

# ***NORTH CAROLINA REGISTER***

**VOLUME 36 • ISSUE 05 • Pages 284 – 357**

**September 1, 2021**

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**NORTH CAROLINA REGISTER**  
Publication Schedule for January 2021 – December 2021

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	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 <sup>th</sup> day from publication in the Register
35:13	01/04/21	12/08/20	01/19/21	03/05/21	03/22/21	04/15/21	05/01/21	10/01/21
35:14	01/15/21	12/21/20	01/30/21	03/16/21	03/22/21	04/15/21	05/01/21	10/12/21
35:15	02/01/21	01/08/21	02/16/21	04/05/21	04/20/21	05/20/21	06/01/21	10/29/21
35:16	02/15/21	01/25/21	03/02/21	04/16/21	04/20/21	05/20/21	06/01/21	11/12/21
35:17	03/01/21	02/08/21	03/16/21	04/30/21	05/20/21	06/17/21	07/01/21	11/26/21
35:18	03/15/21	02/22/21	03/30/21	05/14/21	05/20/21	06/17/21	07/01/21	12/10/21
35:19	04/01/21	03/11/21	04/16/21	06/01/21	06/21/21	07/15/21	08/01/21	12/27/21
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36:02	07/15/21	06/23/21	07/30/21	09/13/21	09/20/21	10/21/21	11/01/21	04/11/22
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36:06	09/15/21	08/24/21	09/30/21	11/15/21	11/22/21	12/16/21	01/01/22	06/12/22
36:07	10/01/21	09/10/21	10/16/21	11/30/21	12/20/21	01/20/22	02/01/22	06/28/22
36:08	10/15/21	09/24/21	10/30/21	12/14/21	12/20/21	01/20/22	02/01/22	07/12/22
36:09	11/01/21	10/11/21	11/16/21	01/03/22	01/20/22	02/17/22	03/01/22	07/29/22
36:10	11/15/21	10/22/21	11/30/21	01/14/22	01/20/22	02/17/22	03/01/22	08/12/22
36:11	12/01/21	11/05/21	12/16/21	01/31/22	02/21/22	03/17/22	04/01/22	08/28/22
36:12	12/15/21	11/22/21	12/30/21	02/14/22	02/21/22	03/17/22	04/01/22	09/11/22

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## **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.



# State of North Carolina

**ROY COOPER**  
GOVERNOR

July 29, 2021

## EXECUTIVE ORDER NO. 224

### IMPLEMENTING MEASURES TO ADDRESS COVID-19 AND RELATED VARIANTS

**WHEREAS**, on March 10, 2020, the undersigned issued Executive Order No. 116, 34 N.C. Reg. 1744-1749 (April 1, 2020), which declared a State of Emergency to coordinate the state's response and protective actions to address the Coronavirus Disease 2019 ("COVID-19") public health emergency and provide for the health, safety, and welfare of residents and visitors located in North Carolina; and

**WHEREAS**, on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and

**WHEREAS**, on March 13, 2020, the President of the United States issued an emergency declaration for all states, tribes, territories, and the District of Columbia, retroactive to March 1, 2020, and the President declared that the COVID-19 pandemic in the United States constitutes a national emergency; and

**WHEREAS**, on March 25, 2020, the President approved a Major Disaster Declaration, FEMA-4487-DR, for the State of North Carolina; and

**WHEREAS**, on February 24, 2021, the President issued notice that the national emergency relating to COVID-19 must remain in effect because the pandemic "continues to cause significant risk to the public health and safety of the Nation"; and

**WHEREAS**, in responding to the COVID-19 pandemic, and for the purpose of protecting the health, safety, and welfare of the people of North Carolina, the undersigned has issued Executive Order Nos. 116-122, 124-125, 129-131, 133-136, 138-144, 146-153, 155-157, 161-165, 169-173, 176-177, 180-181, 183-185, 188-193, 195, 197-198, 200, 204-207, 209-212, 215-217, and 219-221; and

**WHEREAS**, more than one million forty-four thousand (1,044,000) people in North Carolina have had COVID-19, and over thirteen thousand six hundred (13,600) people in North Carolina have died from the disease; and

**WHEREAS**, COVID-19 continues to infect thousands of North Carolinians every day, and a State of Emergency remains in place for the purpose of maintaining the state's ability to meet challenges presented by COVID-19; and

**WHEREAS**, the State of Emergency allows North Carolina to receive federal funding; to provide increased regulatory flexibility to the North Carolina Department of Health and Human Services ("NCDHHS") and health care facilities, which allows health care providers to expand their capacity to treat patients and assist with vaccination efforts; and to respond to any spikes in spread of the disease; and

**WHEREAS**, the undersigned has taken a science and data-driven approach to implementing public health measures to curb the spread of the virus and to advance the state's economy in a safe and effective way, which is in the best interests of all North Carolinians; and

Current Metrics

**WHEREAS**, as COVID-19 has continued to be spread from person to person across the United States and world, variants (genetically distinct strains) of COVID-19 have developed; and

**WHEREAS**, the Delta variant of COVID-19 is more transmissible than the original COVID-19 virus; and

**WHEREAS**, the spread of the Delta variant amongst the unvaccinated population in North Carolina has generated increased concern from medical professionals; and

**WHEREAS**, while North Carolina has continued to see improvement in vaccination numbers, the weekly number of doses of COVID-19 vaccinations administered has slowed in recent months, and there are still more than eighteen (18) counties in which under thirty-five (35%) of the population have been Fully Vaccinated; and

**WHEREAS**, because the Delta variant is more contagious than the original virus or other current COVID-19 variants, it quickly became the most common kind of COVID-19 in North Carolina during summer 2021, and now, the Delta variant makes up more than eighty percent (80%) of all new COVID-19 cases in North Carolina; and

**WHEREAS**, the Delta variant's growing dominance, coupled with its increased transmissibility, has led to a significant increase in the number of COVID-19 cases and hospitalizations; and

**WHEREAS**, on June 25, 2021, 388 new COVID-19 cases were reported, and 400 people were hospitalized with COVID-19, but one month later (on July 25, 2021), 1,910 new COVID-19 cases were reported, and 954 people were hospitalized with COVID-19; and

**WHEREAS**, over recent weeks, and despite the overall progress the state has made during the pandemic, North Carolina is experiencing a rapid increase in COVID-19 cases, almost entirely among those who are unvaccinated; and

**WHEREAS**, specifically, as of the date of this Executive Order, the state's key metrics for COVID-19 are worsening: the number of people hospitalized for COVID-19 has doubled over the past two weeks, the number of people going to emergency departments with COVID-like symptoms is rising, the number of COVID-19 daily diagnoses is rising, and the percent of total COVID-19 tests that are positive is rising and higher than five percent (5%); and

**WHEREAS**, although the Delta variant represents a severe threat to the unvaccinated, being vaccinated greatly reduces the chance of being infected by the Delta variant, and being vaccinated greatly reduces the risk that anyone who does contract the Delta variant becomes severely ill or requires hospitalization; and

**WHEREAS**, on July 27, 2021, the U.S. Centers for Disease Control and Prevention ("CDC") issued new guidance which: (i) suggests that Face Coverings should be worn by all people if they are indoors in a public place and are in areas of substantial or high transmission; (ii) identifies most of North Carolina as being areas of substantial or high transmission; and (iii) recommends all teachers, staff, students, and visitors to schools wear Face Coverings, regardless of vaccination status; and

Progress in COVID-19 Vaccination

**WHEREAS**, COVID-19 vaccines are now widely available at no cost to all eligible North Carolinians who wish to receive one, and all eligible North Carolinians are strongly encouraged to get vaccinated; and

**WHEREAS**, the state has mounted a robust vaccination effort to distribute the state's supply of COVID-19 vaccines authorized by the Food and Drug Administration ("FDA") to all eligible people living in or spending significant time in North Carolina; and

**WHEREAS**, as of the date of this Executive Order, eighty-four percent (84%) of the state's population age sixty-five (65) and older is Fully Vaccinated; and

**WHEREAS**, as of the date of this Executive Order, fifty-five percent (55%) of the state's population age twelve (12) and older is Fully Vaccinated, and forty-five percent (45%) is not fully vaccinated; and

**WHEREAS**, although forty-five percent (45%) of North Carolinians age twelve (12) and over are not fully vaccinated, more than ninety-four percent (94%) of recent North Carolina cases are in people who are not Fully Vaccinated; and

Measures to Protect Against COVID-19

**WHEREAS**, unvaccinated people pose a risk not only to themselves, but to people who are immunocompromised and to children who are too young to be vaccinated; and

**WHEREAS**, it remains critical that North Carolinians exercise personal responsibility to protect themselves and their friends and neighbors from the spread of COVID-19, including by obtaining the free and widely available COVID-19 vaccines; and

**WHEREAS**, the undersigned and the Secretary of the Department of Health and Human Services have taken measures to ensure that COVID-19 testing and vaccination administration are accessible to as many North Carolinians as possible, and the undersigned has determined that these measures should continue; and

**WHEREAS**, to protect State employees and the public, the undersigned has also determined that Cabinet agency workers should be required to show either that they are Fully Vaccinated or that they have been recently tested for COVID-19; and

**WHEREAS**, to protect State employees and the public, the undersigned has determined that Face Covering requirements for unvaccinated workers should be implemented at Cabinet agencies; and

**WHEREAS**, the undersigned encourages all state and local government agencies, school systems, and private businesses and organizations, at a minimum, to adopt the same protections for state employees and the public; and

**WHEREAS**, if the state's COVID-19 case rate continues to increase, if the state's vaccination rate does not improve, or if existing or new COVID-19 variants continue to pose increased dangers, it may be necessary to reevaluate whether additional restrictions are necessary to reduce the risk of death and serious illness from COVID-19; and

Statutory Authority and Determinations

**WHEREAS**, Executive Order No. 116 invoked the Emergency Management Act, and authorizes the undersigned to exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.10(b)(2), the undersigned may make, amend, or rescind necessary orders, rules, and regulations within the limits of the authority conferred upon the Governor in the Emergency Management Act; and

**WHEREAS**, N.C. Gen. Stat. § 166A-19.10(b)(3) authorizes and empowers the undersigned to delegate Gubernatorially vested authority under the Emergency Management Act and to provide for the sub-delegation of that authority; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(1), the undersigned may utilize all available state resources as reasonably necessary to cope with an emergency, including the transfer and direction of personnel or functions of state agencies or units thereof for the purpose of performing or facilitating emergency services; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the undersigned may take such action and give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of the Emergency Management Act and with the orders, rules, and regulations made thereunder; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(i), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because not all local authorities have enacted such appropriate ordinances or issued such appropriate declarations restricting the operation of businesses and limiting person-to-person contact, thus needed control cannot be imposed locally; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(ii), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because some but not all local authorities have taken implementing steps under such ordinances or declarations, if enacted or declared, in order to effectuate control over the emergency that has arisen; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(iii), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection for lives and property of North Carolinians because the area in which the emergency exists spreads across local jurisdictional boundaries and the legal control measures of the jurisdictions are conflicting or uncoordinated to the extent that efforts to protect life and property are, or unquestionably will be, severely hampered; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(iv), the undersigned has determined that local control of the emergency is insufficient to assure adequate protection of lives and property of North Carolinians because the scale of the emergency is so great that it exceeds the capability of local authorities to cope with it; and

**WHEREAS**, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(1) authorizes the undersigned to prohibit and restrict the movement of people in public places; and

**WHEREAS**, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(2) authorizes the undersigned to prohibit and restrict the operation of offices, business establishments, and other places to and from which people may travel or at which they may congregate; and

**WHEREAS**, N.C. Gen. Stat. § 166A-19.30(c) in conjunction with N.C. Gen. Stat. § 166A-19.31(b)(5) authorizes the undersigned to prohibit and restrict other activities or conditions, the control of which may be reasonably necessary to maintain order and protect lives or property during a state of emergency; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 166A-19.30(c)(1), when the undersigned imposes the prohibitions and restrictions enumerated in N.C. Gen. Stat. § 166A-19.31(b), the undersigned may amend or rescind the prohibitions and restrictions imposed by local authorities; and

**WHEREAS**, pursuant to Article III of the Constitution of North Carolina and N.C. Gen. Stat. §§ 143A-4 and 143B-4, the Governor is the chief executive officer of the state and is responsible for formulating and administering the policies of the executive branch of state government; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 143B-10(j)(3), the head of each principal state department and the Director of the Office of State Human Resources may adopt policies, consistent



with law and with rules established by the Governor and with rules of the State Human Resources Commission, which reflect internal management procedures within each department, including policies governing the conduct of employees of the department; and

**WHEREAS**, pursuant to N.C. Gen. Stat. § 126-4, the State Human Resources Commission (“Commission”) shall establish state human resources policies and rules subject to approval of the Governor, and pursuant to this statute, the Commission has issued a Communicable Disease Emergency Policy and rules that require social distancing policies, including administrative and engineering controls, that shall be implemented immediately upon orders from the Governor.

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

**Section 1. Introduction.**

**1.1. Structure of this Executive Order.**

North Carolina has made great strides since the start of the pandemic to save lives. Nevertheless, the state is presently experiencing a surge in COVID-19 spread, principally among those who are unvaccinated. The state’s key COVID-19 metrics suggest some measures must remain active to address and mitigate the spread of COVID-19.

Section 2 of this Executive Order is intended to provide the State Health Director with flexibility to issue any statewide standing order needed for COVID-19 testing or for administering an authorized or approved COVID-19 vaccine. The standing order may be issued as necessary in her medical judgment to allow individuals who meet NCDHHS criteria for testing to access and undergo testing for COVID-19 or receive a COVID-19 vaccine. Section 2 of this Executive Order also promotes COVID-19 testing and vaccine administration by preempting local regulations that may prevent such activity.

NCDHHS has developed guidance listing effective measures for businesses and organizations to use in protecting their employees and customers against COVID-19, including the Delta variant. Section 3 of this Executive Order provides information about this guidance and recommends that all private organizations and schools follow NCDHHS recommendations.

The most effective protection against the Delta variant—or against any form of COVID-19—is getting vaccinated. Vaccinations also protect the people around us from sickness and death. The undersigned has also determined that workers at Cabinet agencies must either be vaccinated or be regularly tested to ensure that they are not spreading COVID-19 to their fellow employees and members of the public. Section 4 of this Executive Order requires the Office of State Human Resources and all Cabinet agencies to implement these measures. The undersigned also has determined that Face Coverings should be required for unvaccinated workers at Cabinet agencies in many situations. Non-Cabinet agencies, state universities, and state commissions, local governments and school systems, and private businesses and organizations are strongly encouraged, at a minimum, to enact the same measures.

**1.2. Definitions.**

- a. “**Face Covering**” means a covering of the nose and mouth that is secured to the head with ties, straps, or loops over the ears and fits snugly against the side of a person’s face. A Face Covering can be made of a variety of synthetic and natural fabrics, including cotton, silk, or linen. Face Coverings are most effective when they fit snugly against a person’s face and have two (2) or more layers. This can be achieved by wearing a cloth Face Covering with two or more layers or by wearing one disposable mask underneath a cloth mask. A cloth Face Covering may be factory-made, sewn by hand, or can be improvised from household items such as scarfs, bandanas, t-shirts, sweatshirts, or towels. These Face Coverings are not intended for use by healthcare providers in the care of patients.

Based on recommendations from the CDC, face shields do not meet the requirements for Face Coverings.

- b. “Face Covering Exception” means any of the exceptions from wearing Face Coverings listed in Section 2.3 of Executive Order No. 209 and any of the exceptions from wearing Face Coverings during exercise listed in the bullet points within Section 2.4 of Executive Order No. 209. Those portions of Executive Order No. 209 are incorporated into this Executive Order, but only for the purpose of serving as exceptions to Face Covering requirements and recommendations.
- c. “Fully Vaccinated” means that it has been two weeks after someone has received the second dose in a two-dose COVID-19 vaccine series (Pfizer or Moderna), or that it has been two weeks after someone has received a single-dose COVID-19 vaccine (Johnson & Johnson).
- d. “Guest” means any attendee, customer, guest, member, patron, spectator, or other person lawfully on the property of another that does not own the property or work at the property.
- e. “Surgical Mask” means American Society for Testing and Materials (“ASTM”) Level 1, 2, or 3 approved procedural and surgical masks.

## **Section 2. COVID-19 Testing and Vaccine Administration.**

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

- 2.1. **Statewide Standing Order for COVID-19 Testing.** In order to further protect the public health by providing greater access to COVID-19 testing, the undersigned orders the State Health Director, in addition to and in accordance with her powers set out in N.C. Gen. Stat. Chapter 130A, to issue any statewide standing order needed in her medical judgment that would allow individuals who meet NCDHHS criteria for testing to access and undergo testing for COVID-19, subject to the terms of the standing order. This standing order may continue for the duration of the State of Emergency.
- 2.2. **Statewide Standing Order for COVID-19 Vaccination.** In order to further protect public health by providing greater access to COVID-19 vaccines, the undersigned orders the State Health Director, consistent with her powers set out in N.C. Gen. Stat. Chapter 130A, to issue such statewide standing orders as needed in her medical judgment that would allow individuals eligible for vaccinations to access and receive a COVID-19 vaccination, subject to the terms of the standing order. This standing order may continue for the duration of the State of Emergency.
- 2.3. **School and Health Officials to Continue Efforts.** NCDHHS, the North Carolina Department of Public Instruction, and the North Carolina State Board of Education are directed to continue to work together during this State of Emergency to maintain and implement measures to provide for the health, nutrition, safety, educational needs, and well-being of children enrolled in North Carolina schools as they transition back to in-person learning.
- 2.4. **Effect on Local Emergency Management Orders.**
  - a. **Most of the Restrictions in This Executive Order Are Minimum Requirements, And Local Governments Can Impose Greater Restrictions.** The undersigned recognizes that the impact of COVID-19 has been and will likely continue to be different in different parts of North Carolina. Over the course of the COVID-19 emergency in North Carolina, COVID-19 outbreaks have occurred, at different times, in urban and rural areas; in coastal areas, the piedmont, and the mountains; and in a variety of employment and living settings. As such, the undersigned acknowledges that counties and cities may deem it necessary to adopt ordinances and issue state of emergency declarations which impose restrictions or prohibitions to the extent authorized under North Carolina law, such as on the activity of people and businesses, to a greater degree than in this Executive Order. To that end, nothing herein, except where specifically stated below in this Subsection 2.4, is intended to limit or prohibit counties and cities in North Carolina from enacting ordinances and issuing state of emergency declarations which

impose greater restrictions or prohibitions to the extent authorized under North Carolina law.

- b. Local Restrictions Cannot Restrict State or Federal Government Operations. Notwithstanding Subsection 2.4(a) above, no county or city ordinance or declaration shall have the effect of restricting or prohibiting governmental operations of the state or the United States.
- c. Local Restrictions Cannot Prevent COVID-19 Testing. To ensure that COVID-19 testing is available to the maximum extent possible, and to create certainty and uniformity across the state for businesses and operations that are providing this valuable testing, the undersigned specifically prohibits all local prohibitions and restrictions that would prevent or restrict businesses or operations from providing COVID-19 testing or would prevent or restrict businesses or operations from advertising COVID-19 testing services that they are providing to the public. This preemption includes, but is not limited to, building permits, signage restrictions, and zoning requirements. However, the preemption provided by this Section is available only to COVID-19 testing sites that are operated in accordance with state and federal law and in cooperation with the NCDHHS or a local public health department.
- d. Local Restrictions Cannot Prevent COVID-19 Vaccine Administration. To ensure that COVID-19 vaccines are available to the maximum extent possible, and to create certainty and uniformity across the state for businesses and operations that are providing this valuable service, the undersigned specifically prohibits all local prohibitions and restrictions that would prevent or restrict businesses or operations from providing COVID-19 vaccines or would prevent or restrict businesses or operations from advertising COVID-19 vaccines that they are providing to the public. This preemption includes, but is not limited to, building permits, signage restrictions and zoning requirements. However, the preemption provided by this Section is available only to COVID-19 vaccination sites that are operated in accordance with state and federal law and in cooperation with the NCDHHS or a local public health department.

### **Section 3. Guidelines for Private Businesses, Organizations, and Schools.**

Federal and state health officials have issued guidance on how individuals and businesses can reduce the risk of transmission of COVID-19, including the Delta variant. These recommendations are available at <https://covid19.ncdhhs.gov/guidance>. Private businesses and organizations are strongly encouraged, at a minimum, to follow the measures in the NCDHHS guidance. These measures include requiring workers to either verify that they are Fully Vaccinated or, if they are not Fully Vaccinated, to wear Face Coverings and be tested on a weekly basis. These measures also include recommending Face Coverings for Fully Vaccinated workers and Guests indoors when other people are present.

Nothing in this Executive Order is intended to prohibit or discourage private businesses and organizations from requiring Face Coverings for their workers or Guests, or to prevent such businesses and organizations from enforcing all existing rights under the law to prohibit Guests from entering without Face Coverings.

In accordance with CDC's recommendations, and as recommended in the StrongSchoolsNC Public Health Tool Kit, leaders at all public and non-public schools should require all students, school staff, and visitors, regardless of vaccination status, to wear Face Coverings at all K-12 schools (unless a Face Covering Exception applies or medical or developmental conditions prohibit use).

### **Section 4. Measures to Protect State Employees and Members of the Public Who Enter State Facilities.**

For the reasons and pursuant to the authority set forth above, the undersigned orders as follows:

4.1. **Vaccination or Testing Required for Unvaccinated Workers at Cabinet Agencies.**

The undersigned directs the Office of State Human Resources ("OSHR") to issue a policy that includes the following requirements in this Section. OSHR is delegated the authority to issue this policy. OSHR shall issue this policy no later than August 13, 2021. OSHR may amend that policy thereafter.

The OSHR policy shall be effective September 1, 2021, and the requirements in this Subsection 4.1 shall become effective on that date.

These requirements set out prohibitions and restrictions only upon operation of agencies that are part of the Governor's Office or are headed by members of the Governor's Cabinet. All other state and local government agencies are strongly encouraged to voluntarily adopt similar policies.

- a. All workers must either:
  1. Provide proof that they are Fully Vaccinated; or
  2. Be tested at least once a week for COVID-19.
- b. The OSHR policy shall identify how workers may show that they are Fully Vaccinated. This proof shall include, but not be limited to, providing a valid COVID-19 vaccination record card to a representative of the agency's Human Resources staff.
- c. The OSHR policy shall identify how an employee may show that they have tested negative for COVID-19. This proof shall include, but not be limited to, providing test results to a representative of the agency's Human Resources staff. The OSHR policy, which shall be drafted in consultation with NCDHHS, shall also identify the conditions under which a positive or pending test result requires exclusion from the workplace.
- d. The OSHR policy shall identify confidentiality requirements for the information provided by workers under this Subsection 4.1. These confidentiality provisions shall be consistent with guidance from the Equal Employment Opportunity Commission.
- e. State employees may be subject to disciplinary action for violations of this Subsection 4.1 or the OSHR policy, up to and including dismissal. Each agency may determine the appropriate level of discipline for violations by issuing guidelines or policy. This Subsection 4.1 shall be enforceable only through disciplinary action for workers, and not by law enforcement under N.C. Gen. Stat. § 166A-19.30(a)(2).
- f. Workers with disabilities that impair or prevent vaccination, workers who are not recommended by a physician to be vaccinated, and workers with a sincerely held religious belief, practice, or observance that is inconsistent with vaccination may request a reasonable accommodation from the proof of vaccination option in Section 4.1(a)(1). The testing option in Section 4.1(a)(2) may serve as a reasonable accommodation for workers seeking an accommodation from the proof of vaccination option. These workers may request an exception by contacting their agency's Human Resources office.

4.2. **Face Covering Requirements at Cabinet Agencies.** Effective Monday, August 2, 2021:

- a. If they are not Fully Vaccinated, workers must wear Face Coverings in any indoor space, within a state government office, building, or facility, that is that is controlled by an agency that is either part of the Governor's Office or is headed by a member of the Governor's Cabinet.
- b. Workers are excepted from the Face Covering requirements in this Subsection 4.2 if they provide proof that they are Fully Vaccinated. OSHR shall issue no later than July 30, 2021, a policy detailing how workers may provide this proof. This policy shall be replaced, effective September 1, 2021, by the policy issued under Subsection 4.1 of this Executive Order. OSHR is delegated the authority to issue this policy.

- c. Each agency may set its own Face Covering policy for Guests and for Fully Vaccinated workers in its offices, buildings, and facilities. All workers and Guests are welcome to wear a Face Covering at any time. It is recommended that Fully Vaccinated workers and Guests wear a Face Covering.
- d. Face Coverings are not required when a person is alone in a room or when a Face Covering Exception applies.
- e. State employees may be subject to disciplinary action for violations of this Subsection 4.2 or the OSHR policy, up to and including dismissal. Each agency may determine the appropriate level of discipline for violations by issuing guidelines or policy. This Subsection 4.2 shall be enforceable only through disciplinary action for workers, and not by law enforcement under N.C. Gen. Stat. § 166A-19.30(a)(2).
- f. The requirements of this Subsection 4.2 set out prohibitions and restrictions only upon operation of agencies that are part of the Governor's Office or are headed by members of the Governor's Cabinet. All other state and local government agencies are strongly encouraged to adopt similar policies.

**Section 5. No Private Right of Action.**

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any emergency management worker (as defined in N.C. Gen. Stat. § 166A-19.60) or any other person.

**Section 6. Savings Clause.**

If any provision of this Executive Order or its application to any person or circumstances is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

**Section 7. Distribution.**

I hereby order that this Executive Order be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the State of Emergency would prevent or impede such filing; and (3) distributed to others as necessary to ensure proper implementation of this Executive Order.

**Section 8. Enforcement.**

- 8.1. Except where otherwise specified herein and pursuant to N.C. Gen. Stat. § 166A-19.30(a)(2), the provisions of this Executive Order shall be enforced by state and local law enforcement officers.
- 8.2. A violation of this Executive Order may be subject to prosecution pursuant to N.C. Gen. Stat. § 166A-19.30(d) and is punishable as a Class 2 misdemeanor in accordance with N.C. Gen. Stat. § 14-288.20A. Local governments are specifically authorized and encouraged to adopt ordinances that provide law enforcement officials with flexibility to use civil, rather than criminal, penalties to enforce violations of this Executive Order.
- 8.3. Nothing in this Executive Order shall be construed to preempt or overrule a court order regarding an individual's conduct (e.g., a Domestic Violence Protection Order or similar orders limiting an individual's access to a particular place).

**Section 9. Effective Date.**

This Executive Order is effective July 29, 2021, at 5:00 pm. This Executive Order shall remain in effect through August 31, 2021, at 5:00 pm, unless repealed, replaced, or rescinded by another applicable Executive Order. An Executive Order rescinding the Declaration of the State of Emergency will automatically rescind this Executive Order.

**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 29<sup>th</sup> day of July in the year of our Lord two thousand and twenty-one.

  
\_\_\_\_\_  
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 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

**Notice** is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to amend the rule cited as 15A NCAC 02B .0211.

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<https://deq.nc.gov/news/events/public-notice-hearings>

**Proposed Effective Date:** March 1, 2022

### Public Hearing:

**Date:** October 28, 2021

**Time:** 6:00 p.m.

### Location:

This public hearing can be joined starting at 5:45 pm via WebEx link:

<https://ncdenrits.webex.com/ncdenrits/onstage/g.php?MTID=ebd820084710fd3ddd0e554a1b4476d4f>

Event number: 161 161 1806

Event password: MPm6Jub8Y8k

Audio conference number: +1-415-655-0003

Audio conference access code: 161 161 1806

To register for the hearing and provide your preference regarding speaking at the hearing, please visit:

<https://forms.office.com/g/6Tr81DQgwL>

Or scan the following QR code with your phone:



Registration must be completed by 12:00 pm on October 28, 2021. If you have any problems registering online, please call 919-707-9011 by the registration deadline of 12:00 pm on October 28, 2021.

The Division of Water Resources highly recommends testing your computer's WebEx capabilities prior to the hearing at <https://www.webex.com/test-meeting.html>. For instructions about digital ways to join the public hearing, please refer to the WebEx Help Center online at <https://help.webex.com/en-us/>.

To comment during the hearing after your name is called as a registered speaker and/or after the hearing officer asks if any people wish to comment following the registered speakers:

- If you join the hearing by phone, press \*3 to "raise your hand," speak once called upon to do so, and press \*3 again to "lower your hand."

- If you join the hearing online, press the hand icon to "raise your hand," speak once called upon to do so, and press the hand icon again to "lower your hand."

- The Hearing Officer may limit the length of time that you may speak, so that all those who wish to speak may do so.

### Reason for Proposed Action:

The Environmental Management Commission (EMC) will conduct a public hearing to consider proposed amendments to rule 15A NCAC 02B .0211 - Fresh Surface Water Quality Standards for Class C Waters.

The purpose of these proposed amendments is to establish a site-specific chlorophyll-a water quality standard for High Rock Lake that has been developed in accordance with the North Carolina Nutrient Criteria Development Plan (NCDP). The NCDP is a formal agreement between North Carolina and the United States Environmental Protection Agency with the goal of establishing appropriate, scientifically defensible, surface water quality standards for nutrient criteria. This site-specific chlorophyll-a standard will replace the existing chlorophyll-a standard for High Rock Lake. The existing chlorophyll-a standard will continue to apply to all other fresh surface waters in North Carolina.

The rule being proposed for amendment is 15A NCAC 02B .0211- Fresh Surface Water Quality Standards for Class C Waters. The Proposed changes include:

- The addition of Sub-Item (4)(a) to include language for site-specific numeric and narrative standards for chlorophyll-a in the High Rock Lake Reservoir, and
- The addition of language in the introductory sentence of Item (4), to direct attention to the site-specific standards for the High Rock Lake Reservoir that comprise Sub-Item (4)(a)

**Comments may be submitted to:** Christopher Ventaloro, NC DEQ-DWR Planning Section, 1611 Mail Service Center, Raleigh, NC 27699-1611;  
 email [2B\\_HRL\\_PHComments\\_2021@ncdenr.gov](mailto:2B_HRL_PHComments_2021@ncdenr.gov)

**Comment period ends:** November 15, 2021

### 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. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact ( $\geq \$1,000,000$ )
- ☒ Approved by OSBM
- ☒ No fiscal note required

## CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

### SUBCHAPTER 02B - SURFACE WATER AND WETLAND STANDARDS

#### SECTION .0200 - CLASSIFICATIONS AND WATER QUALITY STANDARDS APPLICABLE TO SURFACE WATERS AND WETLANDS OF NORTH CAROLINA

##### 15A NCAC 02B .0211 FRESH SURFACE WATER QUALITY STANDARDS FOR CLASS C WATERS

In addition to the standards set forth in Rule .0208 of this Section, the following water quality standards shall apply to all Class C waters. Additional standards applicable to other freshwater classifications are specified in Rules .0212, .0214, .0215, .0216, .0218, .0219, .0223, .0224, .0225, and .0231 of this Section.

- (1) The best usage of waters shall be aquatic life propagation, survival, and maintenance of biological integrity (including fishing and fish); wildlife; secondary contact recreation as defined in Rule .0202 of this Section; agriculture; and any other usage except for primary contact recreation or as a source of water supply for drinking, culinary, and food processing purposes. All freshwaters shall be classified to protect these uses at a minimum.
- (2) The conditions of waters shall be such that waters are suitable for all best uses specified in this Rule. Sources of water pollution that preclude any of these uses on either a shortterm or -longterm- basis shall be deemed to violate a water quality standard;
- (3) Chlorine, total residual: 17 ug/l;
- (4) Chlorophyll a (corrected): except as specified in Sub-Item (a) of this Item, not greater than 40 ug/l for lakes, reservoirs, and other waters subject to growths of macroscopic or microscopic vegetation not designated as trout waters, and not greater than 15 ug/l for lakes, reservoirs, and other waters subject to growths of macroscopic or microscopic vegetation designated as trout waters (not applicable to lakes or reservoirs less than 10 acres in surface

area). The Commission or its designee may prohibit or limit any discharge of waste into surface waters if the surface waters experience or the discharge would result in growths of microscopic or macroscopic vegetation such that the standards established pursuant to this Rule would be violated or the intended best usage of the waters would be impaired;

(a) Site-specific High Rock Lake Reservoir [Index Numbers 12-(108.5), 12-(114), 12-117-(1), 12-117-(3), 12-118.5, and the uppermost portion of 12-(124.5) to the dam of High Rock Lake] Chlorophyll a (corrected): not greater than a growing season geometric mean of 35 ug/L in the photic zone based on samples collected in a minimum of five different months during the growing season. For the purpose of this Sub-Item, the growing season is April 1 through October 31 and the photic zone is represented by a composite sample taken from the water surface down to twice the measured Secchi depth. Chlorophyll a shall not occur in amounts that result in an adverse impact as defined in 15A NCAC 02H .1002.

- (5) Cyanide, total: 5.0 ug/l;
- (6) Dissolved oxygen: not less than 6.0 mg/l for trout waters; for nontrout- waters, not less than a daily average of 5.0 mg/l with an instantaneous value of not less than 4.0 mg/l; swamp waters, lake coves, or backwaters, and lake bottom waters may have lower values if caused by natural conditions;
- (7) Fecal coliform: shall not exceed a geometric mean of 200/100ml (MF count) based upon at least five samples taken over a 30-day period, nor exceed 400/100ml in more than 20 percent of the samples examined during such period. Violations of this Item are expected during rainfall events and may be caused by uncontrollable nonpoint source pollution. All coliform concentrations shall be analyzed using the membrane filter technique. If high turbidity or other conditions would cause the membrane filter technique to produce inaccurate data, the most probable number (MPN) 5-tube multiple dilution method shall be used.
- (8) Floating solids, settleable solids, or sludge deposits: only such amounts attributable to sewage, industrial wastes, or other wastes as shall not make the water unsafe or unsuitable for aquatic life and wildlife or impair the waters for any designated uses;
- (9) Fluoride: 1.8 mg/l;



- (10) Gases, total dissolved: not greater than 110 percent of saturation;
- (11) Metals:
- (a) With the exception of mercury and selenium, acute and chronic freshwater aquatic life standards for metals shall be based upon measurement of the dissolved fraction of the metal. Mercury and selenium water quality standards shall be based upon measurement of the total recoverable metal;
- (b) With the exception of mercury and selenium, aquatic life standards for metals listed in this Sub-Item shall apply as a function of the pollutant's water effect ratio (WER). The WER shall be assigned a value equal to one unless any person demonstrates to the Division's satisfaction in a permit proceeding that another value is developed in accordance with the "Water Quality Standards Handbook: Second Edition" published by the US Environmental Protection Agency (EPA-823-B-12-002), which is hereby incorporated by reference, including subsequent amendments and editions, and can be obtained free of charge at <http://water.epa.gov/scitech/swguidance/standards/handbook/>. Alternative site-specific standards may also be developed when any person submits values that demonstrate to the Commission that they were derived in accordance with the "Water Quality Standards Handbook: Second Edition, Recalculation Procedure or the Resident Species Procedure", which is

hereby incorporated by reference including subsequent amendments and can be obtained free of charge at <http://water.epa.gov/scitech/swguidance/standards/handbook/>.

- (c) Freshwater metals standards that are not hardness-dependent shall be as follows:
- (i) Arsenic, dissolved, acute: WER· 340 ug/l;
  - (ii) Arsenic, dissolved, chronic: WER· 150 ug/l;
  - (iii) Beryllium, dissolved, acute: WER· 65 ug/l;
  - (iv) Beryllium, dissolved, chronic: WER· 6.5 ug/l;
  - (v) Chromium VI, dissolved, acute: WER· 16 ug/l;
  - (vi) Chromium VI, dissolved, chronic: WER· 11 ug/l;
  - (vii) Mercury, total recoverable, chronic: 0.012 ug/l;
  - (viii) Selenium, total recoverable, chronic: 5 ug/l;
  - (ix) Silver, dissolved, chronic: WER· 0.06 ug/l;
- (d) Hardness-dependent freshwater metals standards shall be derived using the equations specified in Table A: Dissolved Freshwater Standards for Hardness-Dependent Metals. If the actual instream hardness (expressed as CaCO<sub>3</sub> or Ca+Mg) is less than 400 mg/l, standards shall be calculated based upon the actual instream hardness. If the instream hardness is greater than 400 mg/l, the maximum applicable hardness shall be 400 mg/l.

Table A: Dissolved Freshwater Standards for Hardness-Dependent Metals

Numeric standards calculated at 25 mg/l hardness are listed below for illustrative purposes. The Water Effects Ratio (WER) is equal to one unless determined otherwise under Sub-Item (11)(b) of this Rule.

Metal	Equations for Hardness-Dependent Freshwater Metals (ug/l)	Standard at 25 mg/l hardness (ug/l)
Cadmium, Acute	$WER \cdot \{1.136672 - [\ln \text{ hardness}](0.041838)\} \cdot e^{\{0.9151 [\ln \text{ hardness}] - 3.1485\}}$	0.82
Cadmium, Acute, Trout waters	$WER \cdot \{1.136672 - [\ln \text{ hardness}](0.041838)\} \cdot e^{\{0.9151 [\ln \text{ hardness}] - 3.6236\}}$	0.51
Cadmium, Chronic	$WER \cdot \{1.101672 - [\ln \text{ hardness}](0.041838)\} \cdot e^{\{0.7998 [\ln \text{ hardness}] - 4.4451\}}$	0.15
Chromium III, Acute	$WER \cdot [0.316 \cdot e^{\{0.8190 [\ln \text{ hardness}] + 3.7256\}}]$	180
Chromium III, Chronic	$WER \cdot [0.860 \cdot e^{\{0.8190 [\ln \text{ hardness}] + 0.6848\}}]$	24

Copper, Acute	WER: $[0.960 \cdot e^{\{0.9422[\ln \text{ hardness}] - 1.700\}}]$ Or, Aquatic Life Ambient Freshwater Quality Criteria-Copper 2007 Revision (EPA-822-R-07-001)	3.6  NA
Copper, Chronic	WER: $[0.960 \cdot e^{\{0.8545[\ln \text{ hardness}] - 1.702\}}]$ Or, Aquatic Life Ambient Freshwater Quality Criteria-Copper 2007 Revision (EPA-822-R-07-001)	2.7  NA
Lead, Acute	WER: $[ \{1.46203 - [\ln \text{ hardness}](0.145712) \} \cdot e^{\{1.273[\ln \text{ hardness}] - 1.460\}} ]$	14
Lead, Chronic	WER: $[ \{1.46203 - [\ln \text{ hardness}](0.145712) \} \cdot e^{\{1.273[\ln \text{ hardness}] - 4.705\}} ]$	0.54
Nickel, Acute	WER: $[0.998 \cdot e^{\{0.8460[\ln \text{ hardness}] + 2.255\}}]$	140
Nickel, Chronic	WER: $[0.997 \cdot e^{\{0.8460[\ln \text{ hardness}] + 0.0584\}}]$	16
Silver, Acute	WER: $[0.85 \cdot e^{\{1.72[\ln \text{ hardness}] - 6.59\}}]$	0.30
Zinc, Acute	WER: $[0.978 \cdot e^{\{0.8473[\ln \text{ hardness}] + 0.884\}}]$	36
Zinc, Chronic	WER: $[0.986 \cdot e^{\{0.8473[\ln \text{ hardness}] + 0.884\}}]$	36

- (e) Compliance with acute instream metals standards shall only be evaluated using an average of two or more samples collected within one hour. Compliance with chronic instream metals standards shall only be evaluated using an average of a minimum of four samples taken on consecutive days or as a 96-hour average;
- (12) Oils, deleterious substances, or colored or other wastes: only such amounts as shall not render the waters injurious to public health, secondary recreation, or to aquatic life and wildlife, or adversely affect the palatability of fish, aesthetic quality, or impair the waters for any designated uses. For the purpose of implementing this Rule, oils, deleterious substances, or colored or other wastes shall include substances that cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines, as described in 40 CFR 110.3(a)-(b), incorporated by reference including subsequent amendments and editions. This material is available, free of charge, at: <http://www.ecfr.gov/>;
- (13) Pesticides:
- (a) Aldrin: 0.002 ug/l;
  - (b) Chlordane: 0.004 ug/l;
  - (c) DDT: 0.001 ug/l;
  - (d) Demeton: 0.1 ug/l;
  - (e) Dieldrin: 0.002 ug/l;
  - (f) Endosulfan: 0.05 ug/l;
  - (g) Endrin: 0.002 ug/l;
  - (h) Guthion: 0.01 ug/l;
  - (i) Heptachlor: 0.004 ug/l;
  - (j) Lindane: 0.01 ug/l;
  - (k) Methoxychlor: 0.03 ug/l;
  - (l) Mirex: 0.001 ug/l;
  - (m) Parathion: 0.013 ug/l; and
  - (n) Toxaphene: 0.0002 ug/l;
- (14) pH: shall be between 6.0 and 9.0 except that swamp waters may have a pH as low as 4.3 if it is the result of natural conditions;
- (15) Phenolic compounds: only such levels as shall not result in fish-flesh tainting or impairment of other best usage;
- (16) Polychlorinated biphenyls (total of all PCBs and congeners identified): 0.001 ug/l;
- (17) Radioactive substances, based on at least one sample collected per quarter:
- (a) Combined radium-226 and radium-228: the average annual activity level for combined radium-226 and radium-228 shall not exceed five picoCuries per liter;
  - (b) Alpha Emitters: the average annual gross alpha particle activity (including radium-226, but excluding radon and uranium) shall not exceed 15 picoCuries per liter;
  - (c) Beta Emitters: the average annual activity level for strontium-90 shall not exceed eight picoCuries per liter, nor shall the average annual gross beta particle activity (excluding potassium-40 and other naturally occurring radionuclides) exceed 50 picoCuries per liter, nor shall the average annual activity level for tritium exceed 20,000 picoCuries per liter;

- (18) Temperature: not to exceed 2.8 degrees C (5.04 degrees F) above the natural water temperature, and in no case to exceed 29 degrees C (84.2 degrees F) for mountain and upper piedmont waters and 32 degrees C (89.6 degrees F) for lower piedmont and coastal plain Waters; the temperature for trout waters shall not be increased by more than 0.5 degrees C (0.9 degrees F) due to the discharge of heated liquids, but in no case to exceed 20 degrees C (68 degrees F);
- (19) Toluene: 0.36 ug/l in trout classified waters or 11 ug/l in all other waters;
- (20) Trialkyltin compounds: 0.07 ug/l expressed as tributyltin;
- (21) Turbidity: the turbidity in the receiving water shall not exceed 50 Nephelometric Turbidity Units (NTU) in streams not designated as trout waters and 10 NTU in streams, lakes, or reservoirs designated as trout waters; for lakes and reservoirs not designated as trout waters, the turbidity shall not exceed 25 NTU; if turbidity exceeds these levels due to natural background conditions, the existing turbidity level shall not be increased. Compliance with this turbidity standard shall be deemed met when land management activities employ Best Management Practices (BMPs), as defined by Rule .0202 of this Section, recommended by the Designated Nonpoint Source Agency, as defined by Rule .0202 of this Section.
- (22) Toxic Substance Level Applicable to NPDES Permits: Chloride: 230 mg/l. If chloride is determined by the waste load allocation to be exceeded in a receiving water by a discharge under the specified 7Q10 criterion for toxic substances, the discharger shall monitor the chemical or biological effects of the discharge. Efforts shall be made by all dischargers to reduce or eliminate chloride from their effluents. Chloride shall be limited as appropriate in the NPDES permit if sufficient information exists to indicate that it may be a causative factor resulting in toxicity of the effluent.

*Authority G.S. 143-214.1; 143-215.3(a)(1).*

\*\*\*\*\*

**Notice** is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Wildlife Resources Commission intends to readopt without substantive changes the rules cited as 15A NCAC 10B .0102, .0115, .0121, .0122, .0124, .0125, .0202, .0208-.0211, .0213-.0215, .0219-.0222, .0225, .0301; 10C .0201, .0212, .0213 and .0217.

*Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for readoption without substantive changes are not required to be*

*published. The text of the rules are available on the OAH website: <http://reports.oah.state.nc.us/ncac.asp>.*

**Link to agency website pursuant to G.S. 150B-19.1(c):** <https://www.ncwildlife.org/Proposed-Regulations>

**Proposed Effective Date:** January 1, 2022

**Public Hearing:**

**10B Rules**

**Date:** September 21, 2021

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

**Location:** Register online here:

[https://ncwildlife-org.zoomgov.com/webinar/register/WN\\_m1sro69HSN-nWKmpLkN0\\_A](https://ncwildlife-org.zoomgov.com/webinar/register/WN_m1sro69HSN-nWKmpLkN0_A) Join by phone toll free (669 254 5252 or 833 568 8864 ) using Webinar ID: 161 474 0305

**Public Hearing:**

**10C Rules**

**Date:** September 28, 2021

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

**Location:** Register online here:

[https://ncwildlife-org.zoomgov.com/webinar/register/WN\\_pnZIIzuWRVCxVWsoTAdx\\_A](https://ncwildlife-org.zoomgov.com/webinar/register/WN_pnZIIzuWRVCxVWsoTAdx_A) Join by phone toll free (669 254 5252 or 833 568 8864 ) using Webinar ID: 160 982 2816

**Reason for Proposed Action:** Pursuant to 150B-21.3A, the agency is required to readopt 10B and 10C rules as part of the periodic review process.

**Comments may be submitted to:** Rulemaking Coordinator, 1701 Mail Service Center, Raleigh, NC 27699; email [regulations@ncwildlife.org](mailto:regulations@ncwildlife.org)

**Comment period ends:** November 1, 2021

**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. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☐ State funds affected
- ☐ Local funds affected

- ☐ Substantial economic impact ( $\geq$  \$1,000,000)  
☐ Approved by OSBM  
☒ No fiscal note required

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

**SUBCHAPTER 10B - HUNTING AND TRAPPING**

**SECTION .0100 - GENERAL REGULATIONS**

**15A NCAC 10B .0102 IMPORTATION OF GRAY  
FOXES (READOPTION WITHOUT SUBSTANTIVE  
CHANGES)**

**15A NCAC 10B .0115 SHINING LIGHTS IN DEER  
AREAS (READOPTION WITHOUT SUBSTANTIVE  
CHANGES)**

**15A NCAC 10B .0121 WILD BIRDS DEFINED  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**15A NCAC 10B .0122 PROHIBITED HUNTING ON  
STATE FISH HATCHERIES (READOPTION WITHOUT  
SUBSTANTIVE CHANGES)**

**15A NCAC 10B .0124 IMPORTATION OF ANIMAL  
PARTS (READOPTION WITHOUT SUBSTANTIVE  
CHANGES)**

**15A NCAC 10B .0125 RELEASE OF MUTE SWANS  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**SECTION .0200 - HUNTING**

**15A NCAC 10B .0202 BEAR (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**15A NCAC 10B .0208 QUAIL (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**15A NCAC 10B .0209 WILD TURKEY (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**15A NCAC 10B .0210 RUFFED GROUSE (NATIVE  
PHEASANT) (READOPTION WITHOUT SUBSTANTIVE  
CHANGES)**

**15A NCAC 10B .0211 PHEASANT (NONNATIVE  
VARIETIES) (READOPTION WITHOUT SUBSTANTIVE  
CHANGES)**

**15A NCAC 10B .0213 GROUNDHOG (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**15A NCAC 10B .0214 WILDCAT (BOBCAT)  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**15A NCAC 10B .0215 CROWS (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**15A NCAC 10B .0219 COYOTE (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**15A NCAC 10B .0220 NUTRIA (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**15A NCAC 10B .0221 STRIPED SKUNK  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**15A NCAC 10B .0222 ARMADILLO (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**15A NCAC 10B .0225 ELK (READOPTION WITHOUT  
SUBSTANTIVE CHANGES)**

**SECTION .0300 - TRAPPING**

**15A NCAC 10B .0301 DEFINITIONS (READOPTION  
WITHOUT SUBSTANTIVE CHANGES)**

**SUBCHAPTER 10C - INLAND FISHING REGULATIONS**

**SECTION .0200 - GENERAL REGULATIONS**

**15A NCAC 10C .0201 IDENTIFICATION  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**15A NCAC 10C .0212 FISH HATCHERIES  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**15A NCAC 10C .0213 SNAGGING FISH  
(READOPTION WITHOUT SUBSTANTIVE CHANGES)**

**15A NCAC 10C .0217 PUBLIC ACCESS FOR  
ANGLERS ONLY (READOPTION WITHOUT  
SUBSTANTIVE CHANGES)**

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**APPROVED RULES**

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

Rules approved by the Rules Review Commission at its meeting on July 15, 2021 Meeting.

**REGISTER CITATION TO THE  
NOTICE OF TEXT****SOCIAL SERVICES COMMISSION**

<u>Definitions</u>	10A NCAC 70M .0102*	35:20 NCR
<u>Public Adoption Agencies</u>	10A NCAC 70M .0201*	35:20 NCR
<u>Functions of a Public Adoption Agency</u>	10A NCAC 70M .0301*	35:20 NCR
<u>Services to Adoptive Applicants</u>	10A NCAC 70M .0302*	35:20 NCR
<u>Multiethnic Placement Act Requirements for Adoptive Home ...</u>	10A NCAC 70M .0304*	35:20 NCR
<u>Regular Monthly Cash Adoption Assistance and Vendor</u>	10A NCAC 70M .0401*	35:20 NCR
<u>Eligibility Requirements for Regular Monthly Cash Assista...</u>	10A NCAC 70M .0402*	35:20 NCR
<u>Procedures/Reimbursement of Adoption Assistance Benefits</u>	10A NCAC 70M .0403*	35:20 NCR
<u>Eligibility Requirements for the Special Children Adoptio...</u>	10A NCAC 70M .0404	35:20 NCR
<u>Payments from the Special Children Adoption Incentive Fund</u>	10A NCAC 70M .0405	35:20 NCR
<u>Out of State Adoption Fees</u>	10A NCAC 70M .0501*	35:20 NCR
<u>General Eligibility Requirements</u>	10A NCAC 70M .0502	35:20 NCR
<u>Public Adoption Agency Requirements</u>	10A NCAC 70M .0601*	35:20 NCR
<u>Eligible Non-Recurring Adoption Expenses</u>	10A NCAC 70M .0602*	35:20 NCR
<u>Requirements</u>	10A NCAC 70M .0603	35:20 NCR
<u>Prohibition on Reimbursement Caps</u>	10A NCAC 70M .0604*	35:20 NCR
<u>Eligibility Requirements for the Special Need Adoption In...</u>	10A NCAC 70M .0701*	35:20 NCR
<u>Payments from the Special Need Adoption Incentive Fund</u>	10A NCAC 70M .0702*	35:20 NCR

**INSURANCE, DEPARTMENT OF**

<u>Licensing of Resident Agent, LTD Representative and Adjuster</u>	11 NCAC 06A .0402*	35:18 NCR
<u>Renewal of Agent Appts: Licenses/Limited Reps</u>	11 NCAC 06A .0501*	35:18 NCR
<u>Salesmen to be Licensed Insurance Agents</u>	11 NCAC 13 .0410*	35:18 NCR

**INDUSTRIAL COMMISSION**

<u>Emergency Orders and Directives of the Chief Justice of t...</u>	11 NCAC 23E .0302	35:20 NCR
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**CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION**

<u>Summary Suspensions</u>	12 NCAC 09A .0206*	35:18 NCR
<u>Certification Training for School Resource Officers</u>	12 NCAC 09B .0313*	35:18 NCR
<u>Trainee Attendance</u>	12 NCAC 09B .0404*	35:18 NCR
<u>Moral Character</u>	12 NCAC 09G .0206*	35:18 NCR
<u>Suspension: Revocation: or Denial of Certification</u>	12 NCAC 09G .0504*	35:18 NCR
<u>Summary Suspension</u>	12 NCAC 09G .0506*	35:18 NCR

**SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION**

<u>Certification and Training for School Resources Officers</u>	12 NCAC 10B .0510*	35:20 NCR
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**COASTAL RESOURCES COMMISSION**

<u>Development Period/Commencement/Continuation</u>	15A NCAC 07J .0403*	34:09 NCR
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**APPROVED RULES**

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<u>Development Period Extension</u>	15A NCAC 07J .0404*	34:09 NCR
<u>Permit Modification</u>	15A NCAC 07J .0405*	34:09 NCR
<u>Project Maintenance: Major Development/Dredge and Fill</u>	15A NCAC 07J .0407*	34:09 NCR
<u>Restoration/Mitigation</u>	15A NCAC 07J .0410*	34:09 NCR
<u>Structural Accessways Over Frontal Dunes Exempted</u>	15A NCAC 07K .0207*	34:09 NCR
<u>Single Family Residences Exempted</u>	15A NCAC 07K .0208	34:09 NCR

**DENTAL EXAMINERS, BOARD OF**

<u>Application for General Anesthesia or Sedation Permit, Pe...</u>	21 NCAC 16Q .0102	35:18 NCR
<u>Itinerant (Mobile) General Anesthesia Permit, Equipment a...</u>	21 NCAC 16Q .0206	35:18 NCR
<u>Annual Review of General Anesthesia and Itinerant (Mobile...</u>	21 NCAC 16Q .0207*	35:18 NCR
<u>Annual Renewal of Moderate Parenteral and Enteral Conscio...</u>	21 NCAC 16Q .0305*	35:18 NCR
<u>Annual Renewal of Moderate Pediatric Conscious Sedation P...</u>	21 NCAC 16Q .0407*	35:18 NCR
<u>Minimal Conscious Sedation Credentials and Permit</u>	21 NCAC 16Q .0504	35:18 NCR
<u>Minimal Conscious Sedation Clinical Requirements and Equi...</u>	21 NCAC 16Q .0505*	35:18 NCR
<u>Annual Renewal of Minimal Conscious Sedation Permit</u>	21 NCAC 16Q .0506	35:18 NCR
<u>Procedure for Minimal Conscious Sedation Evaluation or In...</u>	21 NCAC 16Q .0507	35:18 NCR

**MEDICAL BOARD**

<u>Prescribing Authority</u>	21 NCAC 32M .0109*	35:18 NCR
<u>Reporting Criteria</u>	21 NCAC 32M .0117	34:21 NCR

**NURSING, BOARD OF**

<u>Prescribing Authority</u>	21 NCAC 36 .0809*	35:18 NCR
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**PHARMACY, BOARD OF**

<u>Compounding</u>	21 NCAC 46 .2801*	35:20 NCR
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**PHYSICAL THERAPY EXAMINERS, BOARD OF**

<u>Persons Refused Examination Permission</u>	21 NCAC 48D .0107	35:14 NCR
<u>Retaking Examination</u>	21 NCAC 48D .0109	35:14 NCR
<u>Applicants with Special Needs</u>	21 NCAC 48D .0111	35:14 NCR
<u>Filing Application and Board Determination of Exam Eligib...</u>	21 NCAC 48E .0101*	35:14 NCR

**SOCIAL WORK CERTIFICATION AND LICENSURE BOARD**

<u>Work Experience</u>	21 NCAC 63 .0211*	35:13 NCR
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**ADMINISTRATIVE HEARINGS, OFFICE OF**

<u>Cost To Public</u>	26 NCAC 01 .0103	35:20 NCR
<u>Official Record</u>	26 NCAC 03 .0123*	35:20 NCR

*The following rules are subject to Legislative Review.*

**CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION**

<u>Minimum Standards for Criminal Justice Officers</u>	12 NCAC 09B .0101*	35:18 NCR
<u>Physical and Mental Standards</u>	12 NCAC 09G .0205*	35:18 NCR

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

### 10A NCAC 70M .0102 DEFINITIONS

(a) For the purpose of the rules in this Subchapter, 42 USC 673, 45 CFR 1356.41, and the Multiethnic Placement Act (MEPA) of 1994, P.L. 103-382, as amended by the Interethnic Adoption Provisions of 1996, P.L. 104-188, are applicable to both the State and public adoption agencies and are hereby incorporated by reference including any subsequent amendments and editions. These documents may be accessed at [www.gpo.gov](http://www.gpo.gov) or [www.congress.gov](http://www.congress.gov) at no charge.

(b) The following definitions shall apply to the rules in this Subchapter:

- (1) "Adoption assistance agreement" means a signed written agreement that is developed by the Department ("North Carolina Adoption Assistance Agreement" Form DSS-5013, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that is binding upon the public adoption agency and the prospective adoptive parents of a minor child and, at a minimum, the agreement shall:
  - (A) specify payments that meet the requirements in 42 USC 673(a)(3), and specifies the nature and amount of any payments, services, and assistance to be provided under the agreement;
  - (B) stipulates that the agreement shall remain in effect regardless of the state where the adoptive parents are residents of at any given time;
  - (C) require each adoptive parent to inform the public adoption agency of any circumstances that would make the parent ineligible for the payments or eligible for a different amount;
  - (D) if applicable, require the adoptive parents to provide receipt of vendor payments; and
  - (E) contain provisions for the protection of the interests of the child in cases where the adoptive parents and child move to another state while the agreement is in effect.
- (2) "Applicable child" means a child who meets the requirements in 42 USC 673(e).
- (3) "Child with special needs" or "children with special needs" means a child who meets the requirements in 42 USC 673(c). The public adoption agency, or the North Carolina Department of Health and Human Services for the Special Needs Adoptions Incentive Fund assistance, shall make the specified determinations for the State in 42 USC 673(c). A child shall not be returned to the home of the child's parent if there is a court order terminating parental rights, a relinquishment to a public or private child-placing agency, a

consent for adoption by the parent, a finding from the court in an adoption proceeding that a parent's consent is not required, or verification of the death of a parent. For a child to meet the requirement in 42 USC 673(c)(2)(B)(ii), the child must have a letter from the Social Security Administration that approves the child for Social Security Insurance benefits. For purposes of 42 USC 673(c)(1)(B) and 42 USC 673(c)(2)(B)(i), the child shall present one or more of the following specific factors or conditions:

- (A) six years of age or older;
- (B) two years of age or older and a member of a minority race or ethnic group;
- (C) a member of a sibling group of three or more children who will all be placed in the same adoptive home;
- (D) a member of a sibling group of two children who will be placed in the same adoptive home and the child's sibling meets one of the factors or conditions in Parts (A), (B), (E), (F), (G), or (H) of this Paragraph;
- (E) a medically diagnosed disability that substantially limits one or more major life activities, requires professional treatment, requires assistance in self-care, or requires the purchase of special equipment;
- (F) diagnosed by a medical professional, who is qualified through licensing or credentialing to make the diagnosis, as having a psychiatric condition that impairs the child's mental, intellectual, or social functioning, and for which the child requires professional services;
- (G) diagnosed by a medical professional, who is qualified through licensing or credentialing to make the diagnosis, as having a behavioral or emotional disorder characterized by inappropriate behavior that deviates substantially from behavior appropriate to the child's age or significantly interferes with child's intellectual, social, and personal functioning;
- (H) diagnosed by a medical professional, who is qualified through licensing or credentialing to make the diagnosis, as being intellectually or developmentally disabled; or
- (I) at risk, as opined by a medical professional, who is qualified through licensing or credentialing for one of the factors or conditions in Parts (E)

through (H) of the definition in this Paragraph due to:

- (i) prenatal exposure to toxins;
- (ii) a history of abuse or serious neglect; or
- (iii) genetic history.
- (4) "Department" means the North Carolina Department of Health and Human Services.
- (5) "Nonrecurring adoption expense" means the same as "nonrecurring adoption expenses" found in 42 USC 673(a)(6)(A).
- (6) "Public adoption agency" means any county department of social services, consolidated human services, or regional department of social services in North Carolina that is authorized by law to place children for adoption or that provides adoption services.
- (7) "Supplemental Agreement" means a signed written agreement that is developed by the Department ("North Carolina Special Children Adoption Incentive Fund Supplemental Adoption Assistance Agreement" Form DSS-5212, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that is binding upon the public adoption agency and the prospective adoptive parents of a minor child and at a minimum:
  - (A) specifies the nature and amount of any Special Children's Adoption Incentive Fund payment; and
  - (B) includes an acknowledgement by the prospective adoptive parents that the payments are not an entitlement and are limited to available funds in the Special Children's Adoption Incentive Fund.

*History Note:* Authority G.S. 143B-153(2)(a); 108A-49; 42 U.S.C. 673;  
Eff. August 1, 2021.

**10A NCAC 70M .0201 PUBLIC ADOPTION AGENCIES**

- (a) Except for the provisions relating to an executive director, public adoption agencies shall comply with 10A NCAC 70H .0401 in determining the qualifications and job responsibilities for personnel.
- (b) Public adoption agencies shall comply with 10A NCAC 70F .0207 in the hiring of staff and use of volunteers.
- (c) The caseload size of social workers providing adoption services shall be in compliance with requirements set forth in 10A NCAC 70H .0401.

*History Note:* Authority G.S. 143B-153;  
Eff. February 1, 1976;  
Readopted Eff. October 31, 1977;  
Amended Eff. October 1, 2008; September 1, 1986;  
Readopted Eff. August 1, 2021.

**10A NCAC 70M .0301 GENERAL**

Public adoption agencies shall perform the following functions:

- (1) provision of casework and other supportive services to biological parents considering adoption;
- (2) provision of casework and other supportive services to the child considered for adoption;
- (3) provision of casework and other supportive services to adoptive applicants through pre-placement studies;
- (4) selection of home and placement process;
- (5) supervision after placement;
- (6) fulfillment of social and legal responsibilities;
- (7) compilation and preservation of case records;
- (8) provision of post-adoption consultation services, including, coordination and referrals for educational enrollment for children seven to sixteen years of age, and for therapeutic and physical health needs;
- (9) when this Subchapter requires, determine whether eligibility requirements have been met for adoption assistance in this Subchapter that is available for children with special needs who are in custody of the public adoption agency or who have been placed by a private child-placing agency in an adoptive home within its jurisdiction;
- (10) administer adoption assistance agreements for which it entered into pursuant to this Subchapter;
- (11) notify adoptive parents of tax credits that may be available for adoptive parents;
- (12) make information available for prospective adoptive families that describes the kinds of children needing placement, the availability of adoption assistance, and procedures for referring families they are unable to serve to other child placing agencies; and
- (13) recruit potential foster and adoptive families in accordance with the Multiethnic Placement Act (MEPA) of 1994, P.L. 103-382, as amended by the Interethnic Adoption Provisions of 1996, P.L. 104-188.

*History Note:* Authority G.S. 48-2-502; 48-3-203; 48-3-204; 48-3-303; 143B-153;  
Eff. February 1, 1976;  
Readopted Eff. October 31, 1977;  
Amended Eff. June 1, 1990; September 1, 1986;  
Readopted Eff. August 1, 2021.

**10A NCAC 70M .0302 SERVICES TO ADOPTIVE APPLICANTS**

Public adoption agencies shall comply with 10A NCAC 70H .0404, .0405, .0406, .0407, .0408 and .0409 in determining the procedures for the application process, preplacement assessment, notification to adoptive applicants of acceptance or denial of application, services to adoptive applicants and families, legal process, and record retention.



*History Note:* Authority G.S. 143B-153;  
*Eff. February 1, 1976;*  
*Readopted Eff. October 31, 1977;*  
*Amended Eff. October 1, 2008; July 17, 2000; September 1, 1986;*  
*Readopted Eff. August 1, 2021.*

**10A NCAC 70M .0304 MULTIETHNIC PLACEMENT  
 ACT REQUIREMENTS FOR ADOPTIVE HOME  
 RECRUITMENT**

- (a) Public adoption agencies shall recruit potential adoptive and foster families that reflect the ethnic and racial diversity of children in the State.
- (b) Public adoption agencies shall not deny any person the opportunity to become an adoptive or a foster parent on the basis of the race, color, or national origin of the person or of the child involved.
- (c) Public adoption agencies shall not delay or deny the placement of a child for adoption or foster care, on the basis of the race, color, or national origin of the adoptive or foster parent or the child involved.
- (d) Public adoption agencies shall not violate provisions of the Multiethnic Placement Act of 1994, P.L. 103-382, as amended by the Interethnic Adoption Provisions of 1996, P.L. 104-188, that apply to state or local agencies.

*History Note:* Authority G.S. 48-3-204; 131D-10.5; 143B-153;  
*Eff. October 1, 2008;*  
*Readopted Eff. August 1, 2021.*

**10A NCAC 70M .0401 STANDARD MONTHLY CASH  
 ADOPTION ASSISTANCE AND VENDOR PAYMENTS**

- (a) Standard monthly cash assistance payments are monthly payments made based on graduated rates set by the General Assembly and reflected in the executed adoption assistance agreement.
- (b) Vendor payments are made directly to a child's provider, which may include the adoptive parents, for medical, therapeutic, psychological, and remedial services not covered by Medicaid or another source if the requirements in this Subchapter are met.

*History Note:* Authority G.S. 108A-49; 108A-50; 143B-153;  
*Eff. July 1, 1982;*  
*Amended Eff. July 18, 2002; July 1, 1991; September 1, 1986;*  
*Readopted Eff. August 1, 2021.*

**10A NCAC 70M .0402 ELIGIBILITY REQUIREMENTS  
 FOR STANDARD MONTHLY CASH ASSISTANCE  
 PAYMENTS OR VENDOR PAYMENTS**

- (a) Adoption assistance in the form of standard monthly cash assistance payments based on graduated rates set by the General Assembly and vendor payments may be made when the child meets the following eligibility criteria:
  - (1) The child was legally adopted;
  - (2) The child meets at least one of the following criteria:
    - (A) is not an applicable child and meets the requirements in 42 USC 673(a)(2)(A)(i). The public adoption

- agency shall make the determination in 42 USC 673(a)(2)(A)(i)(II) for the State. 42 USC 673(a)(2)(B) shall be applicable when appropriate;
- (B) shall be an applicable child and meets the requirements in 42 USC 673(a)(2)(A)(ii). The public adoption agency shall make the determination in 42 USC 673(a)(2)(A)(ii)(II) for the State. 42 USC 673(a)(2)(B) shall be applicable when appropriate; or
- (C) the requirements set forth in 42 USC 673(a)(2)(C); and
- (3) An applicable child is not eligible if he or she meets the conditions in 42 U.S.C. 673(a)(7)(A)(i) through (iii), unless 42 U.S.C. 673(a)(7)(B) is applicable and the public adoption agency makes the requisite determination for the State.

(b) For vendor payments, in addition to the criteria in Paragraph (a) of this Rule, the child shall also meet the following criteria:

- (1) at or prior to the issuance of the adoption decree, have a diagnosed medical, mental, or emotional condition that is documented by a medical professional, who is qualified through licensing or credentialing to make a diagnosis, that will require ongoing treatment or therapy of a medical or remedial nature; or
- (2) after the issuance of the adoption decree but while still under the age of 18, have been determined by the public adoption agency administering adoption assistance benefits to have a medical, mental, or emotional condition, congenital problem, birth injury, or other documented problem that is determined by a medical professional, who is qualified through licensing or credentialing to have been preexisting at the time of his or her placement into an adoptive home.
- (c) The prospective adoptive parents shall meet the following criteria:
  - (1) Have a child placed with them in accordance with applicable State and local laws for purposes of an adoption who meets the requirements in Paragraph (a) of this Rule;
  - (2) be legally responsible for the support of the child and is providing support to the child, if the child is under the age of 18;
  - (3) enter into an adoption assistance agreement with the public adoption agency prior to issuance of the decree of adoption. The adoption assistance agreement shall identify the specific services for the child that the parents want to be covered by vendor payments;
  - (4) Shall have a completed criminal history investigated pursuant to G.S. 48-3-303 and 48-3-309 and shall not have a criminal history, as defined by G.S. 48-1-101(5b), or any other criminal conviction that would cause the

prospective adoptive parent to be unfit to have responsibility for the safety and well-being of children as determined by the public adoption agency pursuant to G.S. 43-3-309;

- (5) Shall provide the public adoption agency with the results of the criminal back history investigation;
- (6) Shall have a completed check of the North Carolina's Responsible Individuals List pursuant to G.S. 7B-311 and have a check of the results of child abuse and neglect central registry of states where the applicant has resided the past five years and not be placed on the North Carolina's Responsible Individuals List or any other state's child abuse and neglect central registry. The public adoption agency shall maintain a copy of the results in their file; and
- (7) For vendor payments when the child meets the criteria in Subparagraph (b)(2) of this Rule, shall enter into an adoption assistance agreement amendment on a form provided by the Department ("North Carolina Division of Social Services Adoption Assistance Agreement Amendment" Form DSS-5307, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that identifies and includes supporting documentation of the child's preexisting condition and allows the parents to be reimbursed for vendor services related to the child's preexisting condition.

(d) All individuals 18 years of age or older who reside in the prospective adoptive home shall have a completed a criminal history investigated pursuant to G.S. 48-3-303 and 48-3-309 and shall not have a criminal history, as defined by G.S. 48-1-101(5b), or any other criminal conviction that would cause the prospective adoptive parent is unfit to have responsibility for the safety and well-being of children as determined by the public adoption agency pursuant to G.S. 48-3-309.

(e) Prior to the adoption, all individuals 18 years of age or older who reside in the prospective adoptive home shall have a completed check of the North Carolina's Responsible Individuals List and have a check of the results of child abuse and neglect central registry of states where the applicant has resided the past five years and not be placed on the North Carolina's Responsible Individuals List or any other state's child abuse and neglect central registry. The public adoption agency shall maintain a copy of the results in their file.

(f) Upon adoption, the adoptive parents shall comply with all the terms of the adoption agreement assistance and notify the public adoption agency they are no longer legally or financially responsible for the adopted child, address, or contact information.

(g) The public adoption agency shall:

- (1) prior to the adoption, make a determination as to whether the requirements of this Rule have been met on a form created by the Department ("Adoption Assistance Eligibility Checklist" Form DSS-5012, which may be accessed at

<https://www.ncdhhs.gov/divisions/dss>) that shall identify the reasons that the eligibility requirements have been met and inform the prospective adoptive parents of the right to appeal the decision.

- (2) maintain a copy of the results of the criminal investigation of the foster parents and any individual 18 years of age or older who resides in the prospective adoptive home.

- (3) after the adoption:

- (A) annually send to the adoptive parents a letter reminding them to report any changes in their legal or financial responsibility of the adopted child;

- (B) issue to the adoptive parents a notice if the adoption assistance payments are to be suspended ("North Carolina Division of Social Services Adoption Assistance Suspension Notice" Form DSS-5306, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that shall identify the reason for the suspension and how to appeal the suspension; and

- (C) issue to the adoptive parents a notice if the adoption assistance payments are to be terminated ("North Carolina Division of Social Services Adoption Assistance Termination Notice" Form DSS-5308, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that shall identify the reason for the termination and how to appeal the termination.

- (4) in order for vendor services to be reimbursed, the vendor must obtain prior approval by submitting to the public adoption agency completed and signed forms provided by the Department ("Adoption Assistance Vendor Payment Request Form" Form DSS-5112 and "Adoption Assistance Vendor Payment Instructions for Providers" Form DSS-5115, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that includes documentation of the child's diagnosis, the child's special needs related to the diagnosis, how the is service related to the special needs, what goals the service is intended to accomplish, how achievement of goals be measured, the projected duration of treatment or service, the projected total cost, and two copies of the provider's bill after all health insurance claims have been processed.

*History Note: Authority G.S. 108A-49; 108A-50; 143B-153; Eff. July 1, 1982; Amended Eff. March 1, 2017; July 18, 2002; July 1, 1991; March 1, 1990; Readopted Eff. August 1, 2021.*

**10A NCAC 70M .0403 PROCEDURES/  
REIMBURSEMENT OF ADOPTION ASSISTANCE  
BENEFITS**

(a) Adoption assistance benefits for which a child is eligible shall become effective the first month following the month in which the Decree of Adoption is issued.

(b) Claims from service providers and standard monthly cash assistance shall be reimbursed or provided from adoption assistance funds subject to the following limitations:

- (1) Vendor payments to adoptive parents, medical providers, and to providers of psychological, therapeutic, and remedial services shall be made only for treatment or services given to alleviate or correct those conditions for which the child has been determined eligible to receive benefits.
- (2) The total amount for vendor payments for any combination of medical services not covered by Medicaid including psychological, therapeutic, or remedial services for any child shall not exceed two thousand four hundred dollars (\$2,400.00) per State fiscal year.
- (3) Vendor payments shall not be made to reimburse providers for the following:
  - (A) routine medical examinations;
  - (B) illnesses or conditions not related to or resulting from the conditions for which the child was determined eligible for vendor payments;
  - (C) services or treatment provided to the child prior to issuance of the Decree of Adoption; and
  - (D) services or treatment that may have been provided on or after the first day of the month following the month in which the child's eligibility ceases.

(c) No local match, in terms of dollars, is required for funds for those children certified to receive benefits under the State Fund for Adoptive Children with Special Needs as set forth in G.S. 180A-50.1, who are the placement responsibility of licensed private child-placing agencies with the exception of monthly cash payments for those children who are eligible for benefits from Title IV-E of the Social Security Act. No monthly cash assistance payments from the State Fund for Adoptive Children with Special Needs shall be made for any adoption in which the Decree of Adoption is issued on or after October 1, 2011.

*History Note: Authority G.S. 108A-49; 108A-50; 143B-153; Eff. July 1, 1982; Amended Eff. October 1, 2011; July 18, 2002; July 1, 1991; March 1, 1990; Readopted Eff. August 1, 2021.*

**10A NCAC 70M .0404 ELIGIBILITY REQUIREMENTS  
FOR THE SPECIAL CHILDREN ADOPTION  
INCENTIVE FUND AND EFFECTIVE DATE**

**10A NCAC 70M .0405 PAYMENTS FROM THE  
SPECIAL CHILDREN ADOPTION INCENTIVE FUND**

*History Note: Authority G.S. 108A-49; 108A-50; 143B-153; S.L. 2000-67, s. 11.16; Temporary Adoption Eff. January 1, 2001; Temporary Adoption Eff. August 31, 2001; Eff. July 18, 2002; Repealed Eff. August 1, 2021.*

**10A NCAC 70M .0501 PURPOSE OF OUT-OF-STATE  
ADOPTION SERVICE FEES**

(a) When the requirements in this Rule have been met, with prior approval, the Department may reimburse in part or in full a fee incurred by a public adoption agency for adoption services provided by an out-of-state adoption agency. Public adoption agencies shall pay the out-of-state adoption provider directly and provide proof of payment to the Department once payment is made.

(b) The requirements of this Rule are met when the child:

- (1) is a child with special needs;
- (2) is registered on the North Carolina Adoption Resource Exchange, which may be accessed at <https://www.ncdhhs.gov/divisions/social-services/child-welfare-services/adoption-and-foster-care>;
- (3) has parents who have each had one of the following occur:
  - (A) a court order terminated parental rights;
  - (B) executed a relinquishment of the child to a public or private child-placing agency;
  - (C) consented to the adoption;
  - (D) a finding by the court in the adoption proceeding that the parent's consent to the adoption is not required; or
  - (E) has died.

(c) Out-of-state adoption agencies shall be licensed by their respective states and as approved by conditions of the Interstate Compact on the Placement of Children (ICPC) pursuant to G.S. 7B, Article 38 to provide adoptive services for children with special needs.

(d) The service fee charged by the specialized out-of-state adoption agency shall be:

- (1) any one of the following services provided by the specialized adoption service agency:
  - (A) recruiting and securing an adoptive home for the child;
  - (B) pre-placement services for the family and child;
  - (C) post-placement services for the family and child; and
  - (D) post-finalization services.
- (2) only be available when an adoptive family has not been identified in North Carolina.

(e) The public adoption agency:

- (1) shall have custody and placement responsibility of the child and have the legal authority to consent to the child's adoption;
- (2) shall make a written request to the Department for reimbursement for the out-of-state adoption

- service fee at the time that a decision has been made to place the child with a specific adoptive parent or parents who have had an approved home study that was conducted by the specialized out-of-state adoption agency;
- (3) shall include in its reimbursement request to the Department written documentation that verifies the following:
- (A) the public adoption agency has legal placement responsibility;
  - (B) the public adoption agency has the authority to legally consent to the adoption of the child;
  - (C) the child meets the requirements of this Rule;
  - (D) the out-of-state adoption agency meets the requirements of this Rule;
  - (E) the service fee to be charged meets the requirements of this Rule; and
  - (F) a quote for the service fee that includes the service to be provided and the amount of the fee;
- (4) shall obtain prior approval from the Department prior to initiating contracted services where reimbursement is expected;
- (5) Upon the Department's prior approval for an out-of-state adoption service fee, the public adoption agency shall enter into an agreement with the out-of-state adoption agency on a form provided by the Department ("North Carolina Division of Social Services Purchase of Out-of-State Adoption Services Agreement" Form DSS-5305, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) and provide a copy of the agreement to the Department. The agreement shall include the type and nature of the service to be provided, the fee amount to be charged, an agreement by the out-of-state adoption agency to provide the identified service, and an agreement by the public adoption agency to pay for the identified service; and
- (6) shall pay any amount of the out-of-state adoption agency service fee that is not approved by the Department.

(f) To the extent funds are available and the fee for services is not above the maximum allowable amount of one thousand eight hundred dollars (\$1,800) per child, the Department shall approve the public adoption agency's request for prior approval for reimbursement of the out-of-state adoption service fee if it meets the requirements in this Rule and the Department notifies the public adoption agency in writing of the approval.

(g) The Department shall not reimburse a public adoption agency for any amount over one thousand eight hundred dollars (\$1,800) per child in out-of-state adoption service fees that are approved pursuant to this Rule.

(h) In order for the public adoption agency to receive reimbursement for a fee that has been approved pursuant to this Rule, the public adoption agency shall notify the Department of

the date that payment of the fee is due and provide the Department with a copy of the bill for the out-of-state adoption service fee.

(i) Upon the public adoption agency's payment of the out-of-state adoption service fee, the public adoption agency shall provide the Department with a copy of the receipt of payment for the out-of-state adoption agency fee.

*History Note: Authority G.S. 143B-153; Eff. March 23, 1981; Amended Eff. July 1, 1991; Readopted Eff. August 1, 2021.*

## **10A NCAC 70M .0502 GENERAL ELIGIBILITY REQUIREMENTS**

*History Note: Authority G.S. 143B-153; Eff. March 23, 1981; Amended Eff. October 1, 2008; July 1, 1991; June 1, 1990; Repealed Eff. August 1, 2021.*

## **10A NCAC 70M .0601 PUBLIC ADOPTION AGENCY REQUIREMENTS**

(a) Public adoption agencies shall:

- (1) at the time of or prior to the final decree of adoption, enter into an agreement for the reimbursement of nonrecurring adoption expenses with parents who adopt a child with special needs;
- (2) prior to entering into an agreement for the reimbursement of nonrecurring adoption expenses, the public adoption agency shall:
  - (A) Make a determination that the child is a child with special needs; and
  - (B) Make a determination that the child has been placed for adoption in accordance with applicable laws;
- (3) make payments for reimbursement of nonrecurring adoption expenses incurred by or on behalf of parents in connection with the adoption of a child with special needs if it enters into an agreement for the reimbursement of nonrecurring adoption expenses;
- (4) retain copies of the complete application for reimbursement of nonrecurring adoption expenses, along with supporting document and receipts, and the agreement for the reimbursement of nonrecurring adoption expenses for auditing purposes; and
- (5) upon receipt of a completed nonrecurring adoption expense reimbursement application, the public adoption agency shall submit the application to the Department.

(b) When there is an interstate placement of the child with special needs, the public adoption agency that entered into an adoption assistance agreement shall also reimburse the parent or vendor for the nonrecurring adoption expenses. When there has been an interstate placement of a child with special needs for the purpose of adoption and there is no adoption assistance agreement from the sending state, then the public adoption agency that is

responsible for entering into an agreement for nonrecurring adoption expenses shall be the public adoption agency where the petitioner for adoption resides.

*History Note: Authority G.S. 108A-49; 108A-50; 143B-153; Eff. July 1, 1991; Readopted Eff. August 1, 2021.*

**10A NCAC 70M .0602 ELIGIBLE NONRECURRING ADOPTION EXPENSES**

An adoptive parent shall receive reimbursement for nonrecurring adoption expenses not to exceed two thousand dollars (\$2,000) when:

- (1) The child placed with the parent for the purpose of adoption is a child with special needs;
- (2) The adoptive parents have submitted a signed application for nonrecurring adoption expenses on a form provided by the Department ("State of North Carolina Application For Reimbursement of Nonrecurring Adoption Costs" Form DSS-5145, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>). The application shall:
  - (a) provide evidence that the child is a child with special needs;
  - (b) include acknowledgements by the adoptive parents that:
    - (i) nonrecurring adoption expenses are limited to a reimbursement of two thousand dollars (\$2,000) per child and are contingent on the child being a child with special needs;
    - (ii) the expenses that they are seeking reimbursement for were actually incurred by them;
    - (iii) the expenses that they are seeking reimbursement for are reasonable and necessary adoption expenses which were directly related to the legal adoption of the child that meets the requirements in 42 USC 673(A)(6); and
    - (iv) the expenses that they are seeking reimbursement for have not and will not be reimbursed by another source.
  - (c) if the placement was an interstate placement, include an acknowledgement by the adoptive parents that the placement was made in accordance with the Interstate Compact on the Placement of Children adopted by both the sending and

receiving state and any other applicable federal, state, or local laws or rules related to the interstate adoptive placement of a child;

- (d) the type and amount of the expense that will be incurred by the adoptive parents; and
  - (e) include documentation that verifies the information in the application and receipts for any nonrecurring service for which the parent is seeking reimbursement.
- (3) The foster parents and all individuals 18 years of age or older who reside in the prospective adoptive home shall have a completed a criminal history investigated pursuant to G.S. 48-3-303 and 48-3-309 and shall not have a criminal history, as defined by G.S. 48-1-101(5b), or any other criminal conviction that would cause the prospective adoptive parent to be unfit to have responsibility for the safety and well-being of children as determined by the public adoption agency pursuant to G.S. 48-3-309.
  - (4) The foster parents shall provide the public adoption agency with the results of the criminal history investigation, and the public adoption agency shall maintain a copy of the results.
  - (5) The adopting parents and all individuals 18 years of age or older who reside in the home shall have a completed check of the North Carolina's Responsible Individuals List pursuant to G.S. 7B-311 and have a check of the results of child abuse and neglect central registry of states where the applicant has resided the past five years and not be placed on the North Carolina's Responsible Individuals List or any other state's child abuse and neglect central registry. The public adoption agency shall maintain a copy of the results in their file.
  - (6) Upon approval of the application in Item (2) of this Rule, the adoptive parents shall enter into a binding written agreement with a public adoption agency for the reimbursement of nonrecurring expenses on a form provided by the Department ("State of North Carolina Agreement for Reimbursement of Nonrecurring Adoption Costs" Form DSS-5146, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that meets the requirements in 42 USC 673(a)(3) and is signed at the time of or prior to the final decree of adoption.
  - (7) The application for reimbursement was filed in accord with the quarter rule outlined in 45 CFR 1356.41(e)(2).

*History Note: Authority G.S. 108A-49; 108A-50; 143B-153; Eff. July 1, 1991;*

*Readopted Eff. August 1, 2021.*

**10A NCAC 70M .0603 REQUIREMENTS**

*History Note: Authority G.S. 108A-49; 108A-50; 143B-153; 42 U.S.C. 673; Eff. July 1, 1991; Amended Eff. March 1, 2017; Repealed Eff. August 1, 2021.*

**10A NCAC 70M .0604 PROHIBITION ON REIMBURSEMENT CAPS**

The Department and any public adoption agencies shall not establish a maximum allowable reimbursement amount for any single eligible nonrecurring adoption expense, but the total reimbursement for nonrecurring adoption expenses shall not exceed two thousand dollars (\$2,000).

*History Note: Authority G.S. 108A-49; 108A-50; 143B-153; Eff. July 1, 1991; Readopted Eff. August 1, 2021.*

**10A NCAC 70M .0701 ELIGIBILITY REQUIREMENTS FOR THE SPECIAL NEED ADOPTION INCENTIVE FUND AND EFFECTIVE DATE**

Within the limits of available funding, the Department may approve and provide assistance in the form of standard monthly cash payments from the Special Need Adoption Incentive Fund when the following requirements have been met:

- (1) The child:
  - (a) Shall be a child with special needs and either has at least one of the factors or conditions listed in Rule .0102(b)(3)(E) through (H) of this Chapter of a child with special needs or meets the requirement in 42 USC 673(c)(2)(B)(ii);
  - (b) Shall meet the requirements for standard monthly cash adoption assistance in this Chapter;
  - (c) Shall be in the custody of the public adoption agency and placement responsibility of an adoption agency for at least six consecutive months prior to the finalization of the adoption;
  - (d) The special needs condition from Sub-Item (1)(a) of this Item is expected to limit the child's ability, both currently and throughout childhood, to function in the home, school, or community absent eight or more hours of in-person daily supervision or care for personal health care or prevention of self-destructive or assaultive behavior;
  - (e) The child will have resided in the foster parent's home for six consecutive months prior to the finalization of the adoption; and

- (f) The child was legally adopted on or after January 1, 2001.
- (2) Each foster parent:
  - (a) be licensed as a foster parent;
  - (b) has been receiving standard monthly cash assistance from any governmental source, such as federal, state, or local, above the State adoption assistance rate established by the General Assembly for the previous six consecutive months prior to the finalization of the adoption to provide the direct care or supervision required for the child's health condition that meets the requirement in Item (4) of this Rule;
  - (c) prior to the issuance of the adoption decree, the foster parent made a request for financial assistance in addition to the State adoption assistance rate established by the General Assembly in order to provide the care required for the child's health condition that meets the requirements in Item (4) of this Rule;
  - (d) prior to the issuance of the adoption decree, the foster parent provided the public adoption agency with a signed letter that details the daily supervision needs of the child;
  - (e) shall only be willing to adopt the child if the monthly cash assistance from any other governmental source, such as federal, state, or local, above the State adoption assistance rate received for foster parents and is not terminated upon the adoption of the child;
  - (f) shall enter into an adoption assistance agreement with a public adoption agency prior to the decree of adoption;
  - (g) entered into a supplemental agreement with a public adoption agency prior to the adoption decree;
  - (h) agree to provide the public adoption agency with a copy of the adoption decree once the adoption has been finalized;
  - (i) shall have a completed criminal history investigated pursuant to G.S. 48-3-303 and 48-3-309 and shall not have a criminal history, as defined by G.S. 48-1-101(5b), or any other criminal conviction that would cause the prospective adoptive parent to be unfit to have responsibility for the safety and well-being of children as determined by the public adoption agency pursuant to G.S. 48-3-309;

- (j) shall require all individuals 18 years of age or older who reside in the prospective adoptive home to undergo a criminal history investigated pursuant to G.S. 48-3-303 and 49-3-309; and
- (k) shall provide the public adoption agency with the results of the criminal back history investigation.
- (3) All individuals 18 years of age or older who reside in the prospective adoptive home shall have a completed a criminal history investigated pursuant to G.S. 48-3-303 and 48-3-309 and shall not have a criminal history, as defined by G.S. 48-1-101(5b), or any other criminal conviction that would cause the prospective adoptive parent to be unfit to have responsibility for the safety and well-being of children as determined by the public adoption agency pursuant to G.S. 48-3-309.
- (4) The public adoption agency having custody of the child shall:
  - (a) voluntarily agree to participate in the Special Need Adoption Incentive Fund and agree to assume 50 percent of the payment above the State adoption assistance rate established by the General Assembly.
  - (b) enter into an adoption assistance agreement as provided in this Rule.
  - (c) enter into a supplement agreement as provided in this Rule.
  - (d) maintain a record for the child that contains written documentation that the child and foster parent(s) have met or will meet the requirements for the foster child and the foster parents in this Rule at the time of the adoption decree and shall include the following:
    - (i) a written statement on a form provided by the Department ("Special Children Adoption Incentive Fund Agency Verification of Legal Custody and Child's Living Arrangement For Past Six Months" Form DSS-5214, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) signed by the Director of the public adoption agency that verifies:
      - (A) each foster parent is licensed;
      - (B) the public adoption agency has legal custody and placement authority of the child;
- (C) the child has lived with the foster family for six consecutive months prior to the adoption;
- (D) that the foster parent(s) have received monthly cash assistance from a governmental source in excess of the standard board rate established by the General Assembly for the previous six months on a continuous basis and the amount of the payments; and
- (E) the foster parent(s) have stated a willingness to adopt this child if the monthly cash assistance that they have received as foster parents is not terminated;
- (ii) a written statement on a form provided by the Department ("Special Children Adoption Incentive Fund Verification of Child's Health Condition" Form DSS-5213, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) signed by a medical professional, who is qualified through licensing and credentialing to diagnose the child's condition prior to the adoption that demonstrates that the child meets all the requirements in Item (1) of this Rule;
- (iii) a written statement on a form provided by the Department ("Special Children Adoption Incentive Fund Verification of Child's Need for Daily Supervision" Form DSS-5215, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) signed by the foster parent(s) prior to the adoption that demonstrates

- the child meets all the requirements in this Item;
- (iv) a letter from the foster parent(s) explaining the daily needs of the child;
- (v) a signed adoption assistance agreement;
- (vi) a signed supplement agreement;
- (vii) a copy of the foster parent's license;
- (viii) a copy of the decree of adoption once it has been received pursuant to this Rule;
- (ix) a copy of the results of the criminal investigation of the foster parents and any individual 18 years of age or older who resides in the prospective adoptive home; and
- (x) make a request, on behalf of the foster parent(s), prior to the adoption decree to the Department for Special Need Adoption Incentive Fund assistance for the foster parents.

*History Note: Authority G.S. 108A-49; 108A-50; 108A-50.1; 143B-153;  
Eff. August 1, 2021.*

**10A NCAC 70M .0702 PAYMENTS FROM THE SPECIAL NEED ADOPTION INCENTIVE FUND**

- (a) Payments from the Special Need Adoption Incentive Fund will be made by the State Division of Social Services to the adoptive parent(s).
- (b) Participating county departments of social services shall submit claims for payments to the State Division of Social Services.
- (c) The initial payment claim must include the following items:
  - (1) verification of child's placement authority;
  - (2) verification that the child has lived with the foster family six consecutive months submitted on the "Living Arrangements for Past Six Months" Form DSS-5214;
  - (3) a copy of written statement from a licensed physician regarding the child's health condition;
  - (4) a copy of written statement from a licensed health, mental health, or developmental disability professional regarding the status of the child's condition;
  - (5) a copy of signed adoption assistance agreement;
  - (6) a copy of signed supplemental assistance agreement; and
  - (7) a copy of Decree of Adoption.

(d) Monthly payment claims shall be submitted on the "Request for Special Children Adoption Incentive Fund Payment" Form DSS-5211, which may be accessed at <https://www2.ncdhhs.gov/info/olm/forms/dss/dss-5211-ia.pdf>.

*History Note: Authority G.S. 108A-49; 108A-50; 108A-50.1; 143B-153;  
Eff. August 1, 2021.*

**TITLE 11 - DEPARTMENT OF INSURANCE**

**11 NCAC 06A .0402 LICENSING OF RESIDENT AGENT, LTD REPRESENTATIVE AND ADJUSTER**

- (a) An applicant for a resident variable life and variable annuity product shall hold a resident life license before making application for a resident variable life and variable annuity product license. An agent licensed to sell variable life and variable annuity products shall be appointed by a company authorized to sell variable annuities and variable life insurance products in North Carolina. The company shall verify that the agent has met the requirements of the Financial Industry Regulatory Authority (FINRA) or its successor organization.
- (b) A limited representative shall be appointed with each company for which he or she will solicit business for the following kinds of insurance:
  - (1) Dental services;
  - (2) Limited line credit insurance;
  - (3) Prearrangement insurance, as defined in G.S. 58-60-35(a)(2), when offered or sold by a preneed sales licensee licensed under Article 13D of Chapter 90 of the General Statutes; or
  - (4) Travel, accident, and baggage.
- (c) Responsibility of insurance companies for forms:
  - (1) Companies shall have on file with the Division the address and email address of one central licensing office and the individual within that office to whom all correspondence, licenses, and invoices will be forwarded.
  - (2) Companies shall have on file with the Division the name of the individual responsible for all agent appointments and termination of agent appointments submitted by the company to the Division.
  - (3) A company shall verify the licensure of an agent before the company appoints the agent.
  - (4) Companies shall notify the Division within 10 days after any change of address or email address of the central licensing office and of any change of the individual within that office to whom all correspondence, licenses, and invoices will be forwarded.
- (d) Responsibility of the agent, limited representative, and adjuster:
  - (1) A person, after surrender or termination of a license for such period of time that he or she is no longer eligible for waiver of the examination, shall meet all legal requirements for previously unlicensed persons.



- (2) Every licensee shall, upon demand from the Division, furnish in writing any information relating to the licensee's insurance business within 10 business days after the demand in accordance with G.S. 58-2-195(a).

(e) An applicant for a resident license shall, if an electronic record is not available, obtain an original letter of clearance from his or her former state of residency certifying the kinds of insurance for which the applicant was licensed, that all licenses held in that state have been canceled and that the applicant was in good standing in that state at the time of the cancellation of licenses. A letter of clearance is valid for 90 days from date of issuance.

(f) Only individuals may apply for limited representative and adjuster licenses.

*History Note: Authority G.S. 58-2-40; 58-2-195(a); 58-33-26; 58-33-30; 58-33-66;*

*Eff. February 1, 1976;*

*Readopted Eff. June 12, 1978;*

*Amended Eff. October 1, 2010; February 1, 2008; April 1, 2003; February 1, 1996; October 1, 1990; February 1, 1989;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016;*

*Amended Eff. August 1, 2021.*

**11 NCAC 06A .0501 RENEWAL OF AGENT APPTS: LICENSES/LIMITED REPS**

(a) Annually the Division shall notify each insurance company of dates and methods for renewing agent and limited representative appointments. Companies shall be given at least 30 days' advance notice of the last date the Division shall process terminations.

(b) On the last date to submit terminations, the Division shall cease processing all terminations and bill companies for renewals. All appointments and licenses shall automatically be billed for the appointment renewal unless the Division has received a termination request from the company within the specified time.

(c) The Division shall send each company an invoice stating the total amount of money due and a list of all appointees or licensees associated with the total due. The Division shall make this invoice and a list of all appointees or licensees associated with the total due available electronically to each company. Companies shall remit the amount stated in the invoice by electronic payment to the Commissioner or the Commissioner's designee and shall pay all associated fees for electronic processing. Any discrepancies claimed by companies shall be investigated only after full payment is received.

(d) Upon receipt of the company payment, the Division shall provide to the company an electronic list of all appointments and licenses renewed.

(e) Appointments recorded and licenses issued prior to the renewal date, but after the date specified by the Division as the last date to process termination, shall be valid until the following year.

(f) Failure of a company to pay any invoice by the due date shall automatically result in the termination of all appointees or licensees of that company. The Commissioner shall not issue any new appointments until all outstanding invoices have been paid. Any company that has had appointments or licensees cancelled by the Commissioner pursuant to this Rule shall not process any new

electronic appointments until all outstanding invoices have been paid. When the outstanding invoices are paid, the company may re-appoint agents or limited representatives and shall pay the appointment fees.

*History Note: Authority G.S. 58-2-40; 58-2-250; 58-33-40(f); 58-33-56; 58-33-125(a); 58-33-125(h);*

*Eff. February 1, 1976;*

*Readopted Eff. June 12, 1978;*

*Amended Eff. October 1, 2010; February 1, 1996; October 1, 1990; February 1, 1989; July 1, 1986;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016;*

*Amended Eff. August 1, 2021.*

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**11 NCAC 13 .0410 SALESMEN TO BE LICENSED INSURANCE AGENTS**

Any person acting in the capacity of employee, agent, or salesman who solicits or sells a motor club membership shall be a licensed insurance agent if the membership contract includes a contract of insurance to the member. The employee, agent, or salesman shall be licensed with the same insurance company that issues the contract of insurance.

*History Note: Authority G.S. 58-2-40; 58-69-20(5);*

*Eff. February 1, 1976;*

*Readopted Eff. January 1, 1978;*

*Amended Eff. April 8, 2002; July 1, 1986;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016;*

*Amended Eff. August 1, 2021.*

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**11 NCAC 23E .0302 EMERGENCY ORDERS AND DIRECTIVES OF THE CHIEF JUSTICE OF THE NORTH CAROLINA SUPREME COURT**

(a) This Rule applies to all matters within the authority and jurisdiction of the Commission and to all Subchapters of the Commission's rules.

(b) In the interests of justice or to protect the public health or safety, the Commission may waive or modify any portion of its rules in order to bring them in conformity with an emergency Order or directive of the Chief Justice of the North Carolina Supreme Court that is in effect. The Commission shall consider the following factors in determining whether to grant the waiver or modification:

- (1) the necessity of waiving or modifying the rule; and
- (2) the impact of waiving or modifying the rule on the regulated parties and on the Commission.

If the Commission waives or modifies a rule to bring it into conformity with any emergency Order or directive of the Chief Justice of the North Carolina Supreme Court, the Commission shall post a notice of the waiver or modification of the rule on its website unless the waiver or modification is case-specific and not generally applicable to the regulated public. For a waiver or

modification that is case-specific and not generally applicable to the regulated public, the Commission shall notify the parties in the case of the waiver or modification via an order of the Commission.

(c) During any period that an emergency Order or directive of the Chief Justice of the North Carolina Supreme Court authorizes the taking of oaths and verifications outside the presence of a notary public, the Commission shall accept any pleading, motion, petition, supporting affidavit, or other document with an affirmation or representation not attested to before a notary public so long as the subscriber affirms the truth of the matter to be verified by an affirmation or representation in substantially the same language as that allowed by the emergency Order or directive of the Chief Justice of the North Carolina Supreme Court.

(d) Any waiver or modification made pursuant to this Rule shall only remain in effect during the duration of any emergency Order or directive of the Chief Justice of the North Carolina Supreme Court upon which that waiver or modification is based.

*History Note: Authority G.S. 97-80; 130A-425(d); 143-166.4; 143-296; 143-300;*  
*Emergency Adoption Eff. November 6, 2020;*  
*Temporary Adoption Eff. January 29, 2021;*  
*Eff. August 1, 2021.*

## TITLE 12 - DEPARTMENT OF JUSTICE

### 12 NCAC 09A .0206 SUMMARY SUSPENSIONS

(a) The Commission, by and through the Probable Cause Committee, may summarily suspend the certification of a criminal justice officer or instructor before the commencement of proceedings for suspension or revocation of the certification if the public health, safety, or welfare requires action pursuant to G.S. 150B-3. The Commission has determined that the following conditions specifically affect the public health, safety, or welfare and therefore it, by and through the Probable Cause Committee, may summarily suspend a certification of a criminal justice officer if:

- (1) the person has committed or been convicted of a violation of the criminal code that would require a permanent revocation or denial of certification;
- (2) the certified officer fails to complete the in-service training requirements as prescribed in 12 NCAC 09E; or
- (3) the certified officer has produced a positive result on a urinalysis test, conducted in accordance with 12 NCAC 09B .0101(5).

(b) For the purpose of considering a summary suspension of certification, the Probable Cause Committee shall meet only upon notice given by mail, telephone, or other means not less than 48 hours in advance of the meeting.

(c) A summary suspension shall be effective on the date specified in the order of summary suspension or upon service of the certified copy of the order at the last known address of the person, whichever is later. The summary suspension shall remain effective during the proceedings.

(d) The Director, upon receipt of information showing the existence of a basis for summary suspension provided for in Subparagraph (a)(1), (2), or (3) of this Rule, shall coordinate the meeting described in Paragraph (b) of this Rule. All affected persons shall be notified that the person may submit any pertinent matters to the Probable Cause Committee for its consideration before the Committee acts on the summary suspension issue. No person shall be allowed more than 48 hours to submit information to the Probable Cause Committee.

(e) Upon oral notification by the Director that the certification of an officer or instructor is being summarily suspended by written order, the Department Head of the Criminal Justice Agency or the executive officer of the institution shall ensure that the officer or instructor does not perform duties requiring certification by the Commission.

(f) The Commission, by and through the Director, upon determining that a Commission-certified Concealed Carry Handgun Instructor has conducted a concealed carry handgun training course as mandated by G.S. 14-415.12(a)(4) that is not in compliance with 12 NCAC 09F .0102 and negatively affects the public safety and welfare shall do the following until such time as the training course has been brought into compliance or reported to the Probable Cause Committee for action:

- (1) summarily suspend the Concealed Carry Handgun Instructor certification, prohibiting him or her from delivering concealed carry handgun training until the Director determines the training program is brought into compliance with 12 NCAC 09F .0102 and 12 NCAC 09F .0105 of this Chapter; and
- (2) inform the instructor that he or she may appeal the Director's suspension by requesting, in writing, a formal hearing before the Probable Cause Committee at the next scheduled Commission meeting.

(g) The Commission, by and through the Director, upon determining that a Commission-certified instructor has conducted a Commission-approved training course in a way that was not in accordance with the requirements of this Chapter or has conducted a Commission-approved training course while being in violation of the instructor's minimum standards as outlined in 12 NCAC 09B .0301 shall do the following until such time as the training course or his or her instructor certification has been brought into compliance:

- (1) summarily suspend the individual's Instructor's certification, prohibiting him or her from delivering Commission approved training until the noncompliance is remedied; and
- (2) the Director shall send a report of all summary suspensions for a formal hearing before the Probable Cause Committee at the next scheduled Commission meeting.

(h) The Commission, by and through the Director, upon determining a Commission-certified instructor has been alleged to have violated a certification rule as outlined in this Chapter shall do the following:

- (1) summarily suspend the individual's Instructor's certification, prohibiting him or her from

- delivering Commission approved training until the matter is resolved; and
- (2) the Director shall send a report of all summary suspensions for a formal hearing before the Probable Cause Committee at the next scheduled Commission meeting.

(i) A summary suspension shall be effective on the date specified in the order of summary suspension or upon service of the certified copy of the order at the last known address of the person, whichever is later. The summary suspension shall remain effective during the proceedings.

(j) The Commission, by and through the Director, upon determining that a criminal justice officer who was issued a waiver of the requirements of 12 NCAC 09C .0306 has not met those requirements within 60 days of being awarded general certification by the Commission, shall summarily suspend the officer's certification until the officer meets the requirements of 12 NCAC 09C .0306.

*History Note: Authority G.S. 17C-6; 17C-10; 150B-3; Eff. January 1, 1981;*

*Amended Eff. October 1, 2017; February 1, 2016; December 1, 2007; March 1, 2004; July 1, 1990; July 1, 1989; October 1, 1985; August 15, 1981;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;*

*Amended Eff. August 1, 2021.*

## **12 NCAC 09B .0101 MINIMUM STANDARDS FOR CRIMINAL JUSTICE OFFICERS**

Every criminal justice officer who is employed in or has received a conditional offer of employment for a certified position by an agency in North Carolina shall:

- (1) be a citizen of the United States;
- (2) be at least 20 years of age;
- (3) be of good moral character pursuant to G.S. 17C-10 as evidenced by the following:
  - (a) not having been convicted of a felony;
  - (b) not having been convicted of a misdemeanor as defined in 12 NCAC 09B .0111(1) for five years or the completion of any corrections supervision imposed by the courts, whichever is later;
  - (c) not having been convicted of an offense that would prohibit the possession of a firearm or ammunition, under 18 U.S.C. 922, which is hereby incorporated by reference with subsequent amendments and editions and can be found at no cost at <https://www.govinfo.gov/content/pkg/USCODE-2011-title18/pdf/USCODE-2011-title18-partI-chap44-sec922.pdf>),
  - (d) having submitted to and produced a negative result on a drug test within 60 days of employment or any in-service

drug screening required by the appointing agency that meets the certification standards of the Department of Health and Human Services for Federal Workplace Drug Testing Programs. A list of certified drug testing labs that meet this requirement may be obtained, at no cost,

at <https://www.samhsa.gov/workplace/resources/drug-testing/certified-lab-list>;

- (e) submitting to a background investigation consisting of the verification of age and education and a criminal history check of local, state, and national files;
- (f) being truthful in providing information to the appointing agency and to the Standards Division for the purpose of obtaining probationary or general certification;
- (g) not having pending or outstanding felony charges that, if convicted of such charges, would disqualify the applicant from holding such certification, pursuant to G.S. 17C-13; and
- (h) not having engaged in any conduct that brings into question the truthfulness or credibility of the officer, or involves "moral turpitude." "Moral turpitude" is conduct that is contrary to justice, honesty, or morality, including conduct as defined in: *In re Willis* 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); *State v. Harris*, 216 N.C. 746, 6 S.E. 2d 854 (1940); *In re Legg*, 325 N.C. 658, 386 S.E. 2d 174 (1989); *In re Applicants for License*, 143 N.C. 1, 55 S.E. 635 (1906); *In re Dillingham*, 188 N.C. 162, 124 S.E. 130 (1924); *State v. Benbow*, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions that cite these cases as authority;
- (4) have been fingerprinted and a search made of local, state, and national files to disclose any criminal record;
- (5) have been examined and certified by a licensed surgeon, physician, physician assistant, or nurse practitioner to meet physical requirements listed in the Medical Screening Guide as found at <https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/> necessary to fulfill the officer's particular responsibilities and shall have produced a negative result on a drug

screen administered according to the following specifications:

- (a) the drug screen shall be a urine test consisting of an initial screening test using an immunoassay method and a confirmatory test on an initial positive result using a gas chromatography/mass spectrometry (GC/MS) or other initial and confirmatory tests authorized or mandated by the Department of Health and Human Services for Federal Workplace Drug Testing Programs;
  - (b) a chain of custody shall be maintained on the specimen from collection to the eventual discarding of the specimen;
  - (c) the drug screen shall test for the presence of at least cannabis, cocaine, phencyclidine (PCP), opiates, and amphetamines or their metabolites;
  - (d) the test threshold values meet the requirements established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs, as found in 82 FR 7920 (2017) incorporated by reference, including later amendments and editions found at no cost at <https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs>;
  - (e) the test conducted shall be not more than 60 days old, calculated from the time when the laboratory reports the results to the date of employment; and
  - (f) the laboratory conducting the test shall be certified for federal workplace drug testing programs, and shall adhere to applicable federal regulations and guidelines pertaining to the handling, testing, storage, and preservation of samples;
- (6) have been administered a psychological screening by a clinical psychologist or psychiatrist licensed to practice in North Carolina or by a clinical psychologist or psychiatrist authorized to practice in accordance with the rules and regulations of the United States Armed Forces within one year prior to employment by the employing agency and upon the acceptance of a conditional offer of employment to determine the officer's mental and emotional suitability to properly fulfill the responsibilities of the position as listed in the Medical Screening Guide found at [https://ncdoj.gov/law-enforcement-](https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/)

[training/criminal-justice/forms-and-publications/](https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/), as follows:

- (a) Law Enforcement Officer applicant: pre-employment psychological screenings shall at a minimum include:
  - (i) a pre-employment written psychological test recognized in the field, and supervised by a licensed psychologist or psychiatrist; and
  - (ii) a clinical interview conducted by a licensed psychiatrist or psychologist.
- (b) Juvenile Justice Officer applicant, Juvenile Court Counselor applicant, Chief Court Counselor applicant, or Local Confinement Officer applicant: pre-employment psychological screenings shall at a minimum include
  - (i) a pre-employment written psychological test recognized in the field, and supervised by a licensed psychologist or psychiatrist; and
  - (ii) a clinical interview conducted by a licensed psychiatrist or psychologist if the psychologist or psychiatrist reviewing the results of the pre-employment test identifies any issue that he or she believes needs further examination or other information is found in the pre-employment process or otherwise that raises questions about the psychological suitability of the candidate;
- (7) have been interviewed personally by the department head or the department head representative or representatives to determine such things as the applicant's appearance, demeanor, attitude, and ability to communicate; and
- (8) make the following notifications:
  - (a) within 30 days of the qualifying event notify the Standards Division and the appointing department head in writing of all criminal offenses for which the officer is charged or arrested. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the

- influence (DUI) or driving while impaired (DWI);
- (b) within 30 days of the qualifying event notify the Standards Division and the appointing department head in writing of all criminal offenses for which the officer pleads no contest pleads guilty or of which the officer is found guilty. This shall include traffic offenses identified in the Department of Justice's Class B Misdemeanor Manual and offenses of driving under the influence (DUI) or driving while impaired (DWI);
- (c) within 30 days of service, officers shall notify the Standards Division of all Domestic Violence Protective Order (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are issued by a judicial official against the officer;
- (d) within 30 days of the date the case was disposed of in court, the department head, provided he or she has knowledge of the officer's arrests or criminal charges and final dispositions, shall also notify the Standards Division of arrests or criminal charges and final disposition;
- (e) within 30 days of the issuance of all Domestic Violence Protective Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C), the department head, provided he or she has knowledge of the order, shall also notify the Standards Division of these orders.
- (9) The required notifications in this Rule shall be in writing and shall specify the nature of the offense or order, the court in which the case was handled, the date of the arrest, criminal charge, or service of the order, and the final disposition. The notification shall include a certified copy of the order or court documentation and final disposition from the Clerk of Court in the county of adjudication. The requirements of this Item shall be applicable at all times during which the officer is employed and certified by the Commission and shall also apply to all applicants for certification. Receipt by the Standards Division of a single notification, from the officer or the department head, shall be sufficient notice for compliance with this Item.

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;  
Amended Eff. Pending Legislative Review; October 1, 2020.*

**12 NCAC 09B .0313 CERTIFICATION AND TRAINING FOR SCHOOL RESOURCE OFFICERS**

(a) A "School Resource Officer (SRO)" is defined as any law enforcement officer assigned to one or more public schools within a local school administrative unit, as defined in G.S. 115C-5(6), who works in a school at least 20 hours per week for more than 12 weeks per calendar year to assist with all of the following:

- (1) School safety;
- (2) School security;
- (3) Emergency preparedness;
- (4) Emergency response; and
- (5) Any additional responsibilities related to school safety or security assigned by the officer's employer while the officer is acting as a School Resource Officer.

Any written memorandum of understanding between the local school administrative unit and the law enforcement agency governing the School Resource Officer shall be consistent with this Paragraph.

(b) Law enforcement officers assigned by their agency to perform duties as a School Resource Officer shall:

- (1) have been issued general certification by the North Carolina Criminal Justice Education and Training Standards Commission as a law enforcement officer; and
- (2) have until December 31, 2020, to complete the basic School Resource Officer Training course, if they are acting in the capacity of a School Resource Officer between October 1, 2018 and December 31, 2019. Any officer assigned as a School Resource Officer effective January 1, 2020 or later shall complete the School Resource Officer Training course pursuant to Paragraph (g) of this Rule, within one year after being assigned as a School Resource Officer. Law enforcement officers who previously completed the training pursuant to Paragraph (g) of this Rule and who have been continually assigned as an SRO pursuant to Paragraph (a) of this Rule shall be credited with completion of the basic School Resource Officer Training. Law enforcement officers who completed the training pursuant to Paragraph (g) of this Rule between October 1, 2018 and December 31, 2020 shall be credited with completion of the basic School Resource Officer Training course even if they were not assigned as an SRO pursuant to Paragraph (a) of this Rule as long as they comply with the annual SRO refresher training pursuant to Paragraph (g) of this Rule.

(c) A law enforcement officer assigned to one or more public schools within a local school administrative unit, who works in a school at least 20 hours per week for more than 12 weeks per calendar year and who has not completed the initial training as established by Paragraph (g) of this Rule shall not work in a

*History Note: Authority G.S. 17C-6; 17C-10;  
Eff. January 1, 1981;  
Amended Eff. April 1, 2018; October 1, 2017; September 1, 2001;  
April 1, 1999; January 1, 1995; November 1, 1993; July 1, 1990;*

school as a School Resource Officer until the officer has completed the initial training as established by Paragraph (g) of this Section.

(d) The agency head shall submit to the Criminal Justice Standards Division a Form F-20 Commission School Resource Officer Assignment Form for the person(s) selected to act as a School Resource Officer for the agency. The Form F-20 is located on the agency's website: <https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/#91-114-wpfd-law-enforcement> and must be completed in its entirety. The Commission School Resource Officer Assignment Form consists of the following:

- (1) applicant's name;
- (2) date of birth;
- (3) social security number;
- (4) name of agency and address;
- (5) date awarded general certification;
- (6) completion date of School Resource Officer training; and
- (7) date assigned as a School Resource Officer.

(e) The term of certification as a School Resource Officer shall be indefinite, provided the School Resource Officer completes during each calendar year a one hour basic School Resource Officer refresher training authored by North Carolina Justice Academy. For School Resource Officers who complete the basic SRO training requirement in 2020 or earlier, this requirement shall be effective January 1, 2021. For SROs, this requirement shall be effective the year following the officer's successful completion of the basic School Resource Officer Training course. A certified School Resource Officer who has not completed the refresher training during a calendar year as established by this Rule shall not work in a school as a School Resource Officer until the officer has completed the required refresher training as established by this Rule. Any refresher training deficiency must be made up on or before January 31<sup>st</sup> of the following calendar year.

(f) Instructors who teach a basic SRO course in an in-person traditional classroom format will receive credit toward the completion of the basic SRO course requirement as required by this Rule, provided that they pass all tests required by the SRO Training Manual authored by the North Carolina Justice Academy. Instructors shall have their instruction documented by the Department Head or In-Service Training Coordinator once completed.

(g) The basic School Resource Officer Training course for law enforcement officers shall provide the trainee with the skills and knowledge to perform in the capacity of a School Resource Officer. The basic School Resource Officer Training Course authored by the North Carolina Justice Academy shall be used as the curriculum for this training course. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
1700 Tryon Park Drive  
Post Office Drawer 149  
Raleigh, North Carolina 27602

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

North Carolina Justice Academy

Post Office Drawer 99  
Salemberg, North Carolina 28385

*History Note: Authority G.S. 17C-6; 17C-10;  
Eff. October 1, 2018;  
Amended Eff. August 1, 2021; October 1, 2019.*

## **12 NCAC 09B .0404 TRAINEE ATTENDANCE**

(a) Each trainee enrolled in a certified Basic Law Enforcement Training Course shall attend all class sessions. The school director shall monitor the trainee's attendance at criminal justice training courses in which the trainee is enrolled.

(b) The school director may excuse a trainee from attendance at specific class sessions. However, in no case may excused absences exceed five percent of the total class hours for the course offering. A trainee shall not be eligible for administration of the State comprehensive examination and shall be dismissed from the course if the cumulative total of class absences exceeds five percent regardless of the prior completion of make-up work.

(c) If the school director grants an excused absence from a class session, he or she shall schedule make-up work and ensure the completion of such work during the current course presentation. The school director shall schedule instructors and reimburse those instructors for the purpose of completion of the make-up work. Absences that occur during the last 40 hours of the training course may be made up in a subsequent delivery; however, the school director shall notify the Standards Division prior to scheduling the make-up work.

(d) A school director may terminate a trainee from course participation or may deny certification of successful course completion where the trainee is tardy to or departs early from class meetings or field exercises.

(e) Where a trainee is enrolled in a program as required in 12 NCAC 09B .0212, .0213, .0214, .0215, .0218, .0219, .0220, .0221, .0222, .0237, .0238, .0239, or .0240, and the scheduled course hours exceed the requirements of the Commission, the trainee, upon the authorization of the school director, may be deemed to have satisfactorily completed the required number of hours for attendance provided the trainee's attendance is not less than 100 percent of the instructional hours as required by the Commission.

(f) A trainee enrolled in a presentation of the "Criminal Justice Instructor Training Course" under Rule .0209 of this Subchapter shall not be absent from class attendance for more than 10 percent of the total scheduled delivery period in order to receive successful course completion.

(g) A trainee, enrolled in a presentation of the "Specialized Firearms Instructor Training" course under Rule .0226 of this Subchapter, the "Specialized Driver Instructor Training" course under Rule .0227 of this Subchapter, the "Specialized Subject Control Arrest Techniques Instructor Training" course under Rule .0232 of this Subchapter, or the "Specialized Physical Fitness Instructor Training" course under Rule .0233 of this Subchapter, shall not be absent from class attendance for more than 10 percent of the total scheduled delivery period in order to receive successful course completion. Make-up work must be completed during the current course presentation for all absenteeism. The Director of the Criminal Justice Standards Division may grant a waiver for completion of course requirements in a course delivery

scheduled within 12 months, for just cause based upon the circumstances that created the need for the absence. For the purposes of this Rule, "just cause" includes an accident, illness, emergency, or course cancellation that precluded the student from completing the entire course in one continuous course delivery.

(h) A trainee, enrolled in a presentation of the "RADAR Instructor Training Course" under Rule .0210 of this Subchapter, the "Time-Distance Instructor Training Course" under Rule .0211 of this Subchapter, or the "LIDAR Instructor Training Course" under Rule .0237 of this Subchapter shall not be absent from class attendance for more than 10 percent of the total scheduled delivery period in order to receive successful course completion. Make-up work must be completed during the current course presentation for all absenteeism.

*History Note: Authority G.S. 17C-6; 17C-10;*

*Eff. January 1, 1981;*

*Amended Eff. November 1, 1981;*

*Readopted Eff. July 1, 1982;*

*Amended Eff. February 1, 2006; May 1, 2004; August 1, 2000;*

*April 1, 1999; November 1, 1993; July 1, 1989; February 1, 1987;*

*June 1, 1986;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;*

*Amended Eff. August 1, 2021.*

## **12 NCAC 09G .0205 PHYSICAL AND MENTAL STANDARDS**

(a) Every person employed as a correctional officer or probation/parole officer by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice shall have been examined and certified, within one year prior to employment with the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice, by a physician licensed in North Carolina, physician's assistant, or nurse practitioner to meet the physical requirements as stated in the essential job functions listed in the Medical Screening Guide as found at <https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/> that are necessary to fulfill the officer's particular responsibilities.

(b) Every person employed as a correctional officer or probation/parole officer by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice shall have been administered, within one year prior to employment with the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice and upon the acceptance of a conditional offer of employment, a psychological screening by a clinical psychologist or psychiatrist licensed to practice in North Carolina or by a clinical psychologist or psychiatrist authorized to practice in accordance with the rules and regulations of the United States Armed Forces to determine the officer's mental and emotional suitability to fulfill the responsibilities of the position as listed in the Medical Screening Guide as found at <https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/>, as follows:

- (1) Correctional Officer applicant: pre-employment psychological screening shall at a minimum include:

- (A) a pre-employment written psychological test recognized in the field, and supervised by a licensed psychologist or psychiatrist; and

- (B) a clinical interview conducted by a licensed psychiatrist or psychologist if the psychologist or psychiatrist reviewing the results of the pre-employment test identifies any issue that he or she believes needs further examination or other information is found in the pre-employment process otherwise that raises questions about the psychological suitability of the candidate.

- (2) Probation/Parole Officer applicant: pre-employment psychological screening shall at a minimum include:

- (A) a pre-employment written psychological test recognized in the field, and supervised by a licensed psychologist or psychiatrist; and

- (B) a clinical interview conducted by a licensed psychiatrist or psychologist.

*History Note: Authority G.S. 17C-6; 17C-10;*

*Temporary Adoption Eff. January 1, 2001;*

*Eff. August 1, 2002;*

*Amended Eff. January 1, 2015; April 1, 2009; August 1, 2004;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;*

*Amended Eff. Pending Legislative Review.*

## **12 NCAC 09G .0206 MORAL CHARACTER**

Every person employed as a correctional officer as defined in 12 NCAC 09G .0102(3) or probation/parole officer as defined in 12 NCAC 09G .0102(12) by the Department of Public Safety, Division of Adult Correction and Juvenile Justice shall demonstrate good moral character as evidenced by the following:

- (1) for correctional officers, not having been convicted of a felony;
- (2) for probation/parole officers, not having committed or having been convicted of a felony;
- (3) for correctional officers, not having been convicted of a misdemeanor as defined in 12 NCAC 09G .0102(10) for three years or the completion of any corrections supervision imposed by the courts, whichever is later;
- (4) for probation/parole officers, not having committed or having been convicted of a misdemeanor as defined in 12 NCAC 09G .0102 for a three years period prior to the date of application for employment;
- (5) not having been convicted of an offense that, under 18 U.S.C. 922, which is hereby incorporated by reference with subsequent amendments and editions and can be accessed at no cost at

- <https://www.govinfo.gov/content/pkg/USCODE-2011-title18/pdf/USCODE-2011-title18-partI-chap44-sec922.pdf>, would prohibit the possession of a firearm or ammunition;
- (6) having submitted to and produced a negative result on a drug test within 60 days of employment or any in-service drug screening required by the Department of Public Safety, Division of Adult Correction and Juvenile Justice that meets the certification standards of the Department of Health and Human Services for Federal Workplace Drug Testing Programs. A list of certified drug testing labs that meet this requirement may be obtained, at no cost, at <https://www.samhsa.gov/workplace/resources/drug-testing/certified-lab-list>;
  - (7) submitting to a background investigation consisting of the following:
    - (a) verification of age;
    - (b) verification of education; and
    - (c) criminal history check of local, state, and national files;
  - (8) being truthful in providing information to the Department of Public Safety, Division of Adult Correction and Juvenile Justice and to the Standards Division for the purpose of obtaining probationary or general certification;
  - (9) not having pending or outstanding felony charges that, if convicted of such charges, would disqualify the applicant from holding such certification, pursuant to G.S. 17C-13; and
  - (10) not engage in any conduct that brings into question the truthfulness or credibility of the officer, or involves "moral turpitude." "Moral Turpitude" is conduct that is contrary to justice, honesty, or morality, including conduct as defined in *re Willis*, 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); *In State v. Harris*, 216 N.C. 746, 6 S.E.2d 854 (1940); *In re Legg*, 325 N.C. 658, 386 S.E. 2d 174(1989); *In re Applicants for License*, 143 N.C. 1, 55 S.E. 635 (1906); *In re Dillingham*, 188 N.C. 162, 124 S.E. 130 (1924); *State v. Benbow*, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions that cite these as authority.

*History Note:* Authority G.S. 17C-6; 17C-10; Temporary Adoption Eff. January 1, 2001; Eff. August 1, 2002; Amended Eff. October 1, 2017; April 1, 2017; January 1, 2015; June 1, 2012; April 1, 2009; August 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019; Amended Eff. August 1, 2021.

#### **12 NCAC 09G .0504 SUSPENSION: REVOCATION: OR DENIAL OF CERTIFICATION**

- (a) The Commission shall revoke the certification of a correctional officer or probation/parole officer when the Commission finds that the officer has committed or been convicted of a felony offense.
- (b) The Commission shall deny the certification of a correctional officer when the Commission finds the officer has been convicted of a felony.
- (c) The Commission shall deny the certification of a probation/parole officer when the Commission finds the officer has committed or been convicted of a felony offense.
- (d) The Commission may, based on the evidence for each case, suspend, revoke, or deny the certification of a corrections officer, as defined in 12 NCAC 09G .0102(4) when the Commission finds that the applicant for certification or the certified officer:
  - (1) has not enrolled in and completed with passing scores the required basic training course in its entirety in time periods prescribed in 12 NCAC 09G .0400 applicable to a specified position or job title;
  - (2) fails to meet or maintain one or more of the employment standards required by 12 NCAC 09G .0200 for the category of the officer's certification or fails to meet or maintain one or more of the training standards required by 12 NCAC 09G .0400 for the category of the officer's certification;
  - (3) for correctional officers as defined in 12 NCAC 09G .0102(3), have committed or been convicted of a misdemeanor as defined in 12 NCAC 09G .0102 after certification;
  - (4) for probation/parole officers as defined in 12 NCAC 09G .0102(12), have committed or been convicted of a misdemeanor as defined in 12 NCAC 09G .0102 for a three year period prior to the date of application for employment or after certification;
  - (5) has been discharged by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice for:
    - (A) commission or conviction of a motor vehicle offense requiring the revocation of the officer's drivers license; or
    - (B) lack of good moral character as defined in 12 NCAC 09G .0206;
  - (6) has been discharged by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice because the officer lacks the mental or physical capabilities to fulfill the responsibilities of a corrections officer;
  - (7) has knowingly made a material misrepresentation of any information required for certification or accreditation;
  - (8) has knowingly and willfully, by any means of false pretense, deception, fraud, misrepresentation, or cheating whatsoever,



- obtained or attempted to obtain credit, training, or certification from the Commission;
- (9) has knowingly and willfully, by any means of false pretense, deception, fraud, misrepresentation, or cheating whatsoever, aided another person in obtaining or attempting to obtain credit, training, or certification from the Commission;
- (10) has failed to notify the Standards Division of all criminal charges or convictions as required by 12 NCAC 09G .0302;
- (11) has been removed from office by decree of the Superior Court in accord with the provisions of G.S. 128-16 or has been removed from office by sentence of the court in accord with the provisions of G.S. 14-230;
- (12) has refused to submit to an applicant drug screen as required by 12 NCAC 09G .0206; or has refused to submit to an in-service drug screen pursuant to the guidelines set forth in the Drug Screening Implementation Guide as required by the Department of Public Safety, Division of Adult Correction and Juvenile Justice;
- (13) has produced a positive result on a drug screen reported to the Commission as specified in 12 NCAC 09G .0206, where the positive result cannot be explained to the Commission's satisfaction. For the purposes of this Rule, "to the Commission's satisfaction" shall be determined on a case-by-case basis, and the use of a prescribed drug shall be satisfactory; or
- (14) has been denied certification or had such certification suspended or revoked by a previous action of the North Carolina Criminal Justice Education and Training Standards Commission, the North Carolina Company Police Program, the North Carolina Campus Police Program, the North Carolina Sheriffs' Education and Training Standards Commission, or a similar North Carolina, out of state, or federal approving, certifying, or licensing agency whose function is the same or similar to the agencies if the certification was denied, suspended, or revoked based on grounds that would constitute a violation of this Subchapter.

(e) Following suspension, revocation, or denial of the person's certification, the person shall not remain employed or appointed as a corrections officer and the person shall not exercise any authority of a corrections officer during a period for which the person's certification is suspended, revoked, or denied.

*History Note: Authority G.S. 17C-6; 17C-10; Temporary Adoption Eff. January 1, 2001; Eff. August 1, 2002; Amended Eff. December 1, 2018; January 1, 2015; April 1, 2009; December 1, 2004; August 1, 2004;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019; Amended Eff. August 1, 2021.*

#### **12 NCAC 09G .0506 SUMMARY SUSPENSIONS**

(a) The Commission, by and through the Probable Cause Committee, may summarily suspend the certification of a corrections officer or instructor before the commencement of proceedings for suspension or revocation of the certification when, in the opinion of the Probable Cause Committee, the public health, safety, or welfare requires this emergency action of summary suspension. The Commission has determined that the following condition specifically affects the public health, safety, or welfare and therefore it, by and through the Probable Cause Committee, may utilize summary suspension: when the corrections officer has committed or been convicted of a violation of the criminal code that would require a permanent revocation or denial of certification.

(b) For the purpose of considering a summary suspension of certification, the Probable Cause Committee may meet upon notice given by mail, telephone, or other means not less than 48 hours in advance of the meeting.

(c) A summary suspension shall be effective on the date specified in the order of summary suspension or on service of the certified copy of the order at the last known address of the person, whichever is later. The summary suspension shall remain effective during the proceedings.

(d) Upon verbal notification by the Director that the certification of an officer or instructor is being summarily suspended by written order, the North Carolina Department of Correction shall take such steps as are necessary to ensure that the officer or instructor does not perform duties requiring certification by the Commission.

(e) The Commission, by and through the Director, upon determining that a Commission-certified instructor has conducted Commission-approved training course in a way that was not in accordance with the requirements of this Chapter or has conducted a Commission-approved training course while being in violation of the instructor's minimum standards as outlined in 12 NCAC 09G .0307 shall do the following until such time as the training course or his or her instructor certification has been brought into compliance:

- (1) summarily suspend the individual's Instructor's certification, prohibiting him or her from delivering Commission approved training until the noncompliance is remedied; and
- (2) the Director shall send a report of all summary suspensions for formal hearing before the Probable Cause Committee at the next scheduled Commission meeting.

(f) The Commission, by and through the Director, upon determining a Commission-certified instructor has been alleged to have violated a certification rule as outlined in this Chapter shall do the following:

- (1) summarily suspend the individual's Instructor's certification, prohibiting him or her from delivering Commission approved training until the matter is resolved; and

- (2) the Director shall send a report of all summary suspensions for formal hearing before the Probable Cause Committee at the next scheduled Commission meeting.

(g) The Commission, by and through the Director, upon a Finding of Probable Cause by the Probable Cause Committee that an instructor has violated a certification rule outlined in this Chapter shall summarily suspend the individual's instructor certification. A summary suspension shall be effective on the date specified in the order of summary suspension or upon service of the certified copy of the order at the last known address of the person, whichever is later. The summary suspension shall remain effective during the proceedings.

*History Note: Authority G.S. 17C-6; 17C-10; 150B-3;*

*Temporary Adoption Eff. January 1, 2001;*

*Eff. August 1, 2002;*

*Amended Eff. January 1, 2004;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;*

*Amended Eff. August 1, 2021.*

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## **12 NCAC 10B .0510 CERTIFICATION AND TRAINING FOR SCHOOL RESOURCE OFFICERS**

(a) A "School Resource Officer (SRO)" is defined as any law enforcement officer assigned to one or more public schools within a local school administrative unit, as defined in G.S. 115C-5(6), who works in a school at least 20 hours per week for more than 12 weeks per calendar year to assist with all of the following:

- (1) School safety;
- (2) School security;
- (3) Emergency preparedness;
- (4) Emergency response; and
- (5) Any additional responsibilities related to school safety or security assigned by the officer's employer while the officer is acting as a School Resource Officer.

Any written memorandum of understanding between the local school administrative unit and the law enforcement agency governing the School Resource Officer shall be consistent with this Paragraph.

(b) Deputy Sheriffs assigned by their agency to perform duties as a School Resource Officer shall:

- (1) have been issued general certification by the North Carolina Sheriffs' Education and Training Standards Commission as a Deputy Sheriff; and
- (2) have until December 31, 2020 to complete the basic School Resource Officer Training Course if they are acting in the capacity of a School Resource Officer between January 1, 2019 and December 31, 2019. Any officer assigned as a School Resource Officer effective January 1, 2020 or later shall complete the basic School Resource Officer Training Course pursuant to Paragraph (g) of this Rule, within one year after being assigned as a School Resource Officer.

Deputy Sheriffs who previously completed the training pursuant to Paragraph (f) of this Rule at any time and who have been continually assigned as an SRO pursuant to Paragraph (a) of this Rule shall be credited with completion of the basic School Resource Officer Training Course. Deputy Sheriffs who completed the training pursuant to Paragraph (g) of this Rule between October 1, 2018 and December 31, 2020 shall be credited with completion of the basic School Resource Officer Training Course even if they were not assigned as an SRO pursuant to Paragraph (a) of this Rule as long as they comply with the annual SRO refresher training pursuant to Paragraph (e) of this Rule.

(c) A Deputy Sheriff assigned to one or more public schools within a local school administrative unit, who works in a school at least 20 hours per week for more than 12 weeks per calendar year and who has not completed the initial training as established by Paragraph (g) of this Rule shall not work in a school as a School Resource Officer until the officer has completed the initial training as established by Paragraph (g) of this Rule.

(d) The agency head shall submit to the Sheriffs' Standards Division a Form F-20 Commission School Resource Officer Assignment Form for the person(s) selected to act as a School Resource Officer for the agency. The Form F-20 is located on the agency's website: <https://ncdoj.gov> and must be completed in its entirety. The Form F-20 Commission School Resource Officer Assignment Form consists of the following:

- (1) applicant's name;
- (2) date of birth;
- (3) social security number;
- (4) name of agency and address;
- (5) date awarded general certification;
- (6) completion date of School Resource Officer training; and
- (7) date assigned as a School Resource Officer.

(e) The term of certification as a School Resource Officer shall be indefinite, provided the School Resource Officer completes during each calendar year one credit of School Resource Officer refresher training authored by North Carolina Justice Academy. For School Resource Officers who complete the basic SRO training requirement in 2020 or earlier, this requirement becomes effective January 1, 2021. Otherwise, this requirement becomes effective the year following the officer's successful completion of the basic School Resource Officer Training Course. A certified School Resource Officer who has not completed the refresher training during a calendar year as established by this Rule shall not work in a school as a School Resource Officer until the officer has completed the required refresher training as established by this Rule. Any refresher training that is not completed during a single calendar year must be made up on or before January 31<sup>st</sup> of the following calendar year. Any officer who fails to resolve a deficiency in the refresher training shall no longer maintain School Resource Officer certification.

(f) Instructors who teach a basic SRO course in an in-person, traditional classroom format will receive credit toward the completion of the basic SRO course requirement as required by this Rule, provided they pass all tests required by the SRO

Training Manual authored by the North Carolina Justice Academy. Instructors shall have their instruction documented by the Agency Head or In-Service Training Coordinator once completed.

(g) The School Resource Officer training course for Deputy Sheriffs shall provide the trainee with the skills and knowledge to perform in the capacity of a School Resource Officer. The basic School Resource Officer Training Course authored by the North Carolina Justice Academy shall be used as the curriculum for this training course. Copies of this publication may be inspected at the agency:

Sheriffs' Standards Division  
North Carolina Department of Justice  
1700 Tryon Park Drive  
Post Office Drawer 629  
Raleigh, North Carolina 27602

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

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

*History Note:* Authority G.S. 17E-4; 17E-7;  
Eff. January 1, 2019;  
Amended Eff. August 1, 2021; January 1, 2020.

determine if a new setback is required, additional coordination with the Division of Coastal Management or Local Permitting Officer shall be required. Upon completion of the measurement, the Division of Coastal Management or Local Permitting Officer will issue a written statement to the permittee certifying the same.

(e) Continuation of Development in the Ocean Hazard AEC. Once permitted development has begun, development in the Ocean Hazard AEC may continue beyond the authorized development period if, in the opinion of the Division of Coastal Management or Local Permitting Officer, substantial progress has been made and is continuing according to customary and usual building standards and schedules. Substantial progress is defined as beginning with the placement of foundation pilings, and proof of the local building inspector's certification that the installed pilings have passed a floor and foundation inspection.

(f) Any permit that has been stayed as a result of litigation shall be extended at the permit holder's written request for a period equivalent to the period of permit suspension, but not to exceed the development period authorized under Paragraph (a) of this Rule.

*History Note:* Authority G.S. 113A-118; 113A-124(c)(8);  
Eff. March 15, 1978;  
Amended Eff. August 1, 2002; April 1, 1995; July 1, 1989; March 1, 1985; November 1, 1984;  
Readopted Eff. August 1, 2021.

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

### **15A NCAC 07J .0403 DEVELOPMENT PERIOD/COMMENCEMENT/CONTINUATION**

(a) New dredge and fill permits and CAMA permits, excepting beach bulldozing when authorized through issuance of a CAMA minor permit, shall expire on December 31 of the third year following the year of permit issuance.

(b) CAMA minor permit authorizing beach bulldozing shall expire 30 days from the date of permit issuance. Following permit expiration, the applicant may request an extension in accordance with Rule .0404(a) of this Section.

(c) Development After Permit Expiration. Any development undertaken after permit expiration shall be considered unpermitted and shall constitute a violation of G.S. 113A-118 or G.S. 113-229. Any development undertaken after permit expiration shall require either a new permit, or extension of the original permit according to 15A NCAC 07J .0404 with the exception of Paragraph (e) of this Rule.

(d) Commencement of Development in Ocean Hazard AEC. No development shall begin until the oceanfront setback requirement can be met in accordance with 15A NCAC 07H .0306. When the permit holder or an individual receiving an exception to the permit requirement is ready to begin development, they shall arrange an onsite meeting with the Division of Coastal Management or Local Permitting Officer to determine the oceanfront setback. This setback determination shall replace the one completed at the time the permit was processed and approved and development shall begin within of 60 days from the date of that meeting. In the case of a shoreline change that alters the location of the permitted development a new setback determination may be required. To

### **15A NCAC 07J .0404 DEVELOPMENT PERIOD EXTENSION**

(a) For CAMA minor permits authorizing beach bulldozing, the permit holder may request a one-time 30-day permit extension. No additional extensions shall be granted after the 30-day extension has expired. Notwithstanding this Paragraph, the permit holder may apply for another minor permit authorizing beach bulldozing following expiration of the 30-day permit extension.

(b) Where no development has been initiated during the development period, the Division of Coastal Management or Local Permit Officer shall extend the authorized development period for no more than two years upon receipt of a signed and dated request from the applicant containing the following:

- (1) a statement of the intention of the applicant to complete the work.
- (2) a statement of the reasons why the project will not be completed before the expiration of the current permit;
- (3) a statement that there has been no change of plans since the issuance of the original permit other than changes that would have the effect of reducing the scope of the project or previously approved permit modifications;
- (4) notice of any change in ownership of the property to be developed and a request for transfer of the permit, if appropriate; and
- (5) a statement that the project is in compliance with all conditions of the current permit.

Where substantial development, either within or outside the AEC, has begun and is continuing on a permitted project, the permitting authority shall grant as many two year extensions as necessary to complete the initial development. For the purpose of this Rule,

"substantial development" shall be deemed to have occurred on a project if the permittee can show that development has progressed beyond basic site preparation, such as land clearing and grading, and construction has begun and is continuing on the primary structure or structures authorized under the permit. For purposes of residential subdivision, installation of subdivision roads consistent with an approved subdivision plat shall constitute substantial development. Renewals for maintenance and repairs of previously approved projects may be granted for periods not to exceed 10 years.

(c) When an extension request has not met the criteria of Paragraph (b) of this Rule, the Division of Coastal Management may circulate the request to the commenting State resource agencies along with a copy of the original permit application. Commenting State resource agencies will be given three weeks in which to comment on the extension request. Upon the expiration of the commenting period the Division of Coastal Management will notify the applicant of its actions on the extension request.

(d) Notwithstanding Paragraphs (b) and (c) of this Rule, an extension request may be denied on making findings as required in either G.S. 113A-120 or G.S. 113-229(e). Changes in circumstances or in development standards shall be considered and applied by the Division of Coastal Management in making a decision on an extension request.

(e) The applicant for a major development extension request shall submit, with the request, a check or money order payable to the Department in the sum of one hundred dollars (\$100.00).

(f) Modifications to extended permits may be considered pursuant to 15A NCAC 07J .0405.

*History Note: Authority G.S. 113A-119; 113A-119.1; 113A-124(c)(8); Eff. March 15, 1978; Amended Eff. August 1, 2002; August 1, 2000; April 1, 1995; March 1, 1991; March 1, 1985; November 1, 1984; Readopted Eff. August 1, 2021.*

#### **15A NCAC 07J .0405 PERMIT MODIFICATION**

(a) A permit holder may modify their permitted major development and/or dredge and fill project only after approval by the Division of Coastal Management. In order to modify a permitted project the permit holder shall make a written request to the Division of Coastal Management showing the proposed modifications. Minor modifications may be shown on the existing approved application and plat. Modification requests which, in the opinion of the Division of Coastal Management are major shall require a new application. Modification requests are subject to the same processing procedure applicable to original permit applications. A permit need not be circulated to all agencies commenting on the original application if the Commission determines that the modification is so minor that circulation would serve no purpose.

(b) Modifications to a permitted project that are imposed or made at the request of the U.S. Army Corps of Engineers or other federal agencies shall be approved by the Division of Coastal Management under provisions of this Rule dealing with permit modification procedures.

(c) Modifications of projects for the benefit of private waterfront property owners that meet the following criteria shall be

considered minor modifications and shall not require a new permit application, but shall be approved under the provisions of Paragraph (a) of this Rule:

- (1) for bulkheads:
  - (A) bulkhead shall be positioned so as not to extend more than an average distance of two feet waterward of the mean high water and in no place shall the bulkhead be more than five feet waterward of the mean high water contour;
  - (B) all backfill must come from an upland source;
  - (C) no marsh area may be excavated or filled;
  - (D) work must be undertaken because of the necessity to prevent loss of private residential property due to erosion;
  - (E) the bulkhead must be constructed prior to any backfilling activities;
  - (F) the bulkhead must be constructed so as to prevent seepages of backfill materials through the bulkhead; and
  - (G) the bulkhead may not be constructed in the Ocean Hazard AEC;

- (2) for piers, docks and boathouses:
  - (A) the modification or addition shall not be within 150 feet of the edge of a federally-maintained channel;
  - (B) the structure, as modified, must be 200 feet or less in total length offshore;
  - (C) the structure, as modified, must not extend past the four feet mean low water contour line (four feet depth at mean low water) of the waterbody;
  - (D) the project as modified, must not exceed six feet in width;
  - (E) the modification or addition must not include an enclosed structure; and
  - (F) the project shall continue to be used for private, residential purposes;

- (3) for boatramps:
  - (A) the project, as modified, shall not exceed 10 feet in width and 20 feet offshore; and
  - (B) the project shall continue to be used for private, residential purposes.

(d) An applicant may modify his permitted minor development project only after approval by the local permit-letting authority. In order to modify a permitted project the applicant must make a written request to the local minor permit-letting authority showing in detail the proposed modifications. The request shall be reviewed in consultation with the appropriate Division of Coastal Management field consultant and granted if all of the following provisions are met:

- (1) the size of the project is expanded less than 20 percent of the size of the originally permitted project;

- (2) a signed, written statement is obtained from all adjacent riparian property owners indicating they have no objections to the proposed modifications;
- (3) the proposed modifications are consistent with all local, State, and federal standards and local Land Use Plans in effect at the time of the modification requests; and
- (4) the type or nature of development is not changed.

Failure to meet this Paragraph shall necessitate the submission of a new permit application.

(e) The applicant for a major permit modification shall submit with the request a check or money order payable to the Department in the sum of one hundred dollars (\$100.00) for a minor modification and two hundred fifty dollars (\$250.00) for a major modification.

*History Note: Authority G.S. 113A-119; 113A-119.1; 113-229;*

*Eff. March 15, 1978;*

*Amended Eff. August 1, 2000; March 1, 1991; August 1, 1986;*

*November 1, 1984;*

*Readopted Eff. August 1, 2021.*

**15A NCAC 07J .0407 PROJECT MAINTENANCE:  
MAJOR DEVELOPMENT/DREDGE AND FILL**

(a) No project previously requiring a major development or dredge and fill permit shall be maintained after the expiration of the authorized development period without approval from the Division of Coastal Management. Permits may contain provisions that allow the applicant to maintain the project after its completion. Persons wishing to maintain a project beyond the development period and whose permit contains no maintenance provision shall apply for a maintenance permit. This Rule does not apply to maintenance required by rule or by permit condition.

(b) Maintenance Request. Persons desiring to initiate maintenance work on a project pursuant to the maintenance provisions of an existing permit shall file a request two weeks prior to the initiation of maintenance work with:

Department of Environmental Quality  
Division of Coastal Management  
400 Commerce Avenue  
Morehead City, NC 28557

(c) Such requests shall include:

- (1) the name and address of the permittee;
- (2) the number of the original permit;
- (3) a description of proposed changes;
- (4) in the case of a dredge and fill maintenance request, a statement that no dimensional changes are proposed;
- (5) a copy of the original permit plat with cross-hatching indicating the area to be maintained, any area to be used as spoil, and the estimated amount of material to be removed; and
- (6) the date of map revision and the applicant's signature shown anew on the original plat.

(d) Conditions for Maintenance. All work undertaken pursuant to the maintenance provisions of a permit shall comply with the following conditions:

- (1) Maintenance work under a major development permit shall be limited to activities which are within the exemptions set forth by the Commission.
- (2) Maintenance under a dredge and fill permit shall be limited to excavation and filling which is necessary to maintain the project dimensions as found in the original permit.
- (3) Maintenance work is subject to all the conditions included in the original permit.
- (4) Spoil disposal shall be in the same locations as authorized in the original permit, provided that the person requesting the authority to maintain a project may request a different spoil disposal site if he or she first serves a copy of the maintenance request on all adjoining landowners.
- (5) The maintenance work is subject to any conditions determined by the Department to be necessary to protect the public interest with respect to the factors enumerated in G.S. 113A-120 or G.S. 113-229.

(e) The Division of Coastal Management may suspend or revoke the right to maintain a project in whole or in part upon a finding:

- (1) that the project area has been put to a different use from that indicated in the original permit application;
- (2) that there has been a change in the impacts associated with the permitted development affecting coastal resources listed in G.S. 113A-113 or G.S. 113A-120(a) that would justify denial of a permit; or
- (3) that there has been a violation of any of the terms or conditions of the original permit.

(f) Grant or Denial of Maintenance Request

- (1) Upon receipt of a complete maintenance request the Division of Coastal Management shall determine if there are grounds for revocation or suspension of the applicant's right to maintain based on the criteria in Paragraph (e) of this Rule. If there are grounds for revocation or suspension the applicant shall be notified of the suspension or revocation by certified mail, return receipt requested setting forth the findings on which the revocation or suspension is based.
- (2) If the Division of Coastal Management determines that the right to maintain should not be revoked or based on the criteria in Paragraph (e) of this Rule, a letter shall be issued which shall authorize the applicant to perform maintenance work. The letter shall set forth the terms and conditions under which the maintenance work is authorized.
- (3) If the maintenance request discloses changes in the dimensions of the original project, the

Division of Coastal Management shall notify the applicant that a permit modification or renewal shall be required pursuant to the procedure set out in 15A NCAC 07J .0404 and .0405.

- (4) Appeal of the Division of Coastal Management action under this Section shall be in accordance with 15A NCAC 07J .0302.

*History Note:* Authority G.S. 113A-103(5)c; 113A-120(b); 113A-124(c)(8);  
*Eff. March 15, 1978;*  
*Amended Eff. June 1, 2005; December 1, 1991; May 1, 1990;*  
*March 1, 1985; November 1, 1984;*  
*Readopted Eff. August 1, 2021.*

**15A NCAC 07J .0410 RESTORATION/MITIGATION**

Any violation involving development that is inconsistent with rules for development within AECs, i.e. wetland fill, improper location of a structure, shall result in a notice of restoration from the Secretary or its delegate or a local government. The notice shall describe the extent of restoration necessary to recover lost resources, or to prevent further resource damage and a time for its completion. Failure to complete the restoration described in the notice may result in a court order as described in G.S. 113-126(a) and (b). Failure to act to complete the required restoration may be determined to constitute a separate violation, according to G.S. 113-126(d)(2), subject to the penalties in Rule .0409 of this Section. Any resources that cannot be recovered by restoration of the affected site shall be replaced in compliance with the goals of the Commission's mitigation policy described in 15A NCAC 07M .0701.

*History Note:* Authority G.S. 113A-126; 113A-124(c); 113A-124(c)(8);  
*Eff. July 1, 1985;*  
*Readopted Eff. August 1, 2021.*

**15A NCAC 07K .0207 STRUCTURAL ACCESSWAYS OVER FRONTAL DUNES EXEMPTED**

(a) The North Carolina Coastal Resources Commission exempts from the CAMA permit requirement all structural pedestrian accessways over frontal dunes which can be shown to meet the following criteria:

- (1) The accessway shall not exceed six feet in width and shall be for private residential or for public access to an ocean beach. This exemption does not apply to accessways for commercial use or for motor-powered vehicular use.
- (2) The accessway shall be constructed so as to make no alterations to the frontal dunes that are not necessary to construct the accessway. This means that the accessway shall be constructed over the frontal dune without any alteration of the dunes. In no case shall the dune be altered so as to diminish its capacity as a protective barrier against flooding and by not reducing the volume of the dune. Driving of pilings into the

dune shall not be considered alteration of a frontal dune for the purposes of this Rule.

- (3) The accessway shall conform with any applicable local or State building code standards.

(b) Before beginning any work under this exemption the CAMA local permit officer or Division of Quality representative shall be notified of the proposed activity to allow on-site review of the proposed accessway. Notification can be by telephone, in person, or in writing and must include:

- (1) name, address, and telephone number of landowner and location of work including county and nearest community; and
- (2) the dimensions of the proposed structural accessway.

*History Note:* Authority G.S. 113A-103(5)c;  
*Eff. November 1, 1984;*  
*Amended Eff. December 1, 1991; May 1, 1990;*  
*Readopted Eff. August 1, 2021.*

**15A NCAC 07K .0208 SINGLE FAMILY RESIDENCES EXEMPTED**

(a) All single family residences constructed within the Coastal Shorelines Area of Environmental Concern that are more than 40 feet landward of normal high water or normal water level, and involve no land disturbing activity within the 40 feet buffer area are exempted from the CAMA permit requirement as long as this exemption is consistent with all other applicable CAMA permit standards and local land use plans and rules in effect at the time the exemption is granted.

(b) This exemption allows for the construction of a generally shore perpendicular access to the water, provided that the access shall be no wider than six feet. The access may be constructed out of materials such as wood, composite material, gravel, paver stones, concrete, brick, or similar materials. Any access constructed over wetlands shall be elevated at least three feet above any wetland substrate as measured from the bottom of the decking.

(c) Within the AEC for estuarine shorelines contiguous to waters classified as Outstanding Resource Waters (ORW), no CAMA permit shall be required if the proposed development is a single-family residence that has a built upon area of 25 percent or less and is at least 40 feet from waters classified as ORW.

(d) Before beginning any work under this exemption, the CAMA local permit officer or the Department of Environmental Quality representative shall be notified of the proposed activity to allow on-site review. Notification may be by telephone at (252) 808-2808, in person, or in writing to the North Carolina Division of Coastal Management, 400 Commerce Ave., Morehead City, NC 28557. Notification shall include:

- (1) the name, address, and telephone number of the landowner and the location of the work, including the county, nearest community, and water body; and
- (2) the dimensions of the proposed project, including proposed landscaping and the location of normal high water or normal water level.

(e) In eroding areas, this exemption shall apply only when the local permit officer has determined that the house has been located the maximum feasible distance back on the lot but not less than forty feet.

(f) Construction of the structure authorized by this exemption shall be completed by December 31 of the third year of the issuance date of this exemption.

*History Note: Authority G.S. 113A-103(5)c; Eff. November 1, 1984; Amended Eff. February 1, 2019; May 1, 2015; December 1, 2006; December 1, 1991; May 1, 1990; October 1, 1989; Readopted Eff. August 1, 2021.*

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

### **CHAPTER 16 – BOARD OF DENTAL EXAMINERS**

#### **21 NCAC 16Q .0102 APPLICATION FOR GENERAL ANESTHESIA OR SEDATION PERMIT, PERMIT RENEWAL, AND PERMIT REINSTATEMENT**

(a) An applicant for a general anesthesia or sedation permit shall be licensed and in good standing with the Board.

(b) All permit applications shall be made on the forms furnished by the Board at [www.ncdentalboard.org](http://www.ncdentalboard.org) and shall include:

- (1) the full name;
- (2) the mailing address;
- (3) the North Carolina dental license number;
- (4) a telephone number; and
- (5) an email address.

(c) In addition to the information in Paragraph (b) of this Rule, all applications for a general anesthesia, moderate conscious sedation, moderate pediatric conscious sedation, or minimal conscious sedation permit shall include:

- (1) the addresses of all dental offices where the applicant intends to use general anesthesia or sedation;
- (2) dental education, including dental school name, dates attended, degree received, and any other dental post-graduate education or specialty degrees received;
- (3) a resume or curriculum vitae;
- (4) the names of and copies of unexpired BLS certifications for any auxiliaries that will assist the applicant with general anesthesia or sedation;
- (5) a statement disclosing and explaining any instances of patient mortality or morbidity in connection with applicant's prior use of general anesthesia or sedation; and
- (6) documentation of the required qualifications for the permit for which the applicant is applying, as set out in Rule .0201, .0301, .0404, or .0504 of this Subchapter.

(d) In addition to the information in Paragraph (b) of this Rule, all applications for an itinerant permit shall include:

- (1) North Carolina general anesthesia or sedation permit number; and
- (2) a statement of compliance with the requirements for the itinerant permit for which the applicant is applying, as set out in Rule .0206, .0304, or .0406 of this Subchapter.

(e) All applications for renewal of a general anesthesia or sedation permit shall be submitted electronically through the Board's website, [www.ncdentalboard.org](http://www.ncdentalboard.org), and shall include:

- (1) the full name;
- (2) the permit number and expiration date;
- (3) the addresses of all dental offices where the permit holder uses general anesthesia or sedation; and
- (4) a statement disclosing and explaining any instances of patient mortality or morbidity in connection with use of general anesthesia or sedation that occurred during the calendar year preceding the application and that were not previously disclosed to the Board.

(f) All applications for reinstatement of a general anesthesia or sedation permit shall be made on forms furnished by the Board at [www.ncdentalboard.org](http://www.ncdentalboard.org) and shall include:

- (1) the full name;
- (2) the permit number and date of issuance;
- (3) the mailing address;
- (4) the North Carolina dental license number;
- (5) the addresses of all dental offices where the applicant intends to use general anesthesia or sedation; and
- (6) a statement disclosing and explaining any instances of patient mortality or morbidity in connection with use of general anesthesia or sedation that occurred during the calendar year preceding the application.

(g) Any permit obtained through fraud or by any false representation shall be revoked.

*History Note: Authority G.S. 90-28; 90-30.1; Eff. August 1, 2021.*

#### **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 dollar (\$100.00) application fee and a two-hundred seventy-five dollar (\$275.00) inspection 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 in good working order the following equipment:

- (1) small, medium, and large supraglottic airways devices;
- (2) small, medium, and large anesthesia circuits;
- (3) rebreathing device;
- (4) scavenging system;
- (5) intermittent compression devices;
- (6) gastric suction device;
- (7) endotracheal tube and pulmonary suction device;
- (8) equipment for performing emergency cricothyrotomies and delivering positive pressure ventilation; and
- (9) the equipment required by Rule .0202(a)(1) of this Section.

(d) A neuromuscular blocking agent, an anti-malignant hyperthermia agent, and the medications required by Rule .0202(a)(2) of this Section shall be on site, unexpired, and available to the permit holder.

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

(f) Prior to administering general anesthesia or sedation at another provider's office, the mobile permit holder shall inspect the host facility within 24 business hours before each procedure and shall ensure that:

- (1) the operator'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) Upon inspection, the permit holder shall document that the facility where the general anesthesia or sedation procedure will be performed was inspected and that it met the requirements of Paragraph (f) of this Rule. The permit holder shall retain the inspection and compliance record required by this Paragraph for 10 years following the procedure and provide these records to the Board upon request.

(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;

*Amended Eff. August 1, 2021; August 1, 2018.*

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

(a) General anesthesia permits and itinerant general anesthesia permits shall be renewed by the Board annually at the same time as dental licenses. For each permit to be renewed, the permit holder shall pay a one-hundred dollar (\$100.00) fee and complete the renewal application requirements of this Rule. If the completed permit renewal application and renewal fee are not received before midnight on January 31 of each year, a fifty dollar (\$50.00) late fee shall be charged. The renewal application shall be submitted electronically through the Board's website, [www.ncdentalboard.org](http://www.ncdentalboard.org), and shall include the information required by Rule .0102(e) of this Subchapter and a report of compliance with the conditions for renewal in Paragraph (d) of this Rule.

(b) Any permit holder 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 and late fee set out in Paragraph (a) of this Rule, and comply with all conditions for renewal set out in this Rule. Dentists whose general 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 in accordance with Rules .0202 and .0204 of this Section. All applicants for reinstatement of a permit shall be in good standing. All applications for reinstatement of a permit shall be submitted on forms furnished by the Board at [www.ncdentalboard.org](http://www.ncdentalboard.org) and shall include the information required by Rule .0102(f) of this Subchapter and a report of compliance with the conditions for renewal set out in Paragraph (d) of this Rule.

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

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

- (1) six hours of continuing education each year in one or more of the following areas, which shall 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 of continuing education required in Subparagraph (d)(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 (d)(1) of this Rule.

(e) Absent a Board order stating otherwise, all permit holders applying for renewal of a general anesthesia permit 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; 90-48;

*Eff. June 1, 2017;*

*Amended Eff. August 1, 2021; August 1, 2018.*

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

(a) Moderate conscious sedation permits and itinerant moderate conscious sedation permits shall be renewed by the Board annually at the same time as dental licenses. For each permit to be renewed, the permit holder shall pay a one-hundred dollar (\$100.00) fee and complete the renewal application requirements in this Rule. If the completed permit renewal application and renewal fee are not received before midnight on January 31 of each year, a fifty dollar (\$50.00) late fee shall be charged. The renewal application shall be submitted electronically through the Board's website, [www.ncdentalboard.org](http://www.ncdentalboard.org), and shall include the information required by Rule .0102(e) of this Subchapter and a report of compliance with the conditions for renewal in Paragraph (d) of this Rule.

(b) Any permit holder who fails to renew a moderate conscious sedation permit or itinerant moderate conscious sedation permit before March 31 of each year shall complete a reinstatement application, pay the renewal fee and late fee set out in Paragraph (a) of this Rule, and comply with all conditions for renewal set out in this Rule. Dentists whose moderate conscious sedation permits or itinerant moderate conscious sedation permits have been lapsed for more than 12 calendar months shall pass an inspection and an evaluation as part of the reinstatement process in accordance with Rules .0302 and .0306 of this Section. All applicants for reinstatement of a permit shall be in good standing. All applications for reinstatement of a permit shall be submitted on forms furnished by the Board at [www.ncdentalboard.org](http://www.ncdentalboard.org) and shall include the information required by Rule .0102(f) of this

Subchapter and a report of compliance with the conditions for renewal set out in Paragraph (d) of this Rule.

(c) 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.

(d) As a condition for renewal of the moderate conscious sedation permit and itinerant moderate conscious sedation permit, the permit holder shall meet the clinical and equipment requirements set out in Rule .0302 of this Section, the itinerant moderate conscious sedation permit holder shall also meet the clinical and equipment requirements set out in Rule .0304 of this Section, and the permit holder shall document the following:

- (1) six hours of continuing education each year in one or more of the following areas, which shall 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 (d)(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 (d)(1) of this Rule.

(e) Absent a Board order stating otherwise, all permit holders applying for renewal of a moderate conscious sedation permit or itinerant 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; 90-48;

*Eff. June 1, 2017;*

*Amended Eff. August 1, 2021; August 1, 2018.*

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

(a) Moderate pediatric conscious sedation permits and itinerant moderate pediatric conscious sedation permits shall be renewed by the Board annually at the same time as dental licenses. For each permit to be renewed, the permit holder shall pay a one-hundred dollar (\$100.00) fee and complete the renewal application requirements in this Rule. If the completed renewal application and renewal fee are not received before midnight on January 31 of each year, a fifty dollar (\$50.00) late fee shall be charged. The renewal application shall be submitted electronically through the Board's website, [www.ncdentalboard.org](http://www.ncdentalboard.org), and shall include the information required by Rule .0102(e) of this Subchapter and a report of compliance with the conditions for renewal in Paragraph (d) of this Rule.

(b) Any permit holder who fails to renew a moderate pediatric conscious sedation permit or itinerant moderate pediatric conscious sedation permit before March 31 of each year shall complete a reinstatement application, pay the renewal fee and late fee set out in Paragraph (a) of this Rule, and comply with all conditions for renewal set out in Paragraphs (d) and (e) of this Rule. Dentists whose moderate pediatric conscious sedation permits or itinerant moderate pediatric conscious sedation permits have been lapsed for more than 12 calendar months shall pass an inspection and an evaluation as part of the reinstatement process in accordance with Rules .0405 and .0408 of this Section. All applicants for reinstatement of a permit shall be in good standing. All applications for reinstatement of a permit shall be submitted on forms furnished by the Board at [www.ncdentalboard.org](http://www.ncdentalboard.org) and shall include the information required by Rule .0102(f) of this Subchapter and a report of compliance with the conditions for renewal set out in Paragraph (d) of this Rule.

(c) 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.

(d) As a condition for renewal of the moderate pediatric conscious sedation permit and itinerant moderate pediatric conscious sedation permit, the permit holder shall meet the clinical and equipment requirements of Rule .0405 of this Section, the itinerant moderate pediatric conscious sedation permit holder shall also meet the clinical and equipment requirements of Rule .0406 of this Section, and the permit holder shall document the following:

- (1) six hours of continuing education each year in one or more of the following areas, which shall 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 (d)(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 (d)(1) of this Rule.

(e) Absent a Board order stating otherwise, all permit holders applying for renewal of a moderate pediatric conscious sedation permit or itinerant 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; 90-48;*

*Eff. June 1, 2017;*

*Amended Eff. August 1, 2021; August 1, 2018.*

## 21 NCAC 16Q .0504 MINIMAL CONSCIOUS SEDATION CREDENTIALS AND PERMIT

(a) Before a dentist licensed to practice in North Carolina may administer or supervise a CRNA employed to administer or an RN employed to deliver minimal conscious sedation, the dentist shall obtain a Board-issued permit for minimal conscious sedation, moderate pediatric conscious sedation, moderate conscious sedation, or general anesthesia. A dentist may obtain a minimal 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 current renewal at all times in the facility of the permit holder where it is visible to patients receiving treatment.

(b) The minimal conscious sedation permit holder shall ensure the level of the sedation administered does not exceed minimal conscious sedation as defined in Rule .0101(27) of this Subchapter.

(c) An applicant for a minimal conscious sedation permit shall submit to the Board:

- (1) a completed application form provided by the Board at [www.ncdentalboard.org](http://www.ncdentalboard.org) that includes the information and materials required by Rule .0102(b) and (c) of this Subchapter;
- (2) a copy of an unexpired ACLS certification; and
- (3) documentation showing completion of one of the following:

- (A) an 18-hour minimal conscious sedation course from the list, available on the Board's website, of sedation courses reviewed at any public Board meeting and approved by a majority of the Board based on its collective experience; or
- (B) a post-doctoral program accredited by the Commission on Dental Accreditation (CODA) that provides training in administering and managing minimal conscious sedation. A list of CODA-accredited programs is available at no cost at [www.ada.org/coda](http://www.ada.org/coda) and is incorporated by reference, including subsequent amendments and editions.

(d) Prior to issuance of a minimal conscious sedation permit, the applicant shall pass an evaluation and facility inspection in accordance with Rules .0505 and .0507 of this Section.

(e) An applicant shall submit the fee set out in Paragraph (a) and satisfy all requirements in Paragraphs (c) and (d) of this Rule for the application to be complete. Applications that are not completed within one year of being submitted to the Board shall be disregarded without a refund of the fee.

(f) A dentist who administers minimal conscious sedation in violation of this Rule shall be subject to the penalties prescribed by Rule .0701 of this Subchapter.

*History Note: Authority G.S. 90-28; 90-30.1; 90-39; Temporary Adoption Eff. March 13, 2003; December 11, 2002; Eff. August 1, 2004; Amended Eff. July 3, 2008; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018; Amended Eff. February 1, 2019; Recodified from 21 NCAC 16Q .0401 Eff. November 9, 2020; Amended Eff. August 1, 2021.*

**21 NCAC 16Q .0505 MINIMAL CONSCIOUS SEDATION CLINICAL REQUIREMENTS AND EQUIPMENT**

(a) A permit holder administering minimal conscious sedation or supervising a CRNA employed to administer or RN employed to deliver minimal conscious sedation shall 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 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) pulse oximeter;
- (I) automatic external defibrillator (AED);
- (J) thermometer;
- (K) tonsillar suction with back-up suction; and
- (L) syringes as necessary for specific procedures.

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

- (A) epinephrine;
- (B) oral antihistamine;
- (C) bronchodilator;
- (D) antihypoglycemic agent;
- (E) appropriate reversal agents; and
- (F) nitroglycerine.

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

(4) The permit holder shall maintain the following records 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; and
- (C) a sedation record.

(5) The sedation record shall include:

- (A) base line vital signs, blood pressure (unless patient behavior prevents recording), oxygen saturation, pulse and respiration rates of the patient recorded in real time at 15-minute intervals;
- (B) procedure start and end times;
- (C) status of patient upon discharge;
- (D) documentation of complications or morbidity; and
- (E) a consent form, signed by the patient or guardian, identifying the procedure, risks and benefits, level of sedation, and date signed.

(6) During a sedation procedure, the facility shall be staffed with at least two BLS certified

auxiliaries, one of whom shall be involved in patient monitoring. This Subparagraph shall not apply if the permit holder is dedicated to patient care and monitoring regarding 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 minimal sedation on a patient while the evaluator observes. During the demonstration, the applicant or permit holder shall demonstrate competency in the following areas:

- (1) monitoring blood pressure, pulse, pulse oximetry, and respiration;
- (2) drug dosage and administration;
- (3) treatment of untoward reactions, including respiratory or cardiac depression if applicable; sterile technique;
- (4) use of BLS certified auxiliaries;
- (5) monitoring of patient during recovery; and
- (6) sufficiency of patient recovery time.

(c) During an inspection or evaluation, the applicant or permit holder shall 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) During the evaluation, the applicant shall take a written examination on the topics set forth in Paragraphs (b) and (c) of this Rule. The applicant must obtain a passing score on the written examination by answering 80 percent of the examination questions correctly. If the applicant fails to obtain a passing score on the written examination that is administered during the evaluation, he or she may be reexamined in accordance with Rule .0507(h) of this Section.

(e) A minimal conscious sedation permit holder shall evaluate each patient for health risks before starting any sedation procedure as follows:

- (1) The permit holder shall review the patient's current medical history and medication use and, if the permit holder considers it clinically necessary, the permit holder shall consult with the patient's treating medical provider.
- (2) A patient who is not medically stable or who is ASA III or higher shall be evaluated further by the permit holder's consultation with the patient's treating primary care physician or medical specialist regarding the potential risks

posed by the procedure the permit holder plans to perform.

(f) Post-operative monitoring and discharge:

- (1) The permit holder or a BLS certified auxiliary under his or her direct supervision shall monitor the patient's vital signs throughout the sedation procedure until the patient is recovered as defined in Subparagraph (f)(2) of this Rule and is ready for discharge from the office.
- (2) Recovery from minimal 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 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.
- (3) Prior to allowing the patient to leave the office, the permit holder shall determine that the patient has met the recovery criteria set out in Subparagraph (f)(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 person responsible for the patient at the time of discharge; and
  - (C) a person authorized by the patient is available to transport the patient after discharge.

*History Note: Authority G.S. 90-28; 90-30.1; Temporary Adoption Eff. December 11, 2002; Eff. August 1, 2004; Amended Eff. July 3, 2008; Readopted Eff. February 1, 2019; Recodified from 21 NCAC 16Q .0402 Eff. November 9, 2020; Amended Eff. August 1, 2021.*

**21 NCAC 16Q .0506 ANNUAL RENEWAL OF MINIMAL CONSCIOUS SEDATION PERMIT REQUIRED**

(a) Minimal conscious sedation permits shall be renewed by the Board annually at the same time as dental licenses by the permit holder paying a renewal fee of one hundred dollars (\$100.00) and completing the renewal application requirements of this Rule. If

the completed permit renewal application and renewal fee are not received in the Board's office before midnight on January 31 of each year, a fifty dollar (\$50.00) late fee shall be charged. The renewal application shall be submitted electronically through the Board's website, [www.ncdentalboard.org](http://www.ncdentalboard.org), and shall include the information required by Rule .0102(e) of this Subchapter and a report of compliance with the conditions for renewal in Paragraph (d) of this Rule.

(b) Any permit holder who fails to renew a minimal conscious sedation permit before midnight on March 31 of each year shall complete a reinstatement application, pay the renewal fee and late fee set out in Paragraph (a), 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 in accordance with Rules .0505 and .0507 of this Section. All applicants for reinstatement of a permit shall be in good standing. All applications for reinstatement of a permit shall be submitted on forms furnished by the Board at [www.ncdentalboard.org](http://www.ncdentalboard.org) and shall include the information required by Rule .0102(f) of this Subchapter and a report of compliance with the conditions for renewal set out in Paragraph (d) of this Rule.

(c) A dentist who administers minimal conscious sedation in violation of this Rule shall be subject to the penalties prescribed by Rule .0701 of this Subchapter.

(d) As a condition for renewal of the minimal conscious sedation permit, the permit holder shall meet the clinical and equipment requirements of Rule .0505 of this Section and shall document the following:

- (1) three hours of continuing education each year in one or more of the following areas, which shall be counted toward fulfillment of the continuing education required each calendar year for license renewal:
  - (A) sedation;
  - (B) medical emergencies;
  - (C) monitoring sedation and the use of monitoring equipment;
  - (D) pharmacology of drugs and agents used in sedation;
  - (E) physical evaluation, risk assessment, or behavioral management; or
  - (F) airway management;
- (2) unexpired ACLS certification, which shall not count towards the three hours of continuing education required in Subparagraph (d)(1) of this Rule;
- (3) that the permit holder and all auxiliaries involved in sedation procedures have read the practice's emergency manual in the preceding year; and
- (4) that all auxiliaries involved in sedation procedures have completed BLS certification and, within the past two years, completed three hours of continuing education in any of the areas set forth in Subparagraph (d)(1) of this Rule.

(e) Absent a Board order stating otherwise, all permit holders applying for renewal of a minimal conscious sedation permit shall

be in good standing and their office shall be subject to inspection as set out in Rule .0507 of this Section.

*History Note: Authority G.S. 90-30.1; 90-31; 90-39; Eff. August 1, 2021.*

## **21 NCAC 16Q .0507 PROCEDURE FOR MINIMAL CONSCIOUS SEDATION EVALUATION OR INSPECTION AND RE-INSPECTION**

(a) When an evaluation or on-site inspection is required, the Board shall designate one or more persons to serve as evaluators, each of whom has administered sedation or general anesthesia in accordance with this Subchapter for at least three years preceding the inspection. Training in minimal conscious sedation or other levels of sedation shall not be counted in the three years.

(b) The inspection fee set out in Rule .0504(a) of this Section shall be paid no later than 10 days after the applicant or permit holder receives notice of the inspection for each additional location at which the applicant or permit holder administers minimal conscious sedation.

(c) Any dentist-member of the Board may observe or consult in any evaluation or inspection.

(d) Each evaluator shall determine compliance with the requirements of the rules in this Subchapter, as applicable, by assigning a recommended grade of "pass" or "fail."

(e) Each evaluator shall report his or her recommendation to the Board through the Board member serving as the Chair of the Board's Anesthesia and Sedation Committee, setting forth the details supporting his or her conclusion. The Committee Chair shall not be bound by these recommendations. The Committee Chair shall determine whether the applicant or permit holder has passed the evaluation or inspection and shall notify the applicant or permit holder in writing of its decision.

(f) An applicant who fails an inspection or evaluation shall not receive a permit to administer minimal conscious sedation. If a permit holder's facility fails an inspection, no further minimal conscious sedation procedures shall be performed at the facility until it passes a re-inspection by the Board.

(g) An applicant or permit holder who fails an inspection or evaluation may request a re-evaluation or re-inspection within 15 days of receiving the notice of failure. The request shall be directed to the Board in writing and shall include a statement of the grounds supporting the re-evaluation or re-inspection. Except as set forth in Paragraph (h) of this Rule, the Board shall require the applicant or permit holder to receive additional training prior to the re-evaluation to address the areas of deficiency determined by the evaluation. The Board shall notify the applicant in writing of the need for additional training.

(h) An applicant who failed the written examination portion of the evaluation but passed all other aspects of the evaluation and inspection may retake the written examination two additional times at the Board office. The applicant must wait a minimum of 72 hours before attempting to retake a written examination. Any applicant who failed the written portion of the examination three times shall complete an additional Board-approved course of study in the areas of deficiency and provide the Board evidence of the additional study before written reexamination.

- (i) Re-evaluations and re-inspections shall be conducted by Board-appointed evaluators not involved in the failed evaluation or inspection.
- (j) An applicant must satisfy all the requirements of Rule .0505 of this Section, including passing the written examination, evaluation, and inspection, within 12 months of submitting the application to the Board.

*History Note: Authority G.S. 90-30.1; 90-39;  
Eff. August 1, 2021.*

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## CHAPTER 32 - MEDICAL BOARD

### 21 NCAC 32M .0109 PRESCRIBING AUTHORITY

(a) The prescribing stipulations contained in this Rule apply to writing prescriptions and ordering the administration of medications.

(b) Prescribing and dispensing stipulations are as follows:

- (1) Drugs and devices that may be prescribed by the nurse practitioner in each practice site shall be included in the collaborative practice agreement as outlined in Rule .0110(2) of this Section.
- (2) Controlled Substances (Schedules II, IIN, III, IIIN, IV, V) defined by the State and Federal Controlled Substances Acts may be procured, prescribed, or ordered as established in the collaborative practice agreement, providing all of the following requirements are met:
  - (A) the nurse practitioner has an assigned DEA number that is entered on each prescription for a controlled substance;
  - (B) refills may be issued consistent with Controlled Substance laws and regulations; and
  - (C) the primary supervising physician(s) shall possess a schedule(s) of controlled substances equal to or greater than the nurse practitioner's DEA registration.
- (3) The nurse practitioner may prescribe a drug or device not included in the collaborative practice agreement only as follows:
  - (A) upon a specific written or verbal order obtained from a primary or back-up supervising physician before the prescription or order is issued by the nurse practitioner; and
  - (B) the written or verbal order as described in Part (b)(3)(A) of this Rule shall be entered into the patient record with a notation that it is issued on the specific order of a primary or back-up supervising physician and signed by the nurse practitioner and the physician.

- (4) Each prescription shall be noted on the patient's chart and include the following information:
  - (A) medication and dosage;
  - (B) amount prescribed;
  - (C) directions for use;
  - (D) number of refills; and
  - (E) signature of nurse practitioner.

(5) Prescription Format:

- (A) All prescriptions issued by the nurse practitioner shall contain the name of the patient and the nurse practitioner's name and telephone number;
- (B) The nurse practitioner's assigned DEA number shall be written on the prescription form when a controlled substance is prescribed as defined in Subparagraph (b)(2) of this Rule.

(6) A nurse practitioner shall not prescribe controlled substances, as defined by the State and Federal Controlled Substances Acts, for the following:

- (A) nurse practitioner's own use;
- (B) nurse practitioner's supervising physician;
- (C) a member of the nurse practitioner's immediate family, which shall mean a:
  - (i) spouse;
  - (ii) parent;
  - (iii) child;
  - (iv) sibling;
  - (v) parent-in-law;
  - (vi) son or daughter-in-law;
  - (vii) brother or sister-in-law;
  - (viii) step-parent;
  - (ix) step-child; or
  - (x) step-siblings;
- (D) any other person living in the same residence as the licensee; or
- (E) anyone with whom the nurse practitioner is having a physical, sexual, or emotionally intimate relationship.

(c) The nurse practitioner may obtain approval to dispense the drugs and devices other than samples included in the collaborative practice agreement for each practice site from the Board of Pharmacy, and dispense in accordance with 21 NCAC 46 .1703 that is hereby incorporated by reference including subsequent amendments.

*History Note: Authority G.S. 90-5.1(a)(3); 90-18(c)(14); 90-18.2;  
Eff. February 1, 1991;  
Recodified from 21 NCAC 32M .0106 Eff. January 1, 1996;  
Amended Eff. December 1, 2012; April 1, 2011; November 1, 2008; August 1, 2004; May 1, 1999; January 1, 1996; September 1, 1994; March 1, 1994;  
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016;  
Amended Eff. August 1, 2021; March 1, 2017.*

**21 NCAC 32M .0117      REPORTING CRITERIA**

(a) The Department of Health and Human Services ("Department") may report to the North Carolina Board of Nursing ("Board") information regarding the prescribing practices of those nurse practitioners ("prescribers") whose prescribing:

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

(b) In addition, the Department may report to the Board information regarding prescribers who have had two or more patient deaths in the preceding 12 months due to opioid poisoning where the prescribers authorized more than 30 tablets of an opioid to the decedent and the prescriptions were written within 60 days of the patient deaths.

(c) In addition, the Department may report to the Board information regarding prescribers who meet three or more of the following criteria, if there are a minimum of five patients for each criterion:

- (1) at least 25 percent of the prescriber's patients receiving opioids reside 100 miles or greater from the prescriber's practice location;
- (2) the prescriber had more than 25 percent of patients receiving the same opioids and benzodiazepine combination;
- (3) the prescriber had 75 percent of patients receiving opioids self-pay for the prescriptions;
- (4) the prescriber had 90 percent or more of patients in a three-month period that received an opioid prescription that overlapped with another opioid prescription for at least one week;
- (5) more than 50 percent of the prescriber's patients received opioid doses of 100 MME or greater per day excluding office-based treatment medications; and
- (6) the prescriber had at least 25 percent of patients who used three or more pharmacies within a three-month period to obtain opioids regardless of the prescriber.

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

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

*History Note: Authority G.S. 90-5.1(a)(3); 90-113.74;  
Eff. April 1, 2016;  
Amended Eff. August 1, 2021; May 1, 2018.*

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**CHAPTER 36 – BOARD OF NURSING**

**21 NCAC 36 .0809      PRESCRIBING AUTHORITY**

(a) The prescribing stipulations contained in this Rule apply to writing prescriptions and ordering the administration of medications.

(b) Prescribing and dispensing stipulations are as follows:

- (1) Drugs and devices that may be prescribed by the nurse practitioner in each practice site shall be included in the collaborative practice agreement as outlined in Rule .0810(2) of this Section.
- (2) Controlled Substances (Schedules II, IIN, III, IIIN, IV, V) defined by the State and Federal Controlled Substances Acts may be procured, prescribed, or ordered as established in the collaborative practice agreement, providing all of the following requirements are met:
  - (A) the nurse practitioner has an assigned DEA number that is entered on each prescription for a controlled substance;
  - (B) refills may be issued consistent with Controlled Substance laws and regulations; and
  - (C) the primary supervising physician(s) shall possess a schedule(s) of controlled substances equal to or greater than the nurse practitioner's DEA registration.
- (3) The nurse practitioner may prescribe a drug or device not included in the collaborative practice agreement only as follows:
  - (A) upon a specific written or verbal order obtained from a primary or back-up supervising physician before the prescription or order is issued by the nurse practitioner; and
  - (B) the written or verbal order as described in Part (b)(3)(A) of this Rule shall be entered into the patient record with a notation that it is issued on the specific order of a primary or back-up supervising physician and signed by the nurse practitioner and the physician.
- (4) Each prescription shall be noted on the patient's chart and include the following information:
  - (A) medication and dosage;
  - (B) amount prescribed;
  - (C) directions for use;
  - (D) number of refills; and
  - (E) signature of nurse practitioner.
- (5) Prescription Format:
  - (A) all prescriptions issued by the nurse practitioner shall contain the name of the patient and the nurse practitioner's name and telephone number;
  - (B) the nurse practitioner's assigned DEA number shall be written on the prescription form when a controlled

substance is prescribed as defined in Subparagraph (b)(2) of this Rule.

- (6) A nurse practitioner shall not prescribe controlled substances, as defined by the State and Federal Controlled Substances Acts, for the following:
- (A) nurse practitioner's own use;
  - (B) nurse practitioner's supervising physician;
  - (C) member of the nurse practitioner's immediate family, which shall mean a:
    - (i) spouse;
    - (ii) parent;
    - (iii) child;
    - (iv) sibling;
    - (v) parent-in-law;
    - (vi) son or daughter-in-law;
    - (vii) brother or sister-in-law;
    - (viii) step-parent;
    - (ix) step-child; or
    - (x) step-siblings;
  - (D) any other person living in the same residence as the licensee; or
  - (E) anyone with whom the nurse practitioner is having a physical, sexual, or emotionally intimate relationship.

(c) The nurse practitioner may obtain approval to dispense the drugs and devices other than samples included in the collaborative practice agreement for each practice site from the Board of Pharmacy, and dispense in accordance with 21 NCAC 46 .1703 that is hereby incorporated by reference including subsequent amendments.

*History Note: Authority G.S. 90-8.1; 90-8.2; 90-18.2; 90-18(c)(14); 90-171.23(b)(14); Recodified from 21 NCAC 36 .0227(h) Eff. August 1, 2004; Amended Eff. March 1, 2017; December 1, 2012; April 1, 2011; November 1, 2008; August 1, 2004; Readopted Eff. January 1, 2019; Amended Eff. August 1, 2021.*

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## CHAPTER 46 – BOARD OF PHARMACY

### 21 NCAC 46 .2801 COMPOUNDING

(a) A pharmacy may dispense a compounded drug preparation to a patient only pursuant to a prescription that is valid and complies with all requirements of the law, including 21 NCAC 46 .1801. In advance of dispensing the compounded drug preparation, a pharmacy shall prepare the compounded drug preparation only:

- (1) upon the pharmacy's receipt of a valid prescription order for an individual patient; or
- (2) in anticipation of a prescription order based on an established history of receiving prescription orders for the compounded drug preparation. Any compounded drug preparation prepared in anticipation of a prescription order shall not be

dispensed until the pharmacy receives a valid prescription order for an individual patient.

(b) Compounded drug preparations shall not be offered to other entities for resale.

(c) A pharmacy may supply compounded drug products to practitioners authorized by law to prescribe drugs for those practitioners to administer to those practitioners' patients. Such compounding for office use shall comply with applicable federal law.

(d) The preparation, labeling, and dispensing of non-sterile compounded drug preparations shall comply with the standards established by United States Pharmacopeia chapter <795>, including all United States Pharmacopeia chapters and standards incorporated into chapter <795> by reference and including all subsequent amendments and editions of the same, governing both the non-sterile compounded drug preparations and the physical and environmental conditions under which non-sterile compounded drug preparations are prepared, labeled, and dispensed.

(e) The preparation, labeling, and dispensing of sterile compounded preparations shall comply with standards established by United States Pharmacopeia chapter <797>, including all United States Pharmacopeia chapters and standards incorporated into chapter <797> by reference and including all subsequent amendments and editions of the same, governing both the sterile compounded products and the physical and environmental conditions under which sterile compounded products are prepared, labeled, and dispensed.

(f) A pharmacy that prepares, labels, or dispenses sterile compounded preparations shall maintain a reference library in the pharmacy including the current United States Pharmacopeia standards and references on the compatibility, stability, storage, handling, and preparation of compounded drugs. These references may be either hard copy or electronically accessible.

(g) In a pharmacy where compounded drug preparations are prepared, labeled, or dispensed, the pharmacist-manager or the pharmacist-manager's designated pharmacist shall be knowledgeable in the specialized functions of preparing, labeling, and dispensing compounded drug preparations. If the pharmacist-manager chooses to designate another pharmacist for this purpose, the pharmacist-manager shall notify the Board on the pharmacy's permit application and within 15 days of any change in the designation. Notwithstanding the pharmacist-manager's designation of another pharmacist as knowledgeable in the specialized functions of preparing, labeling, and dispensing compounded drug preparations, the pharmacist-manager shall be responsible for ensuring the pharmacy's compliance with all statutes, rules, and standards that govern such activities.

(h) In addition to complying with all recordkeeping and labeling requirements specified or referred to by United States Pharmacopeia chapters <795> or <797>, a pharmacy that prepares, labels, or dispenses compounded drug preparations shall create and maintain a record-keeping system that enables the pharmacy immediately upon request to identify every compounded drug preparation prepared, labeled, or dispensed in the past three years. This recordkeeping system may be created and maintained electronically in compliance with 21 NCAC 46 .2508.



(i) The pharmacist-manager of a pharmacy that prepares, labels, or dispenses compounded drug preparations shall comply with all quality assurance requirements and standards of United States Pharmacopeia chapters <795> and <797>.

(j) Between January 1 and March 31 of each year, any pharmacy permitted by the Board that has prepared, labeled, or dispensed any compounded drug (for any patient or other person, either within or outside North Carolina) during the immediately preceding calendar year shall update all information regarding its services in the National Association of Boards of Pharmacy's e-Profile Connect system at <https://dashboard.nabp.pharmacy>.

(k) In addition to the requirements of this Section, the compounding of radiopharmaceutical drug products shall comply with Section .2700 of this Chapter.

(l) United States Pharmacopeia chapters <795> or <797> may be inspected at the offices of the Board during its normal hours of operation. Copies also may be obtained from the U.S. Pharmacopeial Convention ([www.usp.org](http://www.usp.org)), as a free download as of the effective date of the last amendment to this Rule.

*History Note:* Authority G.S. 90-85.6; 90-85.21A; 90-85.26; 90-85.32;

*Eff.* October 1, 1990;

*Amended Eff.* January 1, 2015; April 1, 2003;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff.* October 3, 2017;

*Amended Eff.* August 1, 2021.

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## CHAPTER 48 – BOARD OF PHYSICAL THERAPY EXAMINERS

### 21 NCAC 48D .0107 PERSONS REFUSED EXAMINATION PERMISSION

(a) The Board shall refuse permission to take the examination to any person who:

- (1) Does not meet the requirements as set forth in the Physical Therapy Practice Act;
- (2) Furnishes false information to the Board on the application; or
- (3) Fails to furnish personal background information as required by these Rules.

(b) The Board and Federation have authority to approve an applicant's exam eligibility. The Board shall approve exam eligibility for foreign-trained applicants. The Federation shall grant exam eligibility for all other applicants as set forth in National Physical Therapy Examination policies, which are available free of charge at the Board's office and at [www.fsbpt.org](http://www.fsbpt.org).

(c) Any applicant who is refused permission to take the examination shall be entitled to petition the Board for a contested case hearing pursuant to Subchapter 48G, Section .0500 of this Chapter.

(d) Any applicant who is refused permission to take the examination by the Federation has the option to appeal using the policies set forth in Paragraph (b) of this Rule.

*History Note:* Authority G.S. 90-270.92; 90-270.95; 90-270.97; 90-270.100; 90-270.103;

*Eff.* February 1, 1976;

*Readopted Eff.* September 30, 1977;

*Amended Eff.* December 1, 2006; August 1, 2002; December 30, 1985;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff.* May 1, 2018;

*Temporary Amendment Eff.* September 25, 2020;

*Amended Eff.* August 1, 2021.

### 21 NCAC 48D .0109 RETAKING EXAMINATION

(a) Arrangements for Retake. To retake the examination, the applicant shall notify the Board in writing, and pay the retake fee as specified in 21 NCAC 48F .0102. The examination cost as set forth by the Federation ([www.fsbpt.org](http://www.fsbpt.org)) is hereby incorporated by reference and includes subsequent amendments and editions. If the Federation approves exam eligibility, the Federation shall administer the retake process according to NPTE policies, which may be found at [www.fsbpt.org](http://www.fsbpt.org).

(b) Limitations. An applicant shall be limited to taking the examination the number of times allowed by the Federation as indicated on the Federation's website ([www.fsbpt.org](http://www.fsbpt.org)).

*History Note:* Authority G.S. 90-270.92; 90-270.95; 90-270.97; 90-270.100;

*Emergency Regulation Eff.* July 23, 1979, for a period of 120 days to expire on November 20, 1979;

*Made Permanent Eff.* November 20, 1979;

*Amended Eff.* February 1, 2015; February 1, 1996; November 1, 1993; August 1, 1988; May 1, 1988;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff.* May 1, 2018;

*Temporary Amendment Eff.* September 25, 2020;

*Amended Eff.* August 1, 2021.

### 21 NCAC 48D .0111 APPLICANTS WITH SPECIAL NEEDS

Examination candidates who need special accommodations for the examination as a result of a medical or physical disability shall file an Accommodation Request Form and supporting documentation with the Executive Director at least 60 days before the examination date in order for the request to be considered by the Board. If the Federation grants exam eligibility, the accommodation request shall be made pursuant to Federation testing accommodation policy, which may be found at [www.fsbpt.org](http://www.fsbpt.org).

*History Note:* Authority G.S. 90-270.92; P.L. 101-336;

*Eff.* October 1, 1995;

*Amended Eff.* February 1, 1996;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff.* May 1, 2018;

*Temporary Amendment Eff.* September 25, 2020;

*Amended Eff.* August 1, 2021.

**21 NCAC 48E .0101 FILING APPLICATION AND BOARD DETERMINATION OF EXAM ELIGIBILITY**

- (a) An applicant for licensure shall ensure that his or her credentials are filed with the Executive Director in accordance with the rules of this Subchapter.
- (b) Applicants pursuant to G.S. 90-270.97 shall submit all application requirements to the Executive Director at least 30 days prior to the examination.
- (c) The Board shall not approve an application until the applicant has graduated as defined by 21 NCAC 48A .0105(6).

*History Note: Authority G.S. 90-270.92; 90-270.95; 90-270.98(b);*  
*Eff. February 1, 1976;*  
*Readopted Eff. September 30, 1977;*  
*Amended Eff. May 1, 1988; December 30, 1985; October 28, 1979;*  
*Recodified Paragraph (c) to 21 NCAC 48C .0501 Eff. January 25, 1989;*  
*Amended Eff. July 1, 2013; August 1, 1998; February 1, 1996;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;*  
*Amended Eff. May 1, 2020;*  
*Temporary Amendment Eff. September 25, 2020;*  
*Amended Eff. August 1, 2021.*

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**CHAPTER 63 - SOCIAL WORK CERTIFICATION BOARD**

**21 NCAC 63 .0211 WORK EXPERIENCE**

- (a) Qualifications as required by G.S. 90B-7(d)(2) for the Licensed Clinical Social Worker (LCSW) credential:
  - (1) Two years of post-MSW clinical social work experience shall mean 3,000 clock hours of work or employment for a fee or salary while engaged in the practice of clinical social work as defined in G.S. 90B-3(6). The 3,000 hours shall be accumulated over a period of time not less than two years nor more than six consecutive years. Practicum or internship experience gained as part of any educational program shall not be included. Pursuant to G.S. 93B-15.1(a), military applicants may receive credit for military occupational specialty experience obtained post MSW degree and deemed substantially equivalent to clinical social work practice as defined in this Chapter.
  - (2) Appropriate supervision shall mean supervision by a MSW who is also a Licensed Clinical Social Worker and who is in good standing with the Board. A supervisor disciplined by any professional credentialing body or professional organization by legal order, or who has been found by legal order to have violated the provisions of an occupational licensing Board may not provide supervision to an associate

licensee without the written permission of the Board. The Licensed Clinical Social Worker Associate's (LCSWA) clinical social work supervisor shall have an additional two years of clinical social work experience post LCSW licensure.

- (3) Appropriate supervision shall be that which is provided on a regular basis, conducted no less than once every two weeks, with at least one hour of supervision during every 30 hours of experience. A minimum of 100 hours of supervision is required. All work experience must be clinical social work as defined by G.S. 90B-3(6) to qualify as work experience for purposes of G.S. 90B-7(d)(2). Appropriate supervision may be individual or group supervision. Individual supervision shall mean one on one, face-to-face supervision by a MSW who is also a LCSW where the supervisor reviews and discusses clinical social work cases, reviews documentation, and provides evaluative comments and direction to the LCSWA. Group supervision shall mean face-to-face supervision provided by a MSW who is also a LCSW in a group setting, during which the supervisor reviews and discusses clinical social work cases, reviews documentation, and provides feedback and direction to each LCSWA in the group. A maximum of 25 hours of group supervision may be applied toward meeting the supervision requirements for the LCSW.

- (4) Unless otherwise preapproved by the Board, no more than 50 hours of supervision may be provided through the use of technology. The clinical supervisor may seek approval by providing a written request to the Board. The request shall include the parties' information, including name, license number, and business address; and the circumstances for which the additional hours are needed. Approval of the request shall be determined on a case by case basis, based upon the circumstances provided in the request. All supervision provided through the use of technology shall be synchronous, involve visual and audio interactions throughout the entire session, and shall take place in such a manner as to maintain the confidentiality of the communication.

- (b) Qualifications as required by G.S. 90B-7(e)(2) for the Certified Social Work Manager (CSWM) credential:

- (1) Two years of post social work degree experience shall mean 3,000 clock hours of employment for a salary while engaged in administrative social work duties including, policy and budgetary development and implementation, supervision and management, program evaluation, planning, and staff development. Such duties shall be carried out in

an administrative setting where social work or other mental health services are delivered. The 3,000 hours shall be accumulated over a period of time not less than two years nor more than six consecutive years. Practicum or internship experience gained as part of any educational program shall not be included.

- (2) Appropriate supervision shall mean face-to-face supervision by a social work administrator certified or licensed by the Board who has a minimum of two years of administrative experience in a social work or mental health setting. Appropriate supervision shall be that which is provided on a regular basis, conducted no less than once every two weeks throughout the applicant's two years of administrative social work experience. A minimum of 100 hours of supervision is required. A maximum of 50 hours of group supervision may be applied toward meeting the supervision requirements for the CSWM. No more than 50 hours of supervision may be provided through the use of technology. All supervision provided through the use of technology shall be synchronous, involve visual and audio interaction throughout the entire session, and shall take place in such a manner as to maintain the confidentiality of the communication.

*History Note:* Authority G.S. 90B-6; 90B-7;  
Temporary Adoption Eff. October 1, 1999;  
Eff. July 1, 2000;  
Amended Eff. October 1, 2012; January 1, 2009; September 1, 2005;  
Readopted Eff. February 1, 2017;  
Amended Eff. August 1, 2021.

*Amended Eff. August 1, 2021.*

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**26 NCAC 03 .0123 OFFICIAL RECORD**

- (a) The official record of a contested case shall be available for public inspection upon request. An administrative law judge may, consistent with law, order all or part of an official record sealed.
- (b) The official record shall be prepared in accordance with G.S. 150B-37(a).
- (c) Contested case hearings shall be recorded either by a hearing assistant provided by the Office of Administrative Hearings or a court reporter listed by the North Carolina Administrative Office of the Courts as authorized and approved to prepare transcripts of proceedings held in the courts of all counties procured directly by one or more parties to the contested case.
- (d) If a contested case hearing is cancelled, the party responsible for the cancellation shall provide a 24-hour cancellation notice to the other parties in all cases in which a hearing assistant is provided by the Office of Administrative Hearings.
- (e) Transcripts of proceedings held in the Office of Administrative Hearings shall be made only upon request of a party. When proceedings are recorded by a court reporter, transcript requests shall be made directly to the court reporter. When proceedings are recorded by a hearing assistant, transcript requests shall be made directly to a transcriptionist listed by the North Carolina Administrative Office of the Courts as authorized and approved to prepare transcripts of proceedings held in the courts of all counties.
- (f) A party who orders a transcript shall use an Office of Administrative Hearings Transcript Contract form to order the transcript, which shall include the following information:
- (1) case name and number;
  - (2) requestor information; and
  - (3) transcriptionist information.

That form is available on the Office of Administrative Hearings website at <https://www.oah.nc.gov> and may be obtained from the Chief Hearings Clerk upon request. The party ordering the transcript shall file the transcript contract with the Office of Administrative Hearings and shall serve the transcript contract on all other parties and the transcriptionist. The transcriptionist shall deliver the transcript to the parties and file the transcript with the Office of Administrative Hearings by email to [oah.clerks@oah.nc.gov](mailto:oah.clerks@oah.nc.gov) in PDF format no later than 30 days after having been served with the transcript contract.

- (g) Copies of recordings made by a hearing assistant are available upon written request at a cost set out in 26 NCAC 01 .0103.

*History Note:* Authority G.S. 7A-751; 150B-37;  
Eff. August 1, 1986;  
Amended Eff. August 1, 1998; April 1, 1990; February 1, 1989;  
November 1, 1987;  
September 1, 1986;  
Recodified from Rule .0122 Eff. August 1, 2000;  
Amended Eff. April 1, 2009;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016;  
Amended Eff. August 1, 2021.

**TITLE 26 - OFFICE OF ADMINISTRATIVE HEARINGS**

**26 NCAC 01 .0103 COST TO PUBLIC**

- (a) Copies of any public records filed in the Office of Administrative Hearings are available at the "actual cost" as defined in G.S. 132-6.2(b). The Office of Administrative Hearings shall provide its "actual cost" on the Office of Administrative Hearings website.
- (b) There is no charge to the requesting party unless the actual cost is equal to or exceeds ten dollars (\$10.00).

*History Note:* Authority G.S. 7A-751; 132-6.2; 150B-19;  
150B-21.25; 150B-37;  
Eff. August 1, 1986;  
Amended Eff. April 1, 1990; January 1, 1989;  
Recodified from 26 NCAC 1 .0001 Eff. January 1, 1991;  
Amended Eff. April 1, 2009; May 1, 2001; August 1, 2000;  
February 1, 1994; August 2, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016;

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## **RULES REVIEW COMMISSION**

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*This Section contains information for the meeting of the Rules Review Commission September 16, 2021 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 984-236-1850. 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**

Jeanette Doran (Chair)  
Robert A. Bryan, Jr.  
Margaret Currin  
Jeff Hyde  
Robert A. Rucho

#### **Appointed by House**

Anna Baird Choi (1st Vice Chair)  
Andrew P. Atkins (2nd Vice Chair)  
Paul Powell  
Randy Overton  
Barbara A. Jackson

### **COMMISSION COUNSEL**

Amber Cronk May      984-236-1936  
Amanda Reeder      984-236-1939

### **RULES REVIEW COMMISSION MEETING DATES**

September 16, 2021      October 21, 2021  
November 18, 2021      December 16, 2021

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### **AGENDA**

#### **RULES REVIEW COMMISSION**

**THURSDAY, SEPTEMBER 16, 2021, 9:00 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. Social Services Commission – 10A NCAC 71U .0101, .0201, .0203, .0204, .0205, .0206, .0207, .0209, .0210, .0211, .0212, .0213, .0214, .0215, .0216, .0302, .0303, .0401, .0402; 71V .0102, .0103, .0104, .0105, .0106, .0107, .0108, .0201, .0202, .0203, .0204, .0205; 71W .0101, .0302, .0303, .0304, .0403, .0404, .0405, .0407, .0408, .0410, .0412, .0413, .0502, .0503, .0601, .0602, .0603, .0604, .0605, .0606, .0607, .0704 (May)
  - B. Building Code Council - 2020 Electrical Code (Reeder)
- IV. Review of Log of Filings (Permanent Rules) for rules filed between July 21, 2021 through August 20, 2021
  - Board of Elections (Reeder)
  - Child Care Commission (Reeder)
  - Medical Care Commission (Reeder)
  - DHHS - Division of Health Benefits (Reeder)
  - Commission for Public Health 10A (Reeder)
  - Department of Insurance (Reeder)
  - Wildlife Resources Commission (Reeder)
  - Commission for Public Health 15A (May)
  - Department of Transportation - Division of Motor Vehicles (May)
  - Board of Funeral Service (May)
  - Social Work Certification and Licensure Board (Reeder)
- 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
- VII. Commission Business
  - Next meeting: October 21, 2021

**Commission Review**  
**Log of Permanent Rule Filings**  
**July 21, 2021 through August 20, 2021**

**BOARD OF ELECTIONS**

The rules in chapter 06 concern partisan elections.

The rules in subchapter 06b concern ballots.

Arrangement of Official Ballots  
 Amend\*

08 NCAC 06B .0103

**CHILD CARE COMMISSION**

The rules in Chapter 9 are child care rules and include definitions (.0100); general provisions related to licensing (.0200); procedures for obtaining a license (.0300); issuance of provisional and temporary licenses (.0400); age and developmentally appropriate environments for centers (.0500); safety requirements for child care centers (.0600); staff qualifications (.0700); health standards for children (.0800); nutrition standards (.0900); transportation standards (.1000); continuing education and professional development (.1100); building code requirements for child care centers (.1300); space requirements (.1400); temporary care requirements (.1500); family child care home requirements (.1700); discipline (.1800); special procedures concerning abuse/neglect in child care (.1900); rulemaking and contested case procedures (.2000); religious-sponsored child care center requirements (.2100); administrative actions and civil penalties (.2200); forms (.2300); child care for mildly ill children (.2400); care for school-age children (.2500); child care for children who are medically fragile (.2600); criminal records checks (.2700); voluntary rated licenses (.2800); developmental day services (.2900); NC pre-kindergarten services (.3000); and care for school-age children during state of emergency(.3100).

NC Pre-K Teacher Assistant Education and Credentials  
 Amend\*

10A NCAC 09 .3013

Scope  
 Adopt\*

10A NCAC 09 .3101

Definitions  
 Adopt\*

10A NCAC 09 .3102

Public Schools  
 Adopt\*

10A NCAC 09 .3103

Adding Space at Licensed Centers for Care of School-Age C...  
 Adopt\*

10A NCAC 09 .3104

**MEDICAL CARE COMMISSION**

The rules in Chapter 13 are from the NC Medical Care Commission.

The rules in Subchapter 13D are rules for the licensing of nursing homes including general information (.2000); licensure (.2100); general standards of administration (.2200); patient and resident care and services (.2300); medical records (.2400); physician's services (.2500); pharmaceutical services (.2600); dietary services (.2700); activities, recreation and social services (.2800); special requirements (.2900); specially designated units (.3000); design and construction (.3100); functional requirements (.3200); fire and safety requirements (.3300); and mechanical, electrical, and plumbing requirements (.3400).

Definitions  
 Amend\*

10A NCAC 13D .2001

The rules in Subchapter 13K concern hospice licensing rules including general information (.0100); license (.0200); administration (.0300); personnel (.0400); scope of services (.0500); patient/family care (.0600); patient/family care plan (.0700); pharmaceutical and medical treatment orders and administration (.0800); medical records (.0900); evaluation (.1000); hospice residential care (.1100); and hospice inpatient care (.1200).

<u>Resident Care Areas</u>	10A	NCAC	13K	.1109
Readopt with Changes*				
<u>Design and Construction</u>	10A	NCAC	13K	.1112
Amend*				
<u>Plans and Specifications</u>	10A	NCAC	13K	.1113
Readopt with Changes*				
<u>Plumbing</u>	10A	NCAC	13K	.1114
Readopt with Changes*				
<u>Waste Disposal</u>	10A	NCAC	13K	.1115
Readopt with Changes*				
<u>Application of Physical Plant Requirements</u>	10A	NCAC	13K	.1116
Readopt with Changes*				
<u>Requirements for Hospice Inpatient Units</u>	10A	NCAC	13K	.1201
Readopt with Changes*				
<u>Additional Patient Care Area Requirements for Hospice Inp...</u>	10A	NCAC	13K	.1204
Readopt with Changes*				
<u>Furnishings for Hospice Inpatient Care</u>	10A	NCAC	13K	.1205
Readopt with Changes*				
<u>Hospice Inpatient Fire and Safety Requirements</u>	10A	NCAC	13K	.1206
Readopt with Changes*				
<u>Hospice Inpatient Requirements for Heating/Air Conditioning</u>	10A	NCAC	13K	.1207
Readopt with Changes*				
<u>Hospice Inpatient Requirements for Emergency Electrical S...</u>	10A	NCAC	13K	.1208
Readopt with Changes*				
<u>Hospice Inpatient Requirements for General Electrical</u>	10A	NCAC	13K	.1209
Amend*				
<u>Other Hospice Inpatient Requirements</u>	10A	NCAC	13K	.1210
Amend*				
<u>Additional Plumbing Requirements for Hospice Inpatient Units</u>	10A	NCAC	13K	.1211
Readopt with Changes*				
<u>Application of Physical Plant Requirements</u>	10A	NCAC	13K	.1212
Readopt with Changes*				

## **HHS - HEALTH BENEFITS, DIVISION OF**

The rules in Chapter 23 concern medical assistance administration.

The rules in Subchapter 23B concern benefits.

<u>Issuance</u>	10A	NCAC	23B	.0102
Amend*				

## **PUBLIC HEALTH, COMMISSION FOR**

The rules in Chapter 41 concern epidemiology health. The rules in Subchapter 41A deal with communicable disease control and include reporting of communicable diseases (.0100); control measures for communicable diseases including special control measures (.0200-.0300); immunization (.0400); purchase and distribution of vaccine (.0500); special

program/project funding (.0600); licensed nursing home services (.0700); communicable disease grants and contracts (.0800); and biological agent registry (.0900).

<u>Reporting of COVID-19 Diagnostic Test Results</u> Adopt*	10A	NCAC	41A	.0107
<u>Handling and Transportation of Bodies</u> Amend*	10A	NCAC	41A	.0212

## **INSURANCE, DEPARTMENT OF**

The rules in Chapter 04 are from the Consumer Services Division including general provisions (.0100); market conduct examination section (.0200); life: accident and health (.0300); property and liability (.0400); and life insurance illustrations (.0500).

<u>Division Procedures</u> Readopt without Changes*	11	NCAC	04	.0115
<u>Inquiries and Information</u> Readopt without Changes*	11	NCAC	04	.0116
<u>Statement of Action</u> Readopt without Changes*	11	NCAC	04	.0117
<u>Insurance Carriers as Lenders</u> Readopt without Changes*	11	NCAC	04	.0118
<u>Insurer Defined</u> Readopt without Changes*	11	NCAC	04	.0119
<u>Policy or Service Fees</u> Readopt without Changes*	11	NCAC	04	.0120
<u>Premium Payment Receipts</u> Readopt without Changes*	11	NCAC	04	.0121
<u>Power-of-Attorney</u> Readopt without Changes*	11	NCAC	04	.0122
<u>Use of Specific Company Name in Responses</u> Readopt without Changes*	11	NCAC	04	.0123
<u>Insurance Company Contact Persons</u> Readopt without Changes*	11	NCAC	04	.0124
<u>Information Used in Claim Settlements</u> Readopt without Changes*	11	NCAC	04	.0312
<u>Provisions of Contracts</u> Readopt without Changes*	11	NCAC	04	.0313
<u>Premium Notices: Payments and Refunds</u> Readopt without Changes*	11	NCAC	04	.0314
<u>Issuance of Contracts</u> Readopt without Changes*	11	NCAC	04	.0315
<u>Contestability Clause and Rescission</u> Readopt without Changes*	11	NCAC	04	.0316
<u>Sex Discrimination: Life: Accident and Health Insurance</u> Readopt without Changes*	11	NCAC	04	.0317
<u>Life Insurance Sales: Financing First Year Premium</u> Readopt without Changes*	11	NCAC	04	.0318
<u>Claims Practices: Life: Accident and Health Insurance</u> Readopt without Changes*	11	NCAC	04	.0319
<u>Student Loans</u> Readopt without Changes*	11	NCAC	04	.0320
<u>Safe Driver Incentive Plan</u>	11	NCAC	04	.0415

Readopt without Changes*				
<u>Billing Procedures for Automobile Insurance</u>	11	NCAC	04	.0416
Readopt without Changes*				
<u>Drive-In Claim Service Facilities</u>	11	NCAC	04	.0417
Readopt without Changes*				
<u>Written Confirmation of Oral Agreements</u>	11	NCAC	04	.0420
Readopt without Changes*				
<u>Cancellation of Insurance</u>	11	NCAC	04	.0422
Readopt without Changes*				
<u>Ethical Standards</u>	11	NCAC	04	.0423
Readopt without Changes*				
<u>Like Kind and Quality</u>	11	NCAC	04	.0426
Readopt without Changes*				
<u>Disclosure Requirements</u>	11	NCAC	04	.0427
Readopt without Changes*				
<u>Commingling</u>	11	NCAC	04	.0429
Readopt without Changes*				
<u>Proof of Mailing; Automobile Insurance</u>	11	NCAC	04	.0430
Readopt without Changes*				
<u>Definition of Claimant</u>	11	NCAC	04	.0431
Readopt without Changes*				
<u>Refund of Excess Premium on Scheduled Items</u>	11	NCAC	04	.0432
Readopt without Changes*				
<u>Refund of Auto Insurance Premium on New Business</u>	11	NCAC	04	.0433
Readopt without Changes*				
<u>Scope and Definitions</u>	11	NCAC	04	.0501
Readopt without Changes*				
<u>Assumed Expenses and Current Scale</u>	11	NCAC	04	.0502
Readopt without Changes*				
<u>Illustrated Policies</u>	11	NCAC	04	.0503
Readopt without Changes*				
<u>General Rules</u>	11	NCAC	04	.0504
Readopt without Changes*				
<u>Standards and Basic Illustrations</u>	11	NCAC	04	.0505
Readopt without Changes*				
<u>Standards for Supplemental Illustrations</u>	11	NCAC	04	.0506
Readopt without Changes*				
<u>Delivery of Illustration and Record Retention</u>	11	NCAC	04	.0507
Readopt without Changes*				
<u>Annual Reports and Notices to Policy Owners</u>	11	NCAC	04	.0508
Readopt without Changes*				
<u>Annual Certifications</u>	11	NCAC	04	.0509
Readopt without Changes*				

## **WILDLIFE RESOURCES COMMISSION**

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

<u>Manner of Taking Inland Game Fishes</u>	15A	NCAC	10C	.0302
Readopt without Changes*				
<u>Flounder, Sea Trout, and Red Drum</u>	15A	NCAC	10C	.0307



Readopt without Changes*				
<u>Muskellunge</u>	15A	NCAC	10C	.0309
Readopt without Changes*				
<u>Pickereel</u>	15A	NCAC	10C	.0310
Readopt without Changes*				
<u>Roanoke and rock bass</u>	15A	NCAC	10C	.0311
Readopt without Changes*				
<u>Sauger</u>	15A	NCAC	10C	.0312
Readopt without Changes*				
<u>Sunfish</u>	15A	NCAC	10C	.0315
Readopt with Changes*				
<u>Walleye</u>	15A	NCAC	10C	.0317
Readopt without Changes*				
<u>White Perch</u>	15A	NCAC	10C	.0319
Readopt without Changes*				
<u>Yellow Perch</u>	15A	NCAC	10C	.0320
Readopt without Changes*				
<u>Scope and Purpose</u>	15A	NCAC	10C	.0501
Readopt without Changes*				
<u>Primary Nursery Areas Defined</u>	15A	NCAC	10C	.0502
Readopt without Changes*				
<u>Descriptive Boundaries</u>	15A	NCAC	10C	.0503
Readopt without Changes*				
<u>Scope and Purpose</u>	15A	NCAC	10C	.0601
Readopt without Changes*				
<u>Anadromous Fish Spawning Areas Defined</u>	15A	NCAC	10C	.0602
Readopt without Changes*				
<u>Descriptive Boundaries</u>	15A	NCAC	10C	.0603
Readopt without Changes*				

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

<u>Stanly County</u>	15A	NCAC	10F	.0317
Amend*				
<u>Montgomery County</u>	15A	NCAC	10F	.0327
Amend*				
<u>Rowan County</u>	15A	NCAC	10F	.0329
Amend*				

The rules in Subchapter 10I concern endangered and threatened species.

<u>Endangered Species Listed</u>	15A	NCAC	10I	.0103
Readopt with Changes*				
<u>Threatened Species Listed</u>	15A	NCAC	10I	.0104
Readopt with Changes*				
<u>Special Concern Species Listed</u>	15A	NCAC	10I	.0105
Readopt with Changes*				

## **PUBLIC HEALTH, COMMISSION FOR**

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

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

<u>Scope</u>	15A	NCAC	18A	.1934
Repeal*				
<u>Definitions</u>	15A	NCAC	18A	.1935
Repeal*				
<u>Permits</u>	15A	NCAC	18A	.1937
Repeal*				
<u>Responsibilities</u>	15A	NCAC	18A	.1938
Repeal*				
<u>Site Evaluation</u>	15A	NCAC	18A	.1939
Repeal*				
<u>Topography and Landscape Position</u>	15A	NCAC	18A	.1940
Repeal*				
<u>Soil Characteristics (Morphology)</u>	15A	NCAC	18A	.1941
Repeal*				
<u>Soil Wetness Conditions</u>	15A	NCAC	18A	.1942
Repeal*				
<u>Soil Depth</u>	15A	NCAC	18A	.1943
Repeal*				
<u>Restrictive Horizons</u>	15A	NCAC	18A	.1944
Repeal*				
<u>Available Space</u>	15A	NCAC	18A	.1945
Repeal*				
<u>Other Applicable Factors</u>	15A	NCAC	18A	.1946
Repeal*				
<u>Determination of Overall Site Suitability</u>	15A	NCAC	18A	.1947
Repeal*				
<u>Site Classification</u>	15A	NCAC	18A	.1948
Repeal*				
<u>Sewage Flow Rates for Design Units</u>	15A	NCAC	18A	.1949
Repeal*				
<u>Location of Sanitary Sewage Systems</u>	15A	NCAC	18A	.1950
Repeal*				
<u>Applicability of Rules</u>	15A	NCAC	18A	.1951
Repeal*				
<u>Septic Tank, Effluent Filter, Dosing Tank and Lift Station...</u>	15A	NCAC	18A	.1952
Repeal*				
<u>Prefabricated Septic Tanks and Pump Tanks</u>	15A	NCAC	18A	.1953
Repeal*				
<u>Minimum Standards for Precast Reinforced Concrete Tanks</u>	15A	NCAC	18A	.1954
Repeal*				
<u>Design Installation Criteria for Conventional Sewage Systems</u>	15A	NCAC	18A	.1955

Repeal*				
<u>Modifications to Septic Tank Systems</u>	15A	NCAC	18A	.1956
Repeal*				
<u>Criteria for Design of Alternative Sewage</u>	15A	NCAC	18A	.1957
Repeal*				
<u>Non-Ground Absorption Sewage Treatment Systems</u>	15A	NCAC	18A	.1958
Repeal*				
<u>Privy Construction</u>	15A	NCAC	18A	.1959
Repeal*				
<u>Maintenance of Privies</u>	15A	NCAC	18A	.1960
Repeal*				
<u>Maintenance of Sewage Systems</u>	15A	NCAC	18A	.1961
Repeal*				
<u>Applicability</u>	15A	NCAC	18A	.1962
Repeal*				
<u>Interpretation and Technical Assistance</u>	15A	NCAC	18A	.1964
Repeal*				
<u>Appeals Procedure</u>	15A	NCAC	18A	.1965
Repeal*				
<u>Severability</u>	15A	NCAC	18A	.1966
Repeal*				
<u>Injunctions</u>	15A	NCAC	18A	.1967
Repeal*				
<u>Penalties</u>	15A	NCAC	18A	.1968
Repeal*				
<u>Approval and Permitting of On-Site Subsurface Wastewater ...</u>	15A	NCAC	18A	.1969
Repeal*				
<u>Advanced Wastewater Pretreatment System</u>	15A	NCAC	18A	.1970
Repeal*				
<u>Engineered Option Permit</u>	15A	NCAC	18A	.1971
Repeal*				
<u>General - Adoption by Reference</u>	15A	NCAC	18A	.2650
Readopt with Changes*				
<u>Definitions</u>	15A	NCAC	18A	.2651
Amend*				
<u>Management and Personnel</u>	15A	NCAC	18A	.2652
Amend*				
<u>Food</u>	15A	NCAC	18A	.2653
Amend*				
<u>Equipment, Utensils, and Linens</u>	15A	NCAC	18A	.2654
Amend*				
<u>Water, Plumbing, and Waste</u>	15A	NCAC	18A	.2655
Amend*				
<u>Inspections and Reinspections</u>	15A	NCAC	18A	.2661
Amend*				
<u>General Requirements for Pushcarts and Mobile Food Units</u>	15A	NCAC	18A	.2670
Readopt with Changes*				
<u>Limited Food Service Establishments</u>	15A	NCAC	18A	.2674
Readopt with Changes*				

The rules in Subchapter 18E concern wastewater treatment and dispersal systems including general provisions (.0100); permits (.0200); responsibilities (.0300); design daily flow and effluent characteristics (.0400); soil and site evaluation

(.0500); location of wastewater systems (.0600); collection sewers, raw sewage lift stations, and pipe materials (.0700); tank capacity, leak testing, and installation requirements (.0800); subsurface dispersal (.0900); non-ground absorption wastewater treatment systems (.1000); system dosing and controls (.1100); advanced pretreatment systems standards, siting, and sizing criteria (.1200); operation and maintenance (.1300); approval of tanks, risers, effluent filters, and pipe penetrations (.1400); approval and use of residential wastewater treatment systems (.1500); approval of pre-engineered package drop dispersal systems (.1600); approval and permitting of wastewater systems, technologies, components, devices (.1700);

<u>Scope</u>	15A	NCAC	18E	.0101
Adopt*				
<u>Applicability</u>	15A	NCAC	18E	.0102
Adopt*				
<u>Incorporation by Reference</u>	15A	NCAC	18E	.0103
Adopt*				
<u>Abbreviations</u>	15A	NCAC	18E	.0104
Adopt*				
<u>Definitions</u>	15A	NCAC	18E	.0105
Adopt*				
<u>General</u>	15A	NCAC	18E	.0201
Adopt*				
<u>Application</u>	15A	NCAC	18E	.0202
Adopt*				
<u>Improvement Permit</u>	15A	NCAC	18E	.0203
Adopt*				
<u>Construction Authorization</u>	15A	NCAC	18E	.0204
Adopt*				
<u>Operation Permit</u>	15A	NCAC	18E	.0205
Adopt*				
<u>Existing System Approvals for Reconnections and Property ...</u>	15A	NCAC	18E	.0206
Adopt*				
<u>Alternative Wastewater System Permitting Options</u>	15A	NCAC	18E	.0207
Adopt*				
<u>Owners</u>	15A	NCAC	18E	.0301
Adopt*				
<u>Local Health Department and Department</u>	15A	NCAC	18E	.0302
Adopt*				
<u>Licensed or Certified Professionals</u>	15A	NCAC	18E	.0303
Adopt*				
<u>Submittal Requirements for Plans, Specifications, and Rep...</u>	15A	NCAC	18E	.0304
Adopt*				
<u>Submittal Requirements for Plans, Specifications, and Rep...</u>	15A	NCAC	18E	.0305
Adopt*				
<u>Design Daily Flow</u>	15A	NCAC	18E	.0401
Adopt*				
<u>Septic Tank Effluent Characteristics</u>	15A	NCAC	18E	.0402
Adopt*				
<u>Adjustments to Design Daily Flow</u>	15A	NCAC	18E	.0403
Adopt*				
<u>Site Evaluation</u>	15A	NCAC	18E	.0501
Adopt*				
<u>Topography and Landscape Position</u>	15A	NCAC	18E	.0502
Adopt*				
<u>Soil Morphology</u>	15A	NCAC	18E	.0503

Adopt*				
<u>Soil Wetness Conditions</u>	15A	NCAC	18E	.0504
Adopt*				
<u>Soil Depth</u>	15A	NCAC	18E	.0505
Adopt*				
<u>Saprolite</u>	15A	NCAC	18E	.0506
Adopt*				
<u>Restrictive Horizons</u>	15A	NCAC	18E	.0507
Adopt*				
<u>Available Space</u>	15A	NCAC	18E	.0508
Adopt*				
<u>Site Suitability and Classification</u>	15A	NCAC	18E	.0509
Adopt*				
<u>Special Site Evaluations</u>	15A	NCAC	18E	.0510
Adopt*				
<u>Location of Wastewater Systems</u>	15A	NCAC	18E	.0601
Adopt*				
<u>Applicability of Setbacks</u>	15A	NCAC	18E	.0602
Adopt*				
<u>Collection Sewers</u>	15A	NCAC	18E	.0701
Adopt*				
<u>Raw Sewage Lift Stations</u>	15A	NCAC	18E	.0702
Adopt*				
<u>Pipe Materials</u>	15A	NCAC	18E	.0703
Adopt*				
<u>Septic Tank Capacity Requirements</u>	15A	NCAC	18E	.0801
Adopt*				
<u>Pump Tank Capacity Requirements</u>	15A	NCAC	18E	.0802
Adopt*				
<u>Grease Tank Capacity Requirements</u>	15A	NCAC	18E	.0803
Adopt*				
<u>Siphon Tank Capacity Requirements</u>	15A	NCAC	18E	.0804
Adopt*				
<u>Tank Leak Testing and Installation Requirements</u>	15A	NCAC	18E	.0805
Adopt*				
<u>General Design and Installation Criteria for Subsurface D...</u>	15A	NCAC	18E	.0901
Adopt*				
<u>Conventional Wastewater Systems</u>	15A	NCAC	18E	.0902
Adopt*				
<u>Bed Systems</u>	15A	NCAC	18E	.0903
Adopt*				
<u>Large Diameter Pipe Systems</u>	15A	NCAC	18E	.0904
Adopt*				
<u>Prefabricated Permeable Block Panel Systems</u>	15A	NCAC	18E	.0905
Adopt*				
<u>Sand Lined Trench Systems</u>	15A	NCAC	18E	.0906
Adopt*				
<u>Low Pressure Pipe Systems</u>	15A	NCAC	18E	.0907
Adopt*				
<u>Drip Dispersal Systems</u>	15A	NCAC	18E	.0908
Adopt*				
<u>Fill Systems</u>	15A	NCAC	18E	.0909

Adopt*				
<u>Artificial Drainage Systems</u>	15A	NCAC	18E	.0910
Adopt*				
<u>Privies</u>	15A	NCAC	18E	.0911
Adopt*				
<u>Alternative Toilets</u>	15A	NCAC	18E	.1001
Adopt*				
<u>Reclaimed Water Systems</u>	15A	NCAC	18E	.1002
Adopt*				
<u>General Dosing System Requirements</u>	15A	NCAC	18E	.1101
Adopt*				
<u>Pump Dosing</u>	15A	NCAC	18E	.1102
Adopt*				
<u>Control Panels</u>	15A	NCAC	18E	.1103
Adopt*				
<u>Siphon Dosing</u>	15A	NCAC	18E	.1104
Adopt*				
<u>Timed Dosing</u>	15A	NCAC	18E	.1105
Adopt*				
<u>Pressure Dosed Gravity Distribution Devices</u>	15A	NCAC	18E	.1106
Adopt*				
<u>Advanced Pretreatment System Standards</u>	15A	NCAC	18E	.1201
Adopt*				
<u>Siting and Sizing Criteria for Advanced Pretreatment Syst...</u>	15A	NCAC	18E	.1202
Adopt*				
<u>Siting and Sizing Criteria for Advanced Pretreatment Syst...</u>	15A	NCAC	18E	.1203
Adopt*				
<u>Advanced Pretreatment Drip Dispersal Systems</u>	15A	NCAC	18E	.1204
Adopt*				
<u>Advanced Pretreatment Sand Lined Trench Systems</u>	15A	NCAC	18E	.1205
Adopt*				
<u>Advanced Pretreatment Bed Systems</u>	15A	NCAC	18E	.1206
Adopt*				
<u>Operation and Maintenance of Wastewater Systems</u>	15A	NCAC	18E	.1301
Adopt*				
<u>Operation and Maintenance of Advanced Pretreatment Systems</u>	15A	NCAC	18E	.1302
Adopt*				
<u>Owner Responsibilities for Wastewater System Operation an...</u>	15A	NCAC	18E	.1303
Adopt*				
<u>Management Entity Responsibilities for Wastewater System ...</u>	15A	NCAC	18E	.1304
Adopt*				
<u>Local Health Department Responsibilities for Wastewater S...</u>	15A	NCAC	18E	.1305
Adopt*				
<u>System Malfunction and Repair</u>	15A	NCAC	18E	.1306
Adopt*				
<u>Wastewater Systems Abandonment</u>	15A	NCAC	18E	.1307
Adopt*				
<u>Plans for Prefabricated Tanks</u>	15A	NCAC	18E	.1401
Adopt*				
<u>Tank Design and Construction</u>	15A	NCAC	18E	.1402
Adopt*				
<u>Tank Material Requirements</u>	15A	NCAC	18E	.1403

Adopt*				
<u>Plans and Specifications for Risers, Effluent Filters, an...</u>	15A	NCAC	18E	.1404
Adopt*				
<u>Risers, Effluent Filters, Pipe Penetration Boots Approval...</u>	15A	NCAC	18E	.1405
Adopt*				
<u>Modification, Suspension, and Revocation of Approvals</u>	15A	NCAC	18E	.1406
Adopt*				
<u>General</u>	15A	NCAC	18E	.1501
Adopt*				
<u>Application</u>	15A	NCAC	18E	.1502
Adopt*				
<u>Design and Construction Standards</u>	15A	NCAC	18E	.1503
Adopt*				
<u>Sampling Requirements for Residential Wastewater Treatment</u>	15A	NCAC	18E	.1504
Adopt*				
<u>Residential Wastewater Treatment System Approval Renewal</u>	15A	NCAC	18E	.1505
Adopt*				
<u>General</u>	15A	NCAC	18E	.1601
Adopt*				
<u>Design and Construction Standards</u>	15A	NCAC	18E	.1602
Adopt*				
<u>Drip Dispersal System Testing</u>	15A	NCAC	18E	.1603
Adopt*				
<u>General</u>	15A	NCAC	18E	.1701
Adopt*				
<u>Application</u>	15A	NCAC	18E	.1702
Adopt*				
<u>Department and Commission Application Review</u>	15A	NCAC	18E	.1703
Adopt*				
<u>Approval Criteria for Provisional Systems</u>	15A	NCAC	18E	.1704
Adopt*				
<u>Approval Criteria for Innovative Systems</u>	15A	NCAC	18E	.1705
Adopt*				
<u>Approval Criteria for Accepted Systems</u>	15A	NCAC	18E	.1706
Adopt*				
<u>Design and Installation Criteria for Provisional, Innovation...</u>	15A	NCAC	18E	.1707
Adopt*				
<u>Modification, Suspension, and Revocation of Approvals</u>	15A	NCAC	18E	.1708
Adopt*				
<u>Wastewater Sampling Requirements for Advanced Pretreatment...</u>	15A	NCAC	18E	.1709
Adopt*				
<u>Compliance Criteria for Advanced Pretreatment Systems</u>	15A	NCAC	18E	.1710
Adopt*				
<u>Provisional and Innovative Approval Renewal</u>	15A	NCAC	18E	.1711
Adopt*				
<u>Authorized Designers, Installers, and Management Entities</u>	15A	NCAC	18E	.1712
Adopt*				
<u>Local Health Department Responsibilities</u>	15A	NCAC	18E	.1713
Adopt*				

**TRANSPORTATION - MOTOR VEHICLES, DIVISION OF**

The rules in Chapter 3 are from the Division of Motor Vehicles.

The rules in Subchapter 3D are from the enforcement section and include general information (.0100); motor vehicle dealer, sales, distributor and factory representative licenses (.0200); motor vehicle thefts (.0300); notice of sale and stored vehicles (.0400); general information regarding safety inspection of motor vehicles (.0500); weight of vehicles and registration enforcement (.0600); approval of motor vehicles safety equipment (.0700); safety rules and regulations (.0800); and approval of sun screening devices (.0900).

<u>Operation of Safety or Emissions Inspection Stations</u> Readopt without Changes*	19A	NCAC	03D	.0523
<u>Pre-Inspection Requirements</u> Readopt without Changes*	19A	NCAC	03D	.0525
<u>Safety Equipment Grading Items</u> Amend*	19A	NCAC	03D	.0526
<u>Emission Controls Tampering Check</u> Readopt without Changes*	19A	NCAC	03D	.0527
<u>Safety Equipment Emission Inspections</u> Readopt without Changes*	19A	NCAC	03D	.0528
<u>Certification</u> Readopt without Changes*	19A	NCAC	03D	.0529
<u>Disapproval</u> Readopt without Changes*	19A	NCAC	03D	.0530
<u>Reinspection</u> Readopt without Changes*	19A	NCAC	03D	.0531
<u>Brakes</u> Readopt without Changes*	19A	NCAC	03D	.0532
<u>Lights</u> Readopt without Changes*	19A	NCAC	03D	.0533
<u>Horn</u> Readopt without Changes*	19A	NCAC	03D	.0534
<u>Steering Mechanism</u> Readopt without Changes*	19A	NCAC	03D	.0535
<u>Windshield Wiper</u> Readopt without Changes*	19A	NCAC	03D	.0536
<u>Directional Signals</u> Readopt without Changes*	19A	NCAC	03D	.0537
<u>Tires</u> Readopt without Changes*	19A	NCAC	03D	.0538
<u>Tires - Definitions</u> Readopt without Changes*	19A	NCAC	03D	.0539
<u>Rear View Mirrors</u> Readopt without Changes*	19A	NCAC	03D	.0540
<u>Exhaust Emission Controls</u> Readopt without Changes*	19A	NCAC	03D	.0541
<u>Emissions Control Device</u> Readopt without Changes*	19A	NCAC	03D	.0542
<u>Inspection Procedure for Emissions Equipment</u> Readopt without Changes*	19A	NCAC	03D	.0543
<u>Safety Inspection of Motorcycles</u> Readopt without Changes*	19A	NCAC	03D	.0544



<u>Investigation/Audits/Safety or Emissions Inspection Stations</u> Readopt without Changes*	19A	NCAC	03D	.0545
<u>Waivers from Emissions Test Requirements</u> Readopt without Changes*	19A	NCAC	03D	.0550
<u>Window Tinting</u> Readopt without Changes*	19A	NCAC	03D	.0551
<u>Photometer Design and Performance Requirements</u> Readopt without Changes*	19A	NCAC	03D	.0552

## **FUNERAL SERVICE, BOARD OF**

The rules in Subchapter 34A concern board functions including general provisions (.0100); and fees and other payments (.0200).

<u>License Renewal Form</u> Adopt*	21	NCAC	34A	.0119
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The rules in Subchapter 34B are funeral service rules including rules relating to resident trainees (.0100); examinations (.0200); licensing (.0300); continuing education (.0400); out-of-state licensees (.0500); funeral establishments (.0600); and preparation of dead bodies (.0700).

<u>Refrigeration</u> Adopt*	21	NCAC	34B	.0707
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The rules in Subchapter 34C concern crematories including general provisions (.0100); equipment and processing (.0200); and authorizations, reports, records (.0300).

<u>Refrigeration</u> Amend*	21	NCAC	34C	.0202
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The rules in Subchapter 34D are preneed funeral contract rules including general provisions (.0100); licensing (.0200); operations (.0300); and preneed recovery fund (.0400).

<u>Annual Report</u> Amend*	21	NCAC	34D	.0302
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## **SOCIAL WORK CERTIFICATION AND LICENSURE BOARD**

The rules in Chapter 63 deal with Social Work Certification including general rules (.0100); certification (.0200); examinations (.0300); renewal of certification (.0400); ethical guidelines (.0500); disciplinary procedures (.0600); adoption of rules (.0700); and professional corporations and limited liability companies.

<u>Application Process</u> Amend*	21	NCAC	63	.0202
<u>Transcripts</u> Amend*	21	NCAC	63	.0203
<u>References</u> Amend*	21	NCAC	63	.0204
<u>Substantial Equivalency</u> Adopt*	21	NCAC	63	.0207
<u>Application Fee</u> Amend*	21	NCAC	63	.0208
<u>Exam Eligibility</u> Amend*	21	NCAC	63	.0209
<u>Associate Licenses</u> Amend*	21	NCAC	63	.0210

<u>Temporary Licenses</u>	21	NCAC	63	.0213
Amend*				
<u>Certification and Licensure for Military Personnel and Mi...</u>	21	NCAC	63	.0214
Amend*				
<u>Qualifying Examinations</u>	21	NCAC	63	.0301
Amend*				
<u>Cancellation</u>	21	NCAC	63	.0304
Repeal*				
<u>Examination Fees</u>	21	NCAC	63	.0306
Amend*				
<u>Continuing Education Requirements</u>	21	NCAC	63	.0401
Amend*				
<u>Renewal Application and Fees</u>	21	NCAC	63	.0403
Amend*				
<u>Reinstatement</u>	21	NCAC	63	.0404
Amend*				
<u>Required Reporting by Licensee or Certificate Holder of C...</u>	21	NCAC	63	.0405
Amend*				
<u>Military Waiver or Extension of Time for Renewal of Certi...</u>	21	NCAC	63	.0406
Amend*				
<u>General Professional Responsibilities</u>	21	NCAC	63	.0503
Amend*				
<u>Responsibilities in Professional Relationships</u>	21	NCAC	63	.0504
Amend*				
<u>Relationships with Colleagues</u>	21	NCAC	63	.0505
Amend*				
<u>Pursuit of Research and Scholarly Activities</u>	21	NCAC	63	.0508
Amend*				
<u>Public Statements</u>	21	NCAC	63	.0509
Amend*				
<u>Grounds for Disciplinary Procedures</u>	21	NCAC	63	.0601
Amend*				
<u>Investigation</u>	21	NCAC	63	.0602
Amend*				
<u>Notice of Charges and Hearing</u>	21	NCAC	63	.0603
Amend*				
<u>Conduct of Hearing</u>	21	NCAC	63	.0607
Amend*				
<u>Decision of Board</u>	21	NCAC	63	.0608
Amend*				
<u>Reporting of Disciplinary Actions</u>	21	NCAC	63	.0609
Amend*				
<u>Continuances</u>	21	NCAC	63	.0610
Amend*				
<u>Petitions for Adoption of Rules</u>	21	NCAC	63	.0701
Amend*				
<u>Temporary Rules</u>	21	NCAC	63	.0703
Repeal*				
<u>Declaratory Rulings</u>	21	NCAC	63	.0704
Amend*				
<u>Insufficient Fees</u>	21	NCAC	63	.0705
Adopt*				

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***RULES REVIEW COMMISSION***

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<u>Application for a Certificate of Registration</u>	21	NCAC	63	.0901
Amend*				
<u>Renewal of Certificate of Registration</u>	21	NCAC	63	.0902
Amend*				

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**CONTESTED CASE DECISIONS**

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*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 984-236-1850.*

**OFFICE OF ADMINISTRATIVE HEARINGS**

**Chief Administrative Law Judge**  
DONALD R. VAN DER VAART

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

**ADMINISTRATIVE LAW JUDGES**

Melissa Owens Lassiter  
J. Randall May  
David Sutton  
Selina Malherbe

J. Randolph Ward  
Stacey Bawtinheimer  
Michael Byrne  
Karlene Turrentine  
Linda Nelson

Year	Code	Number	Date Decision Filed	Petitioner		Respondent	ALJ
				<u>Published</u>			
20	DOJ	03447	6/14/2021	Christopher Lee Maness	v.	NC Sheriffs Education and Training Standards Commission	May
20	DOJ	03914	6/15/2021	Robert Joseph Brewington	v.	NC Criminal Justice Education and Training Standards Commission	Lassiter
20	DOJ	04027	6/25/2021	Heather Chatel Blair	v.	NC Sheriffs Education and Training Standards Commission	Sutton
20	DOJ	05455	6/10/2021	Jose Daniel Palma	v.	NC Sheriffs Education and Training Standards Commission	May
21	DOJ	00829	6/22/2021	Darren Tyree Taylor	v.	NC Sheriffs Education and Training Standards Commission	Byrne
20	DSC	02922	6/4/2021	Timothy C Roper	v.	North Carolina Department of Public Safety	Bawtinheimer
19	DST	05261	7/30/2020; 6/24/2021	Kirk Justin Barefoot	v.	NC Retirement Systems Division	Bawtinheimer
21	DST	00090	6/15/2021	Evelyn P Hammond	v.	North Carolina Total Retirement Plans	Bawtinheimer
20	INS	02078	6/2/2021	Dr James Anthony McKernan Professor	v.	The North Carolina State Health Plan for Teachers and State Employees	Ward
21	INS	01323	6/29/2021	Rhonda Russell-Smith	v.	North Carolina State Health Plan	Byrne
				<u>Unpublished</u>			
21	ABC	01833	6/4/2021	NC Alcoholic Beverage Control Commission	v.	Express Mini Mart 1 Inc T/A Express Mini Mart 1	Lassiter

**CONTESTED CASE DECISIONS**

21	ABC	01901	6/14/2021	NC Alcoholic Beverage Control Commission	v.	Smokers Post LLC T/A Smokers Post	Bawtinheimer
20	CPA	02840	5/12/2021; 6/30/2021	NC State Board of Certified Public Accountant Examiners	v.	Leon Little Rives II #29505	Bawtinheimer
20	CPS	04557	6/30/2021	Johnathan Adams	v.	Victims Compensation Commission	Mann
21	CPS	01871	6/9/2021	Marion Lamont Sherrod Jr agent for Marion Lamont Sherrod	v.	North Carolina Department of Adult Corrections/Public Safety	Byrne
20	CSE	04195	6/8/2021	William Glasson	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Turrentine
20	CSE	04292	6/16/2021	Kevin S Davenport	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Turrentine
20	CSE	04361	6/21/2021	Michael Smith	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Turrentine
20	CSE	04393	6/25/2021	Kenneth D White	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May
20	CSE	04396	6/28/2021	Jaime Arturo Alejos Mejia	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May
20	CSE	04518	6/28/2021	Isaiah Callands	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	May
20	CSE	04693	6/30/2021	Carter Ryan Manley	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinheimer
20	CSE	04917	6/9/2021	Byron D Black	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Byrne
20	CSE	05178	6/9/2021	Justin Tyler Garrett	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
20	CSE	05320	6/14/2021	Rodrigo Alberto Conde	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Byrne
21	CSE	01299	6/2/2021	Travis L Davidson	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
21	DHR	01051	6/30/2021	Jennifer Jimenez	v.	DSS	Mann
21	DHR	01676	6/2/2021	Sean Hawkins	v.	Health Care Personnel Registry	May
21	DHR	01898	6/11/2021	Aaliyah Taylor	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Bawtinheimer
21	DHR	02116	6/30/2021	Tom LaGarde Haw River Ballroom	v.	NC Department of Health and Human Services Division of Public Health	Mann

**CONTESTED CASE DECISIONS**

21	DOL	01831	6/30/2021	Pani Verma	v.	DOL	Mann
21	DOT	01593	6/30/2021	Benjamin Riley Pierce	v.	NC Department of Transportation	Mann
21	DSA	01505	6/10/2021	Kinetic Minds Inc	v.	NC Office of the State Auditor	Lassiter
21	EDC	02118	6/14/2021	Essie Mae Kiser Foxx Charter School	v.	North Carolina State Board of Education et al	May
21	INS	01553	6/24/2021	Chelsea McLean	v.	North Carolina Department of State Treasurer	Malherbe
21	INS	01794	6/14/2021	Cailisha L Petty	v.	North Carolina State Health Plan for Teachers and State Employees	May
21	MIS	01325	6/11/2021	Nigel Rankin	v.	Guilford County Courthouse Angela Fox Department of Social Services Camelia K Smith & Paige Gilliard Childrens Law Center of Central North Carolina Jessica Stone Brian Hogan	Mann
21	MIS	01326	6/2/2021	Trisha White	v.	Sheriffs Office Harvey David Legrant Jr Forsyth County Courthouse - Family Court C District Logan T Burke Susan Frye David Sipprell Lawrence J Fine Lisa Menfee Shea Bree Ward Blalock	Mann
21	MIS	01442	6/15/2021	Jennifer and Eliseo Contreras Jimenez	v.	Department of Social Services Children and Families of Forsyth County	Mann
21	OSP	01243	6/7/2021	Anastahia Johnson	v.	East Carolina University	Turrentine
21	OSP	01471	6/22/2021	Jason Yoder	v.	NC Department of Public Safety	Mann
21	SOS	01555	6/30/2021	Jordan P Archer (The Archer Foundation)	v.	NC Dpt of the Secretary of State	Mann