Services</u>	10A	NCAC	70I	.0604
Amend/*				
<u>Recreation and Leisure Activities</u>	10A	NCAC	70I	.0609
Amend/*				
<u>Discipline and Behavior Management</u>	10A	NCAC	70I	.0613
Amend/*				
<u>Critical Incidents and Critical Incident Reports</u>	10A	NCAC	70I	.0614
Amend/*				

The rules in Subchapter 70K concern residential maternity homes including general provisions (.0100); minimum licensure standards (.0200); and physical plant (.0300).

<u>Definition</u>	10A	NCAC	70K	.0101
Readopt with Changes/*				
<u>Personnel</u>	10A	NCAC	70K	.0201
Readopt with Changes/*				
<u>Services</u>	10A	NCAC	70K	.0202
Amend/*				

The rules in Chapter 97 concern economic opportunity.

The rules in Subchapter 97B concern general administrative policies including general provisions (.0100); application for assistance (.0200); public access to confidentiality and disclosure of information (.0300); citizen participation and hearings (.0400); due process for person denied services (.0500); non-discrimination/affirmative action (.0600); personnel standards (.0700); prohibition against political activities (.0800); grants administration (.1000); and reports, monitoring, evaluation, and remedial action (.1100).

<u>General Provisions</u>	10A	NCAC	97B	.0401
Readopt with Changes/*				
<u>Citizen Participation in the Application Process</u>	10A	NCAC	97B	.0402
Readopt with Changes/*				
<u>Citizen Participation in the Program Amendment Process</u>	10A	NCAC	97B	.0403
Readopt with Changes/*				

The rules in Subchapter 97C concern the community services block grant program including general provisions (.0100); planning and budgeting (.0200); application (.0300); accounting standards (.0400); audit standards (.0500); reimbursement standards (.0600); procurement standards and procedures (.0700); grant agreement standards (.0800); reports, monitoring, evaluation, remedial action (.0900); personnel standards (.1000); civil rights of individual applications (.1100); retention of records and closing (.1200); and grand recipient compliance, liability, suspension, termination (.1300).

<u>Definitions</u>	10A	NCAC	97C	.0104
Readopt with Changes/*				
<u>Eligible Grant Recipients</u>	10A	NCAC	97C	.0106
Readopt with Changes/*				
<u>Allocation of CSBG Funds</u>	10A	NCAC	97C	.0108
Readopt with Changes/*				
<u>Requirements/Governing Bodies of Private Grant Recipients</u>	10A	NCAC	97C	.0109
Readopt with Changes/*				
<u>Citizen Participation</u>	10A	NCAC	97C	.0111
Readopt with Changes/*				

## **PHYSICAL THERAPY EXAMINERS, BOARD OF**

The rules in Subchapter 48F concern certificates, fees, investigation, and record of licensees.

<u>Fees</u>	21	NCAC	48F	.0102
Amend/*				

---

**CONTESTED CASE DECISIONS**

---

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

**OFFICE OF ADMINISTRATIVE HEARINGS**

**Chief Administrative Law Judge**  
**JULIAN MANN, III**

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

**ADMINISTRATIVE LAW JUDGES**

Melissa Owens Lassiter  
Don Overby  
J. Randall May  
David Sutton

A. B. Elkins II  
Selina Brooks  
J. Randolph Ward  
Stacey Bawtinheimer

---

This Section contains a listing of recently issued Administrative Law Judge decisions for contested cases that are non-confidential. Published decisions are available for viewing on the OAH website at <http://www.ncoah.com/hearings/decisions/>. If you are having problems accessing the text of the decisions online or for other questions regarding contested cases or case decisions, please contact the Clerk's office by email: [oah.clerks@oah.nc.gov](mailto:oah.clerks@oah.nc.gov) or phone 919-431-3000.

---

Year	Code	Number	Date Decision Filed	Petitioner		Respondent	ALJ
	<b><u>PUBLISHED</u></b>						
16	DHR	09606	5/8/2017	James B Mundell	v.	Department of Health and Human Services	Elkins
17	DHR	02611	5/30/2017	Andreas Arellano, The San Jose Corp d/b/a San Jose Tienda	v.	NC Department of Health and Human Services, Division of Public Health	Brooks
16	EHR	07190	5/22/2017	Aberdeen Carolina & Western Railway	v.	NC Dept of Air Quality	May
16	INS	12188	5/4/2017	Henry McGee	v.	North Carolina State Health Plan	Sutton
17	INS	00987	5/25/2017	Deborah K Romanow	v.	North Carolina State Health Plan	Brooks
16	OSP	10372	5/5/2017	Lonnice B Walton	v.	Elizabeth City State University	Culpepper
16	UNC	11955	5/4/2017	Martha I. Howard	v.	UNC Healthcare System North Carolina	Ward

**UNPUBLISHED**

**CONTESTED CASE DECISIONS**

17	ABC	00173	5/11/2017	NC Alcoholic Beverage Control Commission	v.	Redspurs Ventures Inc T/A Oval Park Grille	Ward	
17	ABC	00991	5/1/2017	NC Alcoholic Beverage Control Commission	v.	Patton Public House Inc T/A Byrish Haus and Pub	Sutton	
17	ABC	01502	5/5/2017	NC Alcoholic Beverage Control Commission	v.	Boulos Inc T/A Spring Garden Shell	Sutton	
17	ABC	01604	5/5/2017	NC Alcoholic Beverage Control Commission	v.	Zaiinab Epress Inc T/A C Store	Sutton	
17	BOE	01298	5/19/2017	Robert Williams	A v.	Cleveland County Board of Elections	May	
17	CPS	01973	5/24/2017	Orlando A Lee	v.	Office of Administrative Hearings NC Dept of Public Safety NC Victim Comp Com Victim Services	May	
15	CSE	07739	5/2/2017	Caleb S Wyland IV-D 0006776982	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Services	Elkins	
15	CSE	07740	5/2/2017	Cabel S Wyland IV-D 0006140753	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Services	Elkins	
15	CSE	08856	5/15/2017	Fredrick Bostrom	K v.	North Carolina Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Elkins	
16	CSE	04119	8/8/2017; 5/3/2017	Garett Lamb	Oliver v.	NC Department of Health and Human Services, Division of Social Services, Child Support Services	Brooks	partial/full
16	CSE	09982	5/2/2017	Yvonne Burgess	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Elkins	
16	CSE	10360	5/9/2017	Monica Morgan	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter	
16	CSE	10390	5/31/2017	Sandra Freeman	v.	NC Department of Health and Human Services, Division of	Bawtinhimer	

---

**CONTESTED CASE DECISIONS**

---

						Social Services, Child Support Enforcement	
16	CSE	10396	5/2/2017	Adrian Smith Sr	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Elkins
16	CSE	10689	5/2/2017	Roberick Roberts	R v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Elkins
16	CSE	10705	5/15/2017	Jamal Daniels	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Brooks
16	CSE	11144	5/24/2017	Mohammad Dahbour	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Overby
16	CSE	11151	5/9/2017	James Cooper	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May
16	CSE	11564	5/26/2017	William D Britt Jr	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter
17	CSE	01748	5/30/2017	Kyle K Hollifield	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
17	CSE	01782	5/9/2017	Jason S Ballew	v.	North Carolina Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	May
17	CSE	02220	5/15/2017	Joshua H Wrenn	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Brooks
17	CSE	02278	5/31/2017	Curtis W Burk/Patricia Y Burk	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Overby
17	CSE	02394	5/10/2017	Daniel L Brannon	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter



---

**CONTESTED CASE DECISIONS**

---

17	CSE	03047	5/26/2017	Correy Winston	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter
16	DHR	02788	5/8/2017	Estate of Dallas Dudley/Carolyn Dudley	v.	NC Dept of Health & Human Services	Elkins
16	DHR	11127	5/1/2017	D's Lovin Day Care	v.	NC DHHS, Division of Child Development and Early Education	Brooks
17	DHR	00001	5/8/2017	Clinton Health Holdings LLC	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Ward
17	DHR	00511	5/5/2017	Tammie Taylor	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Ward
17	DHR	01381	5/8/2017	Crystal Danielle Johnson	v.	Office of Administrating Hearings	Culpepper
17	DHR	01462	5/9/2017	Regge Cooper	v.	NC Department of Health and Human Services	Mann
17	DHR	01675	5/3/2017	Charity Johnson Keen	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Brooks
17	DHR	01694	5/2/2017	Green Acres Family Care Home Latrisha Green	v.	Megan Lamphere NC DHSR	Lassiter
17	DHR	01753	5/16/2017	Home Care Solutions of NC LLC, Latonya Jones	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Brooks
17	DHR	02062	5/19/2017	Caesar's Lil Palace	v.	Division of Child Development and Early Education	Brooks
17	DHR	02499	5/10/2017	Frances Coleman	v.	DHSR Mental Health & Licensure Certification	Overby
17	DHR	02674	5/12/2017	A Plus Results Independent Living Inc.	v.	North Carolina Department of Health and Human Services, Division of Medical Assistance, and its Agent Trillium Health Resources	Lassiter
17	DHR	02873	5/22/2017	Angenique Bethea Davis	v.	NC Department of Health and Human Services, Division of	Ward

---

**CONTESTED CASE DECISIONS**

---

							Health Regulation	Service		
17	DOJ	01909	5/16/2017	Taylor Handsel	Leroy	v.	NC Sheriffs and Training Commission	Education Standards	Brooks	
15	EHR	07009	5/19/2017	R Richardson and Celie Richardson	Phillip and B	v.	NC Department Environmental Quality	of	Ward	
17	INS	01048	5/4/2017	Florence Adams		v.	North Carolina Health Plan	State	Mann	
17	INS	01216	5/9/2017	Jonathan Nero		v.	The State Plan/Durham Schools	Health Public	Mann	
17	INS	01301	5/24/2017	Arlene McAdams	Cox	v.	North Carolina Health Plan	State	May	
17	INS	01455	5/4/2017	Holly Hayes		v.	Blue Cross & Shield	Blue	Mann	
17	INS	01660	5/12/2017	Shirley Purdy	Faye	v.	State Health Cross Blue Shield	Plan Blue	Overby	
17	MIS	02192	4/21/2017; 4/28/2017; 5/5/2017	Tornello Fontaine El Bey [e]state thru beneficiary Tornello Pierce El-Bey	Pierce	v.	State of North Foryth County Guildford County District Attorney James(Jim) R. O'Neill District Attorney J.D. Henderson Guilford County Sheriff BJ Barnes aka Eschol Barnes Jr. Forsyth County Sheriff William T Schatzman City of Winston Salem Chief of Police Barry D. Rountree State of North Carolina Department of Transportation/Division of Motor Vehicles/James H. Trogdon III		Brooks	4 partial, 1 full
16	OSP	11714	5/10/2017	Wen Chiann Yeh		v.	Department of and Human Services, Ms. Joe Lentz, Director Human Resource Department		Elkins	
17	SOS	01854	5/15/2017	Keni Senakhte El Bey		v.	Office Administrative Hearings	of	May	