

NORTH CAROLINA REGISTER

VOLUME 36 • ISSUE 16 • Pages 1370 – 1428

February 15, 2022

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PUBLISHED BY

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

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

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NORTH CAROLINA REGISTER
Publication Schedule for January 2022 – December 2022

| 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 th day from publication in the Register |
| 36:13 | 01/03/22 | 12/08/21 | 01/18/22 | 03/04/22 | 03/21/22 | 04/21/2022 | 05/01/22 | 09/30/22 |
| 36:14 | 01/18/22 | 12/22/21 | 02/02/22 | 03/21/22 | 04/20/22 | 05/19/2022 | 06/01/22 | 10/15/22 |
| 36:15 | 02/01/22 | 01/10/22 | 02/16/22 | 04/04/22 | 04/20/22 | 05/19/2022 | 06/01/22 | 10/29/22 |
| 36:16 | 02/15/22 | 01/25/22 | 03/02/22 | 04/18/22 | 04/20/22 | 05/19/2022 | 06/01/22 | 11/12/22 |
| 36:17 | 03/01/22 | 02/08/22 | 03/16/22 | 05/02/22 | 05/20/22 | 06/16/2022 | 07/01/22 | 11/26/22 |
| 36:18 | 03/15/22 | 02/22/22 | 03/30/22 | 05/16/22 | 05/20/22 | 06/16/2022 | 07/01/22 | 12/10/22 |
| 36:19 | 04/01/22 | 03/11/22 | 04/16/22 | 05/31/22 | 06/20/22 | 07/21/2022 | 08/01/22 | 12/27/22 |
| 36:20 | 04/18/22 | 03/25/22 | 05/03/22 | 06/17/22 | 06/20/22 | 07/21/2022 | 08/01/22 | 01/13/23 |
| 36:21 | 05/02/22 | 04/08/22 | 05/17/22 | 07/01/22 | 07/20/22 | 08/18/2022 | 09/01/22 | 01/27/23 |
| 36:22 | 05/16/22 | 04/25/22 | 05/31/22 | 07/15/22 | 07/20/22 | 08/18/2022 | 09/01/22 | 02/10/23 |
| 36:23 | 06/01/22 | 05/10/22 | 06/16/22 | 08/01/22 | 08/22/22 | 09/15/2022 | 10/01/22 | 02/26/23 |
| 36:24 | 06/15/22 | 05/24/22 | 06/30/22 | 08/15/22 | 08/22/22 | 09/15/2022 | 10/01/22 | 03/12/23 |
| 37:01 | 07/01/22 | 06/10/22 | 07/16/22 | 08/30/22 | 09/20/22 | 10/20/2022 | 11/01/22 | 03/28/23 |
| 37:02 | 07/15/22 | 06/23/22 | 07/30/22 | 09/13/22 | 09/20/22 | 10/20/2022 | 11/01/22 | 04/11/23 |
| 37:03 | 08/01/22 | 07/11/22 | 08/16/22 | 09/30/22 | 10/20/22 | 11/17/2022 | 12/01/22 | 04/28/23 |
| 37:04 | 08/15/22 | 07/25/22 | 08/30/22 | 10/14/22 | 10/20/22 | 11/17/2022 | 12/01/22 | 05/12/23 |
| 37:05 | 09/01/22 | 08/11/22 | 09/16/22 | 10/31/22 | 11/21/22 | 12/15/2022 | 01/01/23 | 05/29/23 |
| 37:06 | 09/15/22 | 08/24/22 | 09/30/22 | 11/14/22 | 11/21/22 | 12/15/2022 | 01/01/23 | 06/12/23 |
| 37:07 | 10/03/22 | 09/12/22 | 10/18/22 | 12/02/22 | 12/20/22 | 01/19/2023 | 02/01/23 | 06/30/23 |
| 37:08 | 10/17/22 | 09/26/22 | 11/01/22 | 12/16/22 | 12/20/22 | 01/19/2023 | 02/01/23 | 07/14/23 |
| 37:09 | 11/01/22 | 10/11/22 | 11/16/22 | 01/03/23 | 01/20/23 | 02/16/2023 | 03/01/23 | 07/29/23 |
| 37:10 | 11/15/22 | 10/24/22 | 11/30/22 | 01/17/23 | 01/20/23 | 02/16/2023 | 03/01/23 | 08/12/23 |
| 37:11 | 12/01/22 | 11/07/22 | 12/16/22 | 01/30/23 | 02/20/23 | 03/16/2023 | 04/01/23 | 08/28/23 |
| 37:12 | 12/15/22 | 11/22/22 | 12/30/22 | 02/13/23 | 02/20/23 | 03/16/2023 | 04/01/23 | 09/11/23 |

This document is prepared by the Office of Administrative Hearings as a public service and is not to be deemed binding or controlling.

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

January 13, 2022

EXECUTIVE ORDER NO. 247

DECLARATION OF A STATE OF EMERGENCY AND TEMPORARY SUSPENSION OF MOTOR VEHICLE REGULATIONS

WHEREAS, an anticipated winter storm may have significant impacts to the State of North Carolina; and

WHEREAS, the winter storm could have significant impact to public and private property and could seriously disrupted essential utility services and systems; and

WHEREAS, the anticipated impacts from the winter storm constitute a state of emergency as defined in N.C. Gen. Stat. §§ 166A-19.3(6) and 166A-19.3(19); and

WHEREAS, certain measures are necessary to ensure the protection and safety of North Carolina residents and to coordinate the emergency response among state and local entities and officials; and

WHEREAS, the need to prepare for and respond to the winter storm in the midst of the COVID-19 pandemic requires increased planning and preparation in order to protect public health and public safety in North Carolina; and

WHEREAS, N.C. Gen. Stat. § 166A-19.1(3) provides that it is the responsibility of the undersigned to "provide for the rapid and orderly rehabilitation of persons and restoration of property"; and

WHEREAS, N.C. Gen. Stat. § 166A-19.1(4) provides that it is the responsibility of the undersigned, state agencies, and local governments to "provide for cooperation and coordination of activities relating to emergency mitigation preparedness, response, and recovery among agencies and officials of this state and with similar agencies and officials of other states and with other private and quasi-official organizations"; and

WHEREAS, N.C. Gen. Stat. §§ 166A-19.10 and 166A-19.20 authorize the undersigned to declare a state of emergency and exercise the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies; and

WHEREAS, the anticipated impacts from the winter storm may result in extensive damage, including widespread power outages throughout the state that will require the vehicles bearing equipment and supplies for utility restoration and debris removal to be moved through North Carolina on the interstate and intrastate highways; and

WHEREAS, the uninterrupted supply of electricity, fuel oil, diesel oil, gasoline, kerosene, propane, liquid petroleum gas, food, water, and medical supplies to residential and commercial establishments is essential before, during, and after the winter storm and any interruption in the delivery of those commodities threatens the public welfare; and

WHEREAS, the prompt restoration of utility services is essential to the safety and well-being of the State's residents; and

WHEREAS, N.C. Gen. Stat. § 166A-19.10(3) authorizes the undersigned to delegate any gubernatorial authority vested in him under the Emergency Management Act, and to provide for the subdelegation of that authority; and

WHEREAS, under N.C. Gen. Stat. § 166A-19.30(b)(3) the undersigned, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

WHEREAS, under N.C. Gen. Stat. § 166A-19.30(b)(4), the undersigned, with the concurrence of the Council of State, may waive a provision of any regulation or ordinance of a state agency which restricts the immediate relief of human suffering; and

WHEREAS, the undersigned has found that residents may suffer losses and further widespread damage within the meaning of N.C. Gen. Stat. §§ 166A-19.3 and 166A-19.21(b); and

WHEREAS, 49 C.F.R. § 390.23 allows the Governor of a State to suspend the rules and regulations under 49 C.F.R. Parts 390-399 for up to thirty (30) days if the Governor determines that an emergency condition exists; and

WHEREAS, nothing contained in this declaration shall be construed as an exemption from the controlled substances and alcohol use and testing requirements (49 C.F.R. Part 382), the commercial driver's license requirements (49 C.F.R. Part 383), the financial responsibility (insurance) requirements (49 C.F.R. Part 387), operating authority (49 C.F.R. Part 365), applicable size and weight requirements, ill or fatigued operator (49 C.F.R. Part 392.3) or any other portion of the regulations not specifically identified; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.70(g), upon the recommendation of the North Carolina Commissioner of Agriculture and the existence of an imminent threat of severe economic loss of livestock, poultry or crops ready to be harvested, the Governor shall direct the North Carolina Department of Public Safety ("DPS") to temporarily suspend weighing vehicles used to transport livestock, poultry or crops ready to be harvested; and

WHEREAS, pursuant to N.C. Gen. Stat. § 166A-19.70, the Governor may declare that the health, safety, or economic well-being of persons or property requires that the maximum hours of service for drivers prescribed by N.C. Gen. Stat. § 20-381 should be waived for (1) persons transporting essential fuels, food, water, non-alcoholic beverages, medical supplies, feed for livestock and poultry, (2) persons transporting livestock, poultry, and crops ready to be harvested and (3) vehicles used in the restoration of utility and transportation services; and

WHEREAS, the undersigned has sought and obtained concurrence from the Council of State on the provisions of this Executive Order requiring concurrence.

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

Section 1.

I hereby declare that a state of emergency, as defined in N.C. Gen. Stat. §§ 166A-19.3(6) and 166A-19.3(19), exists in the State of North Carolina due to the impact from the winter storm.

For purposes of this Executive Order, the emergency area is the entire State of North Carolina ("the Emergency Area").

Section 2.

I order all state and local government entities and agencies to cooperate in the implementation of the provisions of this declaration and the provisions of the North Carolina Emergency Operations Plan ("the Plan").

Section 3.

I delegate to Eddie M. Buffalo, Jr, the Secretary of DPS, or his designee, all power and authority granted to and required of me by Article 1A of Chapter 166A of the North Carolina General Statutes for the purpose of implementing the Plan and deploying the State Emergency Response Team to take the appropriate actions necessary to promote and secure the safety and protection of the populace in North Carolina.

Section 4.

Secretary Buffalo, as Chief Coordinating Officer for the State of North Carolina, shall exercise the powers prescribed in N.C. Gen. Stat. § 143B-602.

Section 5.

I further direct Secretary Buffalo, or his designee, to seek assistance from any and all agencies of the United States Government as may be needed to meet the emergency and to seek reimbursement for costs incurred by the state in responding to this emergency.

Section 6.

DPS, in conjunction with the North Carolina Department of Transportation ("DOT"), shall waive the maximum hours of service for drivers prescribed by DPS pursuant to N.C. Gen. Stat. § 20-381.

Section 7.

DPS, in conjunction with DOT, shall waive certain size and weight restrictions and penalties arising under N.C. Gen. Stat. §§ 20-116, 20-118, and 20-119, certain registration requirements and penalties arising under N.C. Gen. Stat. §§ 20-86.1 and 20-382, and certain registration and filing requirements and penalties arising under N.C. Gen. Stat. §§ 105-449.45, 105-449.47, and 105-449.49 for vehicles supporting emergency relief efforts in the Emergency Area.

Section 8.

Notwithstanding the waivers set forth above, size and weight restrictions and penalties have not been waived under the following conditions:

- a. When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer ("GVWR") or 90,000 pounds gross weight, whichever is less.
- b. When the vehicle weight exceeds a single-axle weight of 22,000 pounds, a tandem-axle weight of 42,000 pounds, or a gross weight of 90,000 pounds.
- c. When the vehicle consists of a five (5) or more axle combination vehicle that exceeds a single-axle weight of 26,000 pounds, a tandem-axle weight of 42,000 pounds and a gross weight 90,000 pounds, with a length of at least forty-eight (48) feet between the center of axle one and the center of the last axle of the vehicle and a minimum of eleven (11) feet between the center of axle one and the center of axle two of the vehicle.
- d. When the vehicle consists of a two-axle vehicle that exceeds a gross weight of 37,000 pounds and a single-axle weight of no more than 27,000 pounds, with a length of at least fourteen (14) feet between the center of axle one and the center of axle two of the vehicle.
- e. When a vehicle and vehicle combination exceed twelve (12) feet in width and the total overall vehicle combination's length exceeds seventy-five (75) feet from bumper to bumper.
- f. Vehicles and vehicle combinations subject to exemptions or permits by authority of this Executive Order shall not be exempt from the requirement of having (A) a yellow banner

on the front and rear that is seven (7) feet long and eighteen (18) inches wide and bears the legend "Oversized Load" in ten (10) inch black letters, 1.5 inches wide and (B) red flags measuring eighteen (18) inches square on all sides at the widest point of the load. In addition, when operating between sunset and sunrise, a certified escort shall be required for loads exceeding eight (8) feet six (6) inches in width.

- g. Commercial vehicles operating outside the normal weight, height, and length restrictions under the authority of this State of Emergency shall be issued permits by the DOT. Said vehicles shall be subject to any special conditions the DOT and DPS may list on applicable permits. Nothing in this Executive Order shall be construed to allow any vehicle to exceed weight limits posted for bridges and like structures, nor shall anything in this Executive Order be construed to relieve compliance with restrictions other than those specified in this Executive Order or from any statute, rule, order, or other legal requirement not specifically waived herein.
- h. Oversize permits may be issued by the DOT, Oversize/Overweight Unit, during normal business hours, Monday through Friday by calling 1-888-221-8166 or contacting them through the online portal at <https://connect.ncdot.gov/business/trucking/Pages/overpermits.aspx>.

Section 9.

Vehicles referenced under Sections 7 and 8 of this Executive Order shall be exempt from the following registration requirements, except where otherwise noted below:

- a. The requirement to obtain a temporary trip permit and payment of the associated \$50.00 fee listed in N.C. Gen. Stat. § 105-449.49.
- b. The registration requirements under N.C. Gen. Stat. §§ 20-382.1 and 20-382 concerning interstate for-hire authority; however, vehicles shall maintain the required limits of insurance as required.
- c. Non-participants in North Carolina's International Registration Plan and International Fuel Tax Agreement will be permitted to enter North Carolina in accordance with the exemptions identified by this Executive Order.

Section 10.

The size and weight exemption for vehicles will be allowed on all DOT designated routes, except those routes designated as light traffic roads under N.C. Gen. Stat. § 20-118. This Executive Order shall not be in effect on bridges posted pursuant to N.C. Gen. Stat. § 136-72 and Interstate highways.

Section 11.

The waiver of regulations under Title 49 of the Code of Federal Regulations does not apply to the Commercial Drivers' License and Insurance Requirements. This waiver shall be in effect for thirty (30) days or the duration of the emergency, whichever is less.

Section 12.

The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 6 through 11 of this Executive Order in a manner that does not endanger North Carolina motorists.

Section 13.

Upon request by law enforcement officers, exempted vehicles must produce documentation sufficient to establish that their loads are for use in (1) providing direct assistance

supporting emergency relief efforts including transporting essential fuels, food, water, medical supplies, feed for livestock and poultry, (2) transporting livestock, poultry, and crops ready to be harvested, or (3) the restoration of utility and transportation services in response to the winter storm.

Direct assistance terminates when a driver or commercial motor vehicle is used in interstate commerce to transport cargo or provide services that are not in support of emergency relief efforts related to the winter storm in North Carolina, or when the motor carrier dispatches a driver or commercial motor vehicle to another location to begin operations in commerce. (49 C.F.R. § 390.23(b)).

Upon termination of direct assistance to emergency relief efforts related to winter storm in North Carolina or the affected states, the motor carrier and driver are subject to the requirements of 49 C.F.R. Parts 390 through 399, except that a driver may return empty to the motor carrier's terminal or the driver's normal work reporting location without complying with Parts 390 through 399. When a driver is moving from emergency relief efforts to normal operations a 10-hour break is required when the total time a driver operates conducting emergency relief efforts, or a combination of emergency relief and normal operation, equals fourteen (14) hours.

Section 14.

This Executive Order does not prohibit or restrict lawfully possessed firearms or ammunition or impose any limitation on the consumption, transportation, sale, or purchase of alcoholic beverages as provided in N.C. Gen. Stat. § 166A-19.30(c).

Section 15.

Pursuant to N.C. Gen. Stat. § 166A-19.23, this declaration triggers the prohibition against excessive pricing as provided in N.C. Gen. Stat. §§ 75-37 and 75-38 in the Emergency Area.

Section 16.

This Executive Order is effective immediately and shall remain in effect for thirty (30) days or the duration of the emergency, whichever is less.

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 13th day of January in the year of our Lord two thousand and twenty-two.


Roy Cooper
Governor

ATTEST:


Elaine F. Marshall
Secretary of State



1 **NOTICE OF RULE MAKING PROCEEDINGS AND PUBLIC HEARING**

2
3 **NORTH CAROLINA BUILDING CODE COUNCIL**

4
5 **Notice of Rule-making Proceedings** is hereby given by NC Building Code Council in accordance with
6 *G.S. 150B-21.5(d).*

7
8 **Citation to Existing Rule Affected by this Rule-Making:** *North Carolina, Administrative, and*
9 *Residential, Code amendments.*

10
11 **Authority for Rule-making:** *G.S. 143-136; 143-138.*

12
13 **Reason for Proposed Action:** *To incorporate changes in the NC State Building Codes as a result of*
14 *rulemaking petitions filed with the NC Building Code Council and to incorporate changes proposed by the*
15 *Council.*

16
17 **Public Hearing:** *Tuesday, March 15, 2022, 9:00AM, Albemarle Building, 325 North Salisbury Street,*
18 *Raleigh, NC 27603, 2nd Floor Training Room 240. Comments on both the proposed rule and any fiscal*
19 *impact will be accepted.*

20
21 **Comment Procedures:** *Written comments may be sent to Carl Martin, Secretary, NC Building Code*
22 *Council, NC Department of Insurance, 1202 Mail Service Center, Raleigh, NC 27699-1202 (email*
23 *carl.martin@ncdoi.gov). Comments on both the proposed rule and any fiscal impact will be accepted.*
24 *Comment period expires on April 18, 2022.*

25
26 **Link to Agency Notice:**
27 <https://www.ncosfm.gov/codes/building-code-council-bcc/bcc-hearing-notices>

28
29 **Statement of Subject Matter:**

30
31 **1. Request from Kevin Brinkman representing the National Elevator Industry, Inc. (NEII) to amend**
32 **2018 NC Plumbing Code, Section 1003.4.**

33
34 **1003.4 Oil Separators required.** *At repair garages where floor or trench drains are provided, car washing*
35 *facilities, factories where oily and flammable liquid wastes are produced and hydraulic elevator pits, oil*
36 *separators shall be installed into which oil-bearing, grease-bearing or flammable wastes shall be discharged*
37 *before emptying into the building drainage system or other point of disposal.*

Exception: An oil separator is not required in hydraulic elevator pits where an *approved* alarm system is installed. ~~Elevator sump pits with oil minder pumps shall discharge the oil into a temporary storage tank.~~ Such alarm systems shall not terminate the operation of pumps utilized to maintain emergency operation of the elevator by fire fighters.

Motion/Second/Approved – The request was granted. The proposed effective date of this rule is June 1, 2022 (earliest through RRC), unless the BCC assigns a delayed effective date (January 1, 2023).
Reason Given – The purpose of this amendment is to align the North Carolina Plumbing Code requirement with the 2018 International Plumbing Code and eliminate an issue created by the sentence proposed for deletion.
Fiscal Statement – This rule is anticipated to provide equivalent compliance with no net decrease/increase in cost. This rule is not expected to either have a substantial economic impact or increase local and state funds. A fiscal note has not been prepared.

2. Request from Jamieson Stapleton representing Southern Energy Management to amend footnote h of 2018 NC Energy Code, Table R405.5.2(1) and 2018 NC Residential Code, Table N1105.5.2(1).

h. For residences with conditioned basements, R-2 and R-4 residences and townhouses, ~~the following formula shall be used to determine glazing area: the revised reference design total glazing area shall be the lesser of:~~

(1) Proposed glazing area

(2) The revised reference design total glazing area calculated using the following formula: $AF = A_s \times FA \times F$ where:

~~AF = Total glazing area~~ Revised reference design total glazing area

A_s = Standard reference design total glazing area = $0.15 \times$ Conditioned Floor Area

FA = (Above-grade thermal boundary gross wall area)/(above-grade boundary wall area + 0.5 × below-grade boundary wall area).

F = (Above-grade thermal boundary wall area)/(above-grade thermal boundary wall area + common wall area) or 0.56, whichever is greater.

and where:

Thermal boundary wall is any wall that separates conditioned space from unconditioned space or ambient conditions. Above-grade thermal boundary wall is any thermal boundary wall component not in contact with soil. Below-grade boundary wall is any thermal boundary wall in soil contact. Common wall area is the area of walls shared with an adjoining dwelling unit. ~~AF, A_s and CFA~~ AF, A_s and CFA are in the same units.

1 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is
2 June 1, 2022 (earliest through RRC), unless the BCC assigns a delayed effective date (January 1, 2023).
3 **Reason Given** – The purpose of this amendment is remove an unintended consequence of always setting
4 the reference case glazing to less than the proposed design glazing area, even when the proposed area is quite
5 small.
6 **Fiscal Statement** – This rule is anticipated to provide equivalent compliance with no net decrease/increase
7 in cost. This rule is not expected to either have a substantial economic impact or increase local and state
8 funds. A fiscal note has not been prepared. Because this amendment is a correction to make an existing
9 formula usable the required cost/benefit analysis result is that there is no additional cost or cost savings.
10 **Cost Benefit Analysis (as required by GS 1430138(a1)(2))** is published online at the following link:
11 <https://www.ncosfm.gov/20211214-b-6-2018-nc-energy-code-table-40552-footnote-h-cost-benefit-analysis>.

12
13 **3. Request from Bryan P. Holland representing the National Electrical Manufacturers Association**
14 **(NEMA) to amend the 2020 Electrical Code, Sections 10.1 and 10.2.**

15
16 **10.1 TITLE**

17 These Administrative Regulations along with the requirements included in the 2020 Edition of the National
18 Electrical Code (NFPA-70 - 2020) as adopted by the North Carolina Building Code Council on June 8,
19 2021, to be effective November 1, 2021, with the following amendments:

| | | |
|----------------------|-------------------|-------------------|
| 21 (1) 110.26(E)(2) | (12) 230.67 | (23) 334.15(C) |
| 22 (2) 210.8 | (13) 230.71(B) | (24) 406.4(D)(4) |
| 23 (3) 210.8(A) | (14) 230.85 | (25) 410.2 |
| 24 (4) 210.8(A)(2) | (15) 250.50 | (26) 410.16(C) |
| 25 (5) 210.8(A)(3) | (16) 250.53(A)(2) | (27) 555.10(3) |
| 26 (6) 210.8(A)(5) | (17) 250.140 | (28) 555.35(A)(3) |
| 27 (7) 210.8(B)(4) | (18) 250.142(B) | (29) 680.4 |
| 28 (8) 210.8(F) | (19) 300.3(B) | (30) 680.21(D) |
| 29 (9) 210.12(D) | (20) Table 300.5 | (31) 695.2 |
| 30 (10) 210.52(B)(2) | (21) 300.9 | (32) 695.3 |
| 31 (11) 210.52(C)(2) | (22) 320.23(A) | |

32
33 shall be known as the North Carolina Electrical Code, and may be cited as such or as the State Electrical
34 Code; and will be referred to herein as “the code” or “this code”. This code shall ~~not~~ apply to one- and two-
35 family dwellings effective November 1, 2022. ~~The 2017 State Electrical Code shall apply to one- and two-~~
36 ~~family dwellings.~~

37

1 **10.2 SCOPE**

2 ~~Article 80 Administration and Enforcement of the code is hereby not adopted and does not apply for this~~
3 ~~code. For Scope and Exceptions to Applicability of Technical Codes, refer to the North Carolina~~
4 ~~Administrative Code and Policies. This code shall not apply to one- and two-family dwellings.~~

6 **Motion/Second/Approved** – The request was granted. The proposed effective date of this rule is
7 June 1, 2022 (earliest through RRC), unless the BCC assigns a delayed effective date (January 1, 2023).

8 **Reason Given** – The purpose of this amendment is to apply the code to one- and two-family dwellings and
9 to test the applicability of NCGS 143-138(d) to amendments to the NC Electrical Code.

10 **Fiscal Statement** – This rule is anticipated to provide a net increase in cost to one- and two-family
11 dwellings. This rule is expected to have a substantial economic impact. A fiscal note has been prepared
12 and can be obtained from the following website: [https://www.ncosfm.gov/bcc-agenda-20211214-](https://www.ncosfm.gov/bcc-agenda-20211214-december-14-2021-item-b7-2020-nec-fiscal-note)
13 [december-14-2021-item-b7-2020-nec-fiscal-note.](https://www.ncosfm.gov/bcc-agenda-20211214-december-14-2021-item-b7-2020-nec-fiscal-note)

16 **NOTICE:**

17 **Appeals and Interpretations** of the North Carolina State Building Codes are published online at the
18 following link.

19 <https://www.ncosfm.gov/codes/codes-current-and-past>

22 **NOTICE:**

23 **Objections and Legislative Review** requests may be made to the NC Office of Administrative Hearings in
24 accordance with G.S. 150B-21.3(b2) after Rules are adopted by the Building Code Council.

25 <http://www.ncoah.com/rules/>

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 04 – DEPARTMENT OF COMMERCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commerce - Division of Employment Security intends to amend the rules cited as 04 NCAC 24A .0108; 24C .0204, .0205, .0207, .0209, .0214 and .0215.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://des.nc.gov/des-proposed-rules>

Proposed Effective Date: June 1, 2022

Public Hearing:

Date: March 2, 2022

Time: 10:00 a.m.

Location: Teleconference: +1 (888) 204-5984 Access Code: 3069171

Reason for Proposed Action:

04 NCAC 24A .0108 is proposed for amendment to specify the individual authorized to sign a report or form for the employing unit;

04 NCAC 24C .0204 is proposed for amendment to notify the parties of the time frame for receiving notices by electronic transmissions and the procedure for providing additional documents and evidence to the Appeals Referee and opposing party.

04 NCAC 24C .0205 is proposed for amendment to improve efficiency of telephone hearings by outlining the procedures of notifying the Appeals Referee of the telephone numbers for the Appeals Referee to contact the parties and witness(es) for the scheduled appeals hearing.

04 NCAC 24C .0207 is proposed for amendment to provide a list of reasons for which the Appeals Referee may reschedule the appeals hearing and the procedure for requesting a continuance of the hearing.

04 NCAC 24C .0209 is proposed for amendment to notify the parties of the individuals authorized to conduct the appeals hearing, and the procedures for submitting additional evidence to the Appeals Referee and opposing party.

04 NCAC 24C .0214 and 04 NCAC 24C .0215 are proposed for amendment to clarify the requirements for withdrawing an appeal, and the procedures for filing a new appeal of a determination after previously withdrawing an appeal to the same determination.

Comments may be submitted to: Regina S. Adams, Rulemaking Coordinator, Post Office Box 25903, Raleigh, NC 27611; phone (984) 236-5978; fax (919) 733-8745

Comment period ends: April 18, 2022

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 984-236-1850.

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 24 - EMPLOYMENT SECURITY

SUBCHAPTER 24A – GENERAL

SECTION .0100 – GENERAL

04 NCAC 24A .0108 SIGNATURES ON REPORTS AND FORMS

Where DES requires a signature on a report or form, the writing shall be signed by:

- (1) the individual, if the person required to submit the report or form is an individual;
- (2) ~~an~~ the president, vice president, or other principal officer or authorized representative, if the employing unit required to submit the report or form is a corporation;
- (3) ~~a partner or other authorized representative~~ partner, if the employing unit required to submit the report or form is a ~~partnership;~~ partnership or limited liability partnership;
- (4) ~~a member or other authorized representative,~~ member, if the employing unit required to submit the form is ~~an association;~~ a limited liability company or professional limited liability company;
- (5) ~~an~~ a responsible and duly authorized member or officer having knowledge of its affairs, if the

- employing unit required to submit the report or form is an unincorporated organization;
- (6) the fiduciary, if the employing unit required to submit the report or form is a trust or estate; ~~or the head of the department, or designee having control of the services to which contributions, reimbursements, or other payments are attributable, if the employing unit required to submit the report or form is the State of North Carolina.~~ a responsible and duly authorized representative of a governmental entity; or
- (8) an agent appointed by the employing unit under a power of attorney in accordance with 04 NCAC 24A .0109.

Authority G.S. 96-4; 96-9.15.

SUBCHAPTER 24C - INITIAL APPEALS FROM DETERMINATION

SECTION .0200 – INITIAL APPEALS HEARING

04 NCAC 24C .0204 APPEALS HEARING NOTICE

- (a) The Appeals Section shall mail notice of the hearing to each party at least 14 days before the hearing date, unless a party elects to receive correspondence and notices by electronic transmission pursuant to 04 NCAC 24A .0103.
- (b) A party who elects to receive correspondence and notices by electronic transmission shall receive an email ~~notification that the hearing notice, documents, or other information are available for electronic retrieval, along with instructions for retrieval.~~ at least 14 days before the hearing date, indicating that the hearing notice is available on the portal.
- (c) Notice of the hearing shall include:
- (1) the determination appealed;
 - (2) the appealing party;
 - (3) the time of the hearing;
 - (4) the date of the hearing;
 - (5) if requested at the time of filing the appeal, the physical location of an in-person hearing;
 - (6) the telephone number of each party for telephone hearings;
 - (7) each issue, with statutory reference, to be heard and decided;
 - (8) the name and contact information of the designated Appeals Referee;
 - (9) the manner by which witnesses may offer evidence and participate in the hearing;
 - (10) each party's right to legal representation;
 - (11) instructions for requesting a rescheduling of the hearing;
 - (12) ~~each party's right and instructions for requesting to request~~ the issuance of a subpoena for the production of records or for individuals to appear and to testify; testify, as well as instructions for making these requests;
 - (13) instructions on how to request an in-person hearing; and

- (14) instructions on how to give evidence at a hearing.
- (d) The determination, the written appeal, and any ~~additional documents provided to the Appeals Section with the appeal by either party~~ shall accompany the hearing notice. If a party desires to introduce additional documents or other evidence, e.g., audio or video recordings, photographs, or screenshots, at a hearing, the party shall submit the additional documents or other evidence to the Appeals Referee or hearing officer and to all other parties prior to the hearing in accordance with 04 NCAC 24C .0209(a), (c), and (d).

Authority G.S. 96-4; 96-15.

04 NCAC 24C .0205 TELEPHONE HEARINGS

- (a) Hearings shall be conducted by telephone conference call, unless a request is made for an in-person hearing at the time the appeal is filed or an objection is made pursuant to Rule .0206 of this Section.
- (b) ~~In cases of telephone hearings, the Appeals Section shall provide a Telephone Hearing Questionnaire for each party to use to submit each telephone number to be called by the Appeals Referee for the hearing. The Appeals Hearing Notice will list a telephone number for each party. This is the telephone number the Appeals Referee will call unless a different telephone number is provided in accordance with this Rule.~~
- (1) If no telephone number is listed for a party, that party shall provide a telephone number directly to the Appeals Referee prior to the scheduled start time of the hearing.
 - (2) If a party wishes to be called at a telephone number other than the one listed, that party shall provide a telephone number directly to the Appeals Referee prior to the scheduled start time of the hearing.
 - (3) If a party wishes to have witnesses called for participation in the hearing, that party shall provide the name and telephone number for each witness directly to the Appeals Referee prior to the scheduled start time of the hearing.
- (c) ~~Each party may complete and submit the Telephone Hearing Questionnaire containing each number to be called for the hearing to the Appeals Referee listed in the hearing notice, or pursuant to 04 NCAC 24A .0104(b).~~ Telephone numbers for parties and additional witnesses shall be provided to the Appeals Referee by telephone or by email. The telephone number and email address for the Appeals Referee are listed on the Appeals Hearing Notice.
- (d) ~~After receiving the hearing notice, and prior to the hearing, any party may contact the Appeals Referee to provide the name of each participant and each telephone number to be called for the hearing. In the absence of the submission by a party of any telephone number to be called for the hearing, the Appeals Referee shall call the party at the telephone number listed on the hearing notice. If a party fails to provide a telephone number to the Appeals Referee prior to the scheduled start time of the hearing, the Appeals Referee shall call the party at the telephone number listed on the Appeals Hearing Notice. If no telephone number is listed for a party, and no number has otherwise been~~

provided in accordance with this Rule, no call will be placed to that party for the hearing.

Authority G.S. 96-4; 96-15.

04 NCAC 24C .0207 RESCHEDULING A HEARING

(a) An Appeals Referee may continue a hearing for "good cause" as defined in 04 NCAC 24A .0105. Either before or during a hearing, an Appeals Referee, on his or her own motion, or on the motion of a party, may continue or adjourn a hearing for "good cause" in accordance with 04 NCAC 24A .0105. In addition to the reasons set forth in G.S. 96-15(d1), the reasons for which a continuance or an adjournment, may be granted at the request of a party when a party, witness, or the Appeals Referee is unavailable due to: includes the following:

- (1) illness; of the party;
- (2) death in the of an immediate family member. Immediate family member is defined as an individual's wife, husband, mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson, granddaughter, regardless of whether the relationship is a biological, adoptive, step-, half-, or in-law relationship;
- (3) a need to obtain an interpreter or translator;
- (4) a religious observance;
- (5) jury duty;
- (6) actively seeking legal representation;
- (7) appearance in court or another proceeding before the Division or the Board of Review; appearance unrelated to DES;
- (8) active military duty;
- (9) a scheduling conflict created by new employment; employment or to accommodate return-to-employment activities of the claimant; or
- (10) to accommodate the business needs of the employer; employer;
- (11) a scheduling conflict of the Appeals Referee; or
- (12) based on the operation and scheduling needs of the Appeals Section.

(b) Any request for continuance by a party prior to the hearing shall be made in writing to the Appeals Referee listed on the Appeals Hearing Notice, or where applicable, Order for Continuance or Order for Adjournment. The written request shall explain the reasons the request is being sought. Before a hearing, requests for a continuance of the hearing shall be made to the designated Appeals Referee orally or in writing. The request for a continuance of a hearing shall specifically state and explain the reasons for the request.

(c) Unless the parties are notified by the Appeals Referee or the Appeals Section that a request for continuance has been granted, the hearing will be conducted as scheduled.

Authority G.S. 96-4; 96-15.

04 NCAC 24C .0209 CONDUCT OF HEARINGS

(a) Hearings may be conducted by a Hearing Officer or an Appeals Referee, including the Chief Appeals Referee and the

Deputy Chief Appeals Referee. Consistent with G.S. 96-15(f), all hearings shall be conducted in a manner to preserve the substantial rights of the parties.

- (1) The parties to an appeal before an Appeals Referee have the right to present relevant and material evidence as determined by the Appeals Referee.
- (2) The Appeals Referee may ask questions to develop the record as to the relevant facts, circumstances, and issues presented at the hearing.
- (3) The Appeals Referee may examine parties and witnesses, and shall allow cross-examination, cross-examination to the extent necessary to afford the parties due process.
- (4) All issues relevant to the appeal shall be considered and ruled upon.

(b) The Appeals Referee shall give each party 10 minutes from the time of the scheduled hearing to appear for the hearing. If the appealing party fails to appear at the hearing and a continuance had not been previously granted, the Appeals Referee shall issue an Appeals Decision dismissing the appeal. If the appealing party is present and the non-appealing party fails to appear, the Appeals Referee shall proceed with the hearing.

(c) If a party wishes to introduce documents or other evidence not provided by the Appeals Section with the Appeals Hearing Notice, the party shall provide a copy to the Appeals Referee and to all other parties prior to the hearing. A party desiring to introduce documents or other evidence at a hearing shall provide an authenticated copy plus one copy for the Appeals Referee to include in the official record, and a copy to each party to the proceeding. Documents or other evidence shall be provided to the opposing party prior to the hearing.

(d) If the number of documents or other exhibits, e.g., photographs, screenshot, introduced by one party exceeds 25 pages, the party offering the documents or other exhibits shall number each document or other exhibit and provide an index listing each exhibit and its corresponding page number. The index shall accompany the exhibits and become part of the official hearing record. A party offering numerous documents into evidence shall prepare a list of documents in the order of their presentation. The list shall be provided to the Appeals Referee and opposing party before the hearing, to become part of the official hearing record.

(e) Official notice may be taken by the Appeals Referee of all facts for which judicial notice may be taken as well as and of other facts within the specialized knowledge of the DES Division. The official notice and its source shall be stated on the record and made known to the parties at the earliest practicable time. A Each party shall be given an opportunity to dispute the noticed fact by argument and submission of evidence; evidence on the record.

Authority G.S. 96-4; 96-15; 20 CFR 650.2.

04 NCAC 24C .0214 WITHDRAWAL OF APPEAL

(a) An appealing party may withdraw its appeal with the approval of the Appeals Referee.

(b) An appealing party's request to withdraw its appeal shall be in writing and contain:

- (1) ~~the reason for the request to withdraw the appeal;~~
- (2) ~~the date of the request;~~
- (3) ~~the docket or issue identification number of the determination being appealed;~~
- (4) ~~the claimant's identification number;~~
- (5) ~~the names of the claimant and employer;~~
- (6) ~~the name of the individual making the request to withdraw the appeal;~~
- (7) ~~the official position of an individual filing the request to withdraw the appeal on behalf of the party; and~~
- (8) ~~a telephone number.~~

This request shall be directed to DES's Appeals Section or to the Appeals Referee designated to hear the case, or recorded by the Appeals Referee using the digital recording system used to record hearings in accordance with G.S. 96-15(c).

~~(e) Following receipt of a request to withdraw the appeal, the Appeals Referee shall review each reason for the request.~~

(a) The appealing party may request to withdraw an appeal. Any request to withdraw an appeal must be made to the Appeals Referee scheduled to conduct the hearing.

(b) A request to withdraw an appeal may be made in writing or orally.

- (1) If the request is made in writing, it shall be made part of the record and include:
 - (A) the Appeals Docket Number;
 - (B) the names of parties to the appeal;
 - (C) the name of the individual making the request, and the individual's job title, if the employer is the requesting party; and
 - (D) a telephone number where the individual making the request to withdraw may be reached. The written request to withdraw shall be made part of the record.
- (2) If the request is made orally, it must be recorded by the Appeals Referee using the digital recording system used to record hearings in accordance with G.S. 96-15(c).

~~(d)(c) If a request to withdraw the appeal is approved, granted, the Appeals Referee shall issue an a written order. order granting the request to withdraw the appeal. The order shall contain no right to appeal the withdrawal of the appeal.~~

~~(e)(d) If a the request to withdraw the appeal is denied, the Appeals Referee shall notify the requesting party and make an oral ruling on the digital recording system providing the information considered and the reason the request was denied. issue an order denying the request to withdraw the appeal, informing the party of the information considered and the reason for the ruling. The order shall contain no right to appeal the denial of the withdrawal of the appeal.~~

~~(f)(c) A copy of the party's request to withdraw the appeal and the The Appeal Referee's order granting or denying the request shall be included in the official record of the case.~~

Authority G.S. 96-4; 96-15.

04 NCAC 24C .0215 NEW FILING AFTER WITHDRAWAL OF APPEAL

~~(a) A party whose request to withdraw the appeal was granted who then files an appeal of the same determination or issue number shall be deemed to have filed the appeal on the date that DES receives the new filing.~~

~~(b) The record on appeal for a matter that was closed before a new appeal was received shall include the appealing party's initial request to withdraw the appeal, the order granting the request to withdraw the appeal, and the new appeal filing.~~

~~(c) The Division DES or a party may raise the issue of the timeliness of the appeal if the appeal is filed after the appeal rights have expired on the determination or issue being appealed.~~

~~(d) Timeliness of the appeal shall be determined in accordance with 04 NCAC 24A .0106.~~

An aggrieved party may file a new appeal to a Determination by Adjudicator after the initial appeal has been withdrawn. The refiled appeal shall be scheduled for hearing before an Appeals Referee consistent with G.S. 96-15(c). Either the Division or a party may raise the issue of timeliness if the refiled appeal is received after the appeal rights to the determination have expired. The issue of timeliness shall be determined in accordance with G.S. 96-15(b)(2).

Authority G.S. 96-4; 96-15.

TITLE 11 – DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Insurance intends to adopt the rule cited as 11 NCAC 12 .0462.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.ncdoi.gov/insurance-industry/rules-and-rules-review/rules>

Proposed Effective Date: *June 1, 2022*

Public Hearing:

Date: *March 29, 2022*

Time: *10:00 a.m.*

Location: *NCDOI, Albemarle Building, 325 North Salisbury Street, Raleigh, NC 27603, Hearing Room*

Reason for Proposed Action: *Session Law 2017-136, directs the Department of Insurance to adopt rules substantially similar to the model regulation. Section 4 of the session law specifies that the rules are not subject to Part 3 of Article 2A of Chapter 150B, which are the statutes requiring review of the rule by the RRC (Part 3 is G.S. 150B-21.8 through 150B-21.16).*

Comments may be submitted to: *Loretta Peace-Bunch, 325 N. Salisbury Street, Raleigh, NC 27603*

Comment period ends: *April 18, 2022*

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 984-236-1850.

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 12 – LIFE AND HEALTH DIVISION

SECTION .0400 - LIFE: GENERAL NATURE

11 NCAC 12 .0462 SUITABILITY IN ANNUITY TRANSACTIONS

(a) The NAIC Suitability in Annuity Transactions Model Regulation (#275)("NAIC Model Regulation #275"), as adopted by the National Association of Insurance Commissioners at the Spring National Meeting of 2020, including subsequent amendments and editions, is hereby incorporated by reference. Copies of the Model Regulation are available free of charge from the Life and Health Division by email at l&hinbox@ncdoi.gov, the Department of Insurance website at www.ncdoi.com, or the NAIC Model Law website at <https://content.naic.org/model-laws>.
(b) As used in NAIC Model Regulation #275, "insert reference to enabling legislation" means S.L. 2017-136.

Authority G.S. 58-2-40; S.L. 2017-136.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 16 – BOARD OF DENTAL EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Dental Examiners intends to amend the rule cited as 21 NCAC 16F .0105.

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

Proposed Effective Date: July 1, 2022

Public Hearing:

Date: March 3, 2022

Time: 6:30 p.m.

Location: 2000 Perimeter Park Drive, Suite 160, Morrisville, NC 27560

Reason for Proposed Action:

21 NCAC 16F .0105 is proposed for amendment to require submission of all the information that is in the initial application and to set out a reinstatement process.

Comments may be submitted to: Bobby White, 2000 Perimeter Park Drive, Suite 160, Morrisville, NC 27560

Comment period ends: April 18, 2022

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 984-236-1850.

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

SUBCHAPTER 16F - PROFESSIONAL CORPORATIONS

SECTION .0100 - SCOPE

21 NCAC 16F .0105 APPLICATION FOR RENEWAL OR REINSTATEMENT

(a) ~~At least 20 days prior to the date of expiration of the~~ The certificate of ~~registration shall be renewed each year based on the anniversary of the date of issuance. registration, the~~ Within 30 days after the anniversary date, the professional entity ~~corporation or limited liability company~~ shall submit its application for renewal upon a form ~~provided by the Board, available on the Board's website, www.ncdentalboard.org,~~ and shall include the following information:

- (1) name of the company as shown on the certificate of registration;
- (2) name of the company as of the date of the application for renewal, if the company name has been amended;

- (3) street address of the company;
- (4) mailing address of the company, if different from the street address;
- (5) email address of the company; ~~and~~
- (6) ~~name~~ name, address, and dental license number of each shareholder or member, and each dentist practicing under the company;
- (7) name, address, and occupation of each corporation director and officer, or each limited liability company manager; and
- (8) disclosure of any disciplinary action taken by or investigation pending before the Board with respect to any licensed dentist identified as an incorporator, officer, director, shareholder, member, manager, or employee.

(b) The application shall be submitted by the president or vice president of the professional corporation or association or by a manager of the professional limited liability company to the Board with all the information listed in Paragraph (a) of this Rule, accompanied by the renewal fee of twenty-five dollars (\$25.00).

(c) If the application for renewal of the certificate of registration is not submitted within 30 days after the anniversary of the date of issuance, the certificate of registration shall be suspended. The professional entity may apply for reinstatement of the certificate of registration by satisfying the requirements of Paragraphs (a) and (b) of this Rule including payment of the renewal fee, plus payment of the penalty fee of ten dollars (\$10.00) as set out in G.S. 55B-11.

Authority G.S. 55B-11; 57D-2-01; 57D-2-02; 90-48.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Dental Examiners intends to adopt the rule cited as 21 NCAC 16G .0109 and amend the rules cited as 21 NCAC 16C .0101; 16F .0102, .0104, .0107, .0110; 16G .0103; 16I .0202; 16Q .0704; 16R .0202; 16V .0101, .0102 and 16Z .0101.

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

Proposed Effective Date: July 1, 2022

Public Hearing:

Date: March 3, 2022

Time: 6:30 p.m.

Location: 2000 Perimeter Park Drive, Suite 160, Morrisville, NC 27560

Reason for Proposed Action:

21 NCAC 16G .0109 is proposed for adoption to replace the corresponding temporary rule to address dental hygienist certification to administer local anesthetics.

21 NCAC 16C .0101 is proposed for amendment to be consistent with other applicable rules and to include a cross reference to the examination requirement in 16C .0303 for clarity.

21 NCAC 16F .0102 is proposed for amendment to provide for an online application process, to require that the initial request for certification be accompanied by the application for a

certificate of registration, and to set out a process for certification of licensure for an existing professional entity to transfer ownership interest.

21 NCAC 16F .0104 is proposed for amendment to provide for an online application process, to include disclosure of disciplinary action, and to notify applicants that certificate of registration will be issued only upon receipt of a copy of the entity's formation paperwork filed with the Secretary of State.

21 NCAC 16F .0107 is proposed for amendment to include articles of dissolution.

21 NCAC 16F .0110 is proposed for amendment to omit the additional requirement for the attestation of the secretary/treasurer and to simplify the notarization language.

21 NCAC 16G .0103 is proposed for amendment to permit delegation of the administration of local anesthetics by a certified dental hygienist.

21 NCAC 16I .0202 and 21 NCAC 16R .0202 are proposed for amendment to add "federally qualified health centers" to the lists of approved course sponsors.

21 NCAC 16Q .0704 is proposed for amendment to include investigations as a reason the Board may require an on-site inspection.

21 NCAC 16V .0101 and 21 NCAC 16V .0102 are proposed for amendment to clarify provisions and to include acts that violate other applicable federal or state laws or regulations.

21 NCAC 16Z .010 is proposed for amendment to clarify that the rule does not permit a certified dental hygienist to administer local anesthetics without direct supervision of a dentist.

Comments may be submitted to: Bobby White, 2000 Perimeter Park Drive, Suite 160, Morrisville, NC 27560

Comment period ends: April 18, 2022

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 984-236-1850.

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

**SUBCHAPTER 16C - LICENSURE DENTAL
HYGIENISTS**

SECTION .0100 - GENERAL PROVISIONS

21 NCAC 16C .0101 LICENSURE

(a) All dental hygienists shall be licensed by the ~~North Carolina State Board of Dental Examiners~~ before practicing dental hygiene in this State. All persons desiring to practice dental hygiene in this State shall pass Board approved written and clinical examinations, as set forth in Rule .0303 of this Subchapter, before receiving a license.

(b) The examination requirement ~~set forth in Paragraph (a) of this Rule~~ shall not apply to persons who do not hold a North Carolina dental hygiene license who are seeking volunteer licenses pursuant to G.S. 90-21.107, or licensure by military endorsement pursuant to Rules 21 NCAC 16G .0107 or .0108. .0108 of this Chapter or licensure by credentials pursuant to Rule .0501 of this Subchapter.

(c) All dental hygienists shall maintain an unexpired CPR certification at all times.

Authority G.S. 90-223; 90-224.

SUBCHAPTER 16F - PROFESSIONAL CORPORATIONS

SECTION .0100 - SCOPE

**21 NCAC 16F .0102 APPLICATION FOR
CERTIFICATION OF LICENSURE**

(a) ~~For purposes of formation of a professional entity, an application Applications for certification that all proposed owners of shares of stock in a professional corporation or association or all proposed managers and members of a professional limited liability company are licensed to practice dentistry in North Carolina shall be submitted on a form available on the Board's website, www.ncdentalboard.org, or by letter to the Board's office requesting such certification, and setting forth the following information: shall include:~~

- (1) ~~The proposed name of the corporation or professional limited liability company; the information and materials set out in Rule .0104(a) and (b) of this Subchapter; and~~
- (2) ~~The names of all proposed owners of the shares of stock to be issued by the corporation, or all members and managers of the professional limited liability company together with their addresses and current dental license numbers; and~~
- (3)(2) ~~The name or names the names, addresses, and North Carolina dental license numbers of the proposed incorporators of a professional corporation or association or the members who executed the articles of organization of the professional limited liability company, their addresses, and the current dental license numbers of such of them as are duly licensed to practice dentistry in the State of North Carolina.~~

(b) For an existing professional entity to issue or transfer shares of stock or an ownership interest to another person, an application for certification that the person proposed to acquire shares or an ownership interest is licensed to practice dentistry in North Carolina shall be submitted on a form available on the Board's website, www.ncdentalboard.org, and shall include the name of the professional entity and the name, address, and dental license number of the person proposed to acquire the shares or ownership interest.

Authority G.S. ~~55B-4(4);~~ 55B-4; 55B-6; 57D-2-01; 57D-2-02; 90-48.

**21 NCAC 16F .0104 CERTIFICATE OF
REGISTRATION**

(a) Each professional entity ~~corporation, association, or limited liability company~~ shall submit an application for a certificate of registration on the form available on the Board's website, www.ncdentalboard.org, provided by the Board for that purpose, and shall include the following information:

- (1) name of the company;
- (2) street address of the company;
- (3) mailing address of the company, if different from the street address;
- (4) email address of the company;
- (5) name, address, and dental license number of each shareholder or member, and each dentist to be employed by the company once it is registered;
- (6) name, address, and occupation of each corporation director and officer, or each limited liability company manager; and
- (7) ~~name, address, and duties of each person, other than dentists, to be employed by the company once it is registered. disclosure of any disciplinary action taken by or investigation pending before the Board with respect to any licensed dentist identified as an incorporator, officer, director, shareholder, member, manager, or employee.~~

(b) The application shall be:

- (1) signed and notarized in accordance with Rule .0110 of this Subchapter; ~~by the president or vice president of the professional corporation or association or by a manager of the professional limited liability company, and notarized;~~
- (2) accompanied by a statement of the capacity in which the person signs and the person's authority to submit the application on behalf of the professional entity;
- (2)(3) submitted to the Board with all the information listed in Paragraph (a) of this Rule; and
- (3)(4) accompanied by the registration fee of fifty dollars (\$50.00). ~~(\$50.00); and~~
- (4) ~~accompanied by a certified copy of the certificate of incorporation and articles of incorporation of the professional corporation or association or a certified copy of the articles of organization of the professional limited liability~~

~~company. For purposes of this Subparagraph, "certified" means the copy is accompanied by certification of filing from the Secretary of State as set forth in G.S. 55D-17.~~

(c) In addition to the requirements set out in Paragraphs (a) and (b) of this Rule, a certificate of registration shall not be issued until the Board receives a copy of the certificate of incorporation and articles of incorporation of the professional corporation or association, or a copy of the articles of organization of the professional limited liability company, accompanied by certification of filing from the Secretary of State as set forth in G.S. 55D-17.

~~(e)~~(d) The initial certificate of registration shall remain effective for one year from the date of issuance, unless suspended or terminated as provided in G.S. 55B-13, and each subsequent renewal of the certificate shall be effective for a period of one year from the date of issue.

Authority G.S. 55B-10; 57D-2-01; 57D-2-02; 90-48.

21 NCAC 16F .0107 AMENDMENTS TO ARTICLES OF INCORPORATION OR ORGANIZATION OR ARTICLES OF DISSOLUTION

Amendments to the articles of incorporation or articles of ~~organization~~ organization, or articles of dissolution shall be forwarded to the Board's office within 10 days after the filing of the same in the office of the Secretary of State of North Carolina.

Authority G.S. 55B-12; 57D-2-01; 57D-2-02; 57D-2-22; 57D-2-23; 90-48.

21 NCAC 16F .0110 CORPORATE OFFICERS OR MANAGERS MUST SHALL EXECUTE DOCUMENTS

All documents required by these Rules to be submitted to the Board by the professional entity ~~corporation or limited liability company~~ shall be executed by the president or vice president of the corporation ~~and attested to by the secretary/treasurer or by the managers~~ a manager of the limited liability company authorized to submit the documents on behalf of the professional entity, and notarized. ~~company, and duly acknowledged before a notary public or some other officer qualified to administer oaths.~~

Authority G.S. 55B-12; 57D-2-01; 90-48.

SUBCHAPTER 16G - DENTAL HYGIENISTS

SECTION .0100 - FUNCTIONS THAT MAY BE DELEGATED

21 NCAC 16G .0103 PROCEDURES PROHIBITED

Those procedures that require the professional education and skill of a dentist and shall not be delegated to a dental hygienist include:

- (1) performing comprehensive examination, diagnosis, and treatment planning;
- (2) performing surgical or cutting procedures on hard or soft tissues, including laser, air abrasion, or micro-abrasion procedures;

- (3) placing or removing therapeutic sulcular nonresorbable agents;
- (4) issuing prescription drugs, medications, or work authorizations;
- (5) performing the final placement or intraoral adjustment of a fixed or removable appliance;
- (6) performing intraoral occlusal adjustments that affect function, fit, or occlusion of any temporary or permanent restoration or appliance;
- (7) performing direct pulp capping or pulpotomy;
- (8) placing sutures;
- (9) performing final placement or cementation of orthodontic bands or brackets;
- (10) performing the placement or cementation of final restorations;
- (11) administering any anesthetic by any route except ~~administering topically applied agents intended to anesthetize only cutaneous tissue; the administration of:~~
 - (a) topically-applied agents intended to anesthetize only cutaneous tissue; or
 - (b) local anesthetics by dental hygienists certified in accordance with G.S. 90-221(a) and this Section, and administered under the direct supervision of a North Carolina licensed dentist;
- (12) using a high-speed handpiece intraorally;
- (13) performing cementation of endodontic posts;
- (14) condensing Amalgam;
- (15) using a transcutaneous electrical nerve stimulation (TENS) unit;
- (16) applying formocresol;
- (17) placing stainless steel crown on permanent or primary teeth;
- (18) performing pulp vitality testing;
- (19) performing curettage;
- (20) placing periodontal or surgical dressing;
- (21) performing oral brush biopsy;
- (22) taking bite registration or ~~Elastometrics;~~ elastometrics;
- (23) placing eugenol wick in dry socket;
- (24) fabricating or delivering sleep apnea appliance;
- (25) removing, replacing, or torqueing either impression or prosthetic implant abutments; and
- (26) administering any sedation or general anesthesia pharmacological agents, including drawing a dosage into a syringe.

Authority G.S. 90-221(a); 90-223(b).

21 NCAC 16G .0109 DENTAL HYGIENIST CERTIFICATION TO ADMINISTER LOCAL ANESTHETICS

(a) To apply for certification to administer local anesthetics by block or infiltration techniques:

- (1) a dental hygienist holding a valid dental hygiene license issued or renewed by the Board on or after October 1, 2021, shall submit to the Board a certificate of completion from a dental hygiene program meeting the requirements set out in G.S. 90-225.2 that was completed within five years prior to the date of the application; or
- (2) a dental hygienist licensed in North Carolina or any other state or territory who has been practicing dental hygiene for the two year period set out in G.S. 90-225.3(a)(2) shall submit to the Board evidence that, within five years prior to the date of the application, the applicant completed a course or courses meeting the requirements of G.S. 90-225.3(a)(3), including a certified letter stating the applicant's completion of the required injections in a course. For purposes of this Rule, "certified" shall mean the letter bears:
- (A) the notarized signature of a licensed dentist instructor who supervised the applicant's completion of the injections during the course or courses; or
- (B) the official seal or stamp of the school, college, or continuing education provider through which the applicant completed the course or courses.

(b) If an applicant completed the course of study required pursuant to G.S. 90-225.2 or G.S. 90-225.3(a)(3) more than five years prior to submitting the application materials set out in Paragraph (a) of this Rule, the applicant shall retake a course or courses meeting the requirements of G.S. 90-225.3(a)(3) before the applicant may be certified to administer local anesthetics, unless the applicant submits documentation showing the applicant has been practicing dental hygiene, including the administration of local anesthetics by infiltration and block techniques, for the two year period prior to the date of the application.

(c) The requirements set out in Paragraph (a) of this Rule are in addition to any other applicable requirements set out in this Chapter for the issuance or renewal of a dental hygiene license.

(d) As a condition to renew a certificate to administer local anesthetics, each dental hygienist shall complete two clock hours of continuing education each calendar year in satisfaction of the requirements of G.S. 90-225.3(c), which may be among those chosen to satisfy the requirements set out in 21 NCAC 16I .0201(a).

(e) A dental hygienist certified in accordance with this Rule shall conduct administration of local anesthetics only under the direct supervision of a North Carolina licensed dentist.

Authority G.S. 90-221; 90-223; 90-225.2; 90-225.3.

SUBCHAPTER 16I - ANNUAL RENEWAL OF LICENSE AND CONTINUING EDUCATION REQUIREMENTS: DENTAL HYGIENIST

SECTION .0200 – CONTINUING EDUCATION

21 NCAC 16I .0202 APPROVED COURSES AND SPONSORS

(a) ~~Courses in satisfaction of~~ allowed to satisfy the continuing education requirement ~~must~~ shall be related to clinical patient care. Hours spent reviewing dental or dental hygiene publications or videos shall not count toward fulfilling the continuing education requirement, with the exception of self study courses as described in Rule .0201 of this Subchapter that are offered by a Board approved continuing education sponsor.

(b) Approved continuing education course sponsors include:

- (1) providers recognized by the American Dental Association's Continuing Education Recognition Program, the Academy of General Dentistry, the American Dental Hygienists' Association, or components of such organizations;
- (2) North Carolina Area Health Education Centers;
- (3) educational institutions with dental, dental hygiene or dental assisting schools or departments;
- (4) national, ~~state~~ state, or local societies or associations; ~~and~~
- (5) local, ~~state~~ state, or federal governmental ~~entities~~ entities; ~~and~~
- (6) Federally Qualified Health Centers.

Authority G.S. 90-225.1.

SUBCHAPTER 16Q - GENERAL ANESTHESIA AND SEDATION

SECTION .0700 – COMPLIANCE AND REPORTING

21 NCAC 16Q .0704 INSPECTION AUTHORIZED

Incident to the renewal of an anesthesia or sedation permit or any itinerant permit, or incident to an investigation pursuant to Subchapter 16U of this Chapter, in order to ensure compliance, the Board may require an on-site inspection of the dentist's facility, equipment, personnel, and procedures. The inspection shall be conducted in accordance with the applicable rules and requirements of this Subchapter. Subchapter applicable to the type of permit.

Authority G.S. 90-28; 90-30.1.

SUBCHAPTER 16R – ANNUAL RENEWAL OF LICENSE AND CONTINUING EDUCATION REQUIREMENTS: DENTIST

SECTION .0200 - CONTINUING EDUCATION

21 NCAC 16R .0202 APPROVED COURSES AND SPONSORS

(a) Courses allowed to satisfy the continuing education requirement shall be related to clinical patient care. Hours devoted to financial issues or practice development topics shall not be counted toward the continuing education requirement. Hours spent reviewing dental journals, publications or videos shall not count toward fulfilling the continuing education requirement,

with the exception of self-study courses as described in Rule .0201 of this Section offered by Board approved sponsors.

(b) Approved continuing education course sponsors include:

- (1) those recognized by the Continuing Education Recognition Program of the American Dental Association;
- (2) the Academy of General Dentistry;
- (3) North Carolina Area Health Education Centers;
- (4) educational institutions with dental, dental hygiene or dental assisting schools or departments;
- (5) national, ~~state~~ state, or local societies or associations; ~~and~~
- (6) local, ~~state~~ state, or federal governmental ~~entities~~; entities; ~~and~~
- (7) Federally Qualified Health Centers.

Authority G.S. 90-31.1.

SUBCHAPTER 16V – UNPROFESSIONAL CONDUCT

SECTION .0100 - UNPROFESSIONAL CONDUCT

21 NCAC 16V .0101 DEFINITION:

UNPROFESSIONAL CONDUCT BY A DENTIST

Unprofessional conduct by a dentist as set out in G.S. 90-41(a)(26) shall include the following:

- (1) having professional discipline imposed, including the denial of licensure, by the dental licensing authority of another state, territory, or country. For purposes of this Rule, the surrender of a license under threat of disciplinary action shall be considered the same as if the licensee had been disciplined;
- (2) presenting false or misleading testimony, statements, omissions, or records in any communication to the Board or the Board's ~~investigator or employees~~ investigators, employees, or agents regarding any matter subject to the provisions of the Dental Practice Act or Dental Hygiene Act; during the scope of any investigation, or at any hearing of the Board;
- (3) being convicted of or entering a plea of guilty or nolo contendere to any charge for a crime that is violent or sexual in nature;
- (4) violating any order of the Board previously entered in a disciplinary hearing, or failing to comply with a subpoena of the Board;
- (5) conspiring with any person to commit an act, or committing an act that would coerce, intimidate, or preclude any patient or witness from testifying against a licensee in any disciplinary hearing, or retaliating in any manner against any patient or other person who testifies or cooperates with the Board during any investigation under the Dental Practice or Dental Hygiene Acts;

- (6) failing to identify to a patient, patient's guardian, or the Board the name of an employee, employer, contractor, or agent who renders dental treatment or services upon request;
- (7) prescribing, procuring, dispensing, or administering any controlled substance for personal use, which does not include those prescribed, dispensed, or administered by a practitioner authorized to prescribe them;
- (8) pre-signing blank prescription forms or using pre-printed or rubber stamped prescription forms containing the dentist's signature or the name of any controlled substance;
- (9) forgiving the co-payment provisions of any insurance policy, insurance contract, health prepayment contract, health care plan, or nonprofit health service plan contract by accepting the payment received from a third party as full payment, unless the dentist discloses to the third party that the patient's payment portion will not be collected;
- (10) failing to provide radiation safeguards required by the State Department of Health and Human Services, the federal Occupational and Safety Health Administration, the Food and Drug Administration, or the Environmental Protection Agency;
- (11) having professional connection with or lending one's name to the unlawful practice of dentistry, including as set forth in G.S. 90-41(a)(9);
- (12) using the name of any deceased or retired dentist on any office door, directory, stationery, bill heading, or any other means of communication any time after one year following the death or retirement from practice of said dentist;
- (13) failing to comply with any provision of any contract or agreement with the Caring Dental Professionals Program;
- (14) failing to ~~file~~ submit a truthful response to a notice of complaint filed against the licensee with the ~~Board~~ Board, or to any related request, accompanied by a signed verification on a form provided by the Board with the notice or request, within the time allowed in the notice, by the Board;
- (15) failing to notify the Board of a change in current primary physical address, which shall be either a personal address or a business address at the licensee's election, within 10 business days;
- (16) permitting more than two dental hygienists for each licensed dentist in the office to perform clinical hygiene tasks, as set forth in G.S. 90-233(b);
- (17) failing to produce diagnostic radiographs or other treatment records on request of the Board or its investigator;

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|--|---|
| <p>(18) soliciting employment of potential patients in person or by telephone or permitting or directing another to do so;</p> <p>(19) giving or accepting anything of value in exchange for a promise to refer or referral of potential patients;</p> <p>(20) failing to offer 30 days of emergency care upon dismissing a patient from a dental practice;</p> <p>(21) withholding or refusing to complete a treatment procedure for an existing patient conditioned upon payment of an outstanding balance;</p> <p>(22) using protected patient health information, as defined by 45 CFR 160.103, to solicit potential patients;</p> <p>(23) making misleading or untruthful statements for the purpose of procuring potential patients, or directing or allowing an employee or agent to do so;</p> <p>(24) making false statements or omissions in any communication with the Board or its agents regarding the subject of any disciplinary matter under investigations by the Board; committing any act that results in harm to a patient, employee, or independent contractor in connection with the provision of dental services and violates State or federal statutes or regulations, such as the Health Insurance Portability and Accountability Act;</p> <p>(25) refusing to permit a Board agent or employee to conduct a sterilization inspection;</p> <p>(26) acquiring any controlled substance from any source by fraud, deceit or misrepresentation;</p> <p>(27) practicing outside the scope of dentistry, as set forth in G.S. 90-29; and</p> <p>(28) <u>committing any act that violates State or federal statutes or regulations governing controlled substances; and</u></p> <p>(28)(29) committing any act that would constitute civil assault or civil battery in connection with the provision of dental services. The North Carolina Pattern Jury Instructions for Civil 800.50, Assault, and for Civil 800.51, Battery, are hereby incorporated by reference, including subsequent amendments and editions. These documents may be accessed at no cost at https://www.sog.unc.edu/resources/microsites/north-carolina-pattern-jury-instructions/north-carolina-pattern-jury-instructions-civil-cases.</p> | <p>(2) presenting false or misleading testimony, statements, <u>omissions</u>, or records <u>in any communication</u> to the Board or the Board's investigator or employees <u>investigators, employees, or agents regarding any matter subject to the provisions of the Dental Practice Act or Dental Hygiene Act; during the scope of any investigation or at any hearing of the Board;</u></p> <p>(3) being convicted of or entering a plea of guilty or nolo contendere to any charge for a crime that is violent or sexual in nature;</p> <p>(4) violating an order of the Board previously entered in a disciplinary hearing or failing to comply with a subpoena of the Board;</p> <p>(5) conspiring with any person to commit an act, or committing an act that would coerce, intimidate, or preclude any patient or witness from testifying against a licensee in any disciplinary hearing, or retaliating in any manner against any patient or other person who testifies or cooperates with the Board during any investigation under the Dental Practice or Dental Hygiene Acts;</p> <p>(6) failing to identify to a patient, patient's guardian, an employer, or the Board the name of any person or agent who renders dental treatment or services upon request;</p> <p>(7) procuring, dispensing, or administering any controlled substance for personal use except those prescribed, dispensed, or administered by a practitioner authorized to prescribe them;</p> <p>(8) acquiring any controlled substance from any pharmacy or other source by misrepresentation, fraud or deception;</p> <p>(9) having professional connection with or lending one's name to the illegal practice of dental hygiene, including as set forth in G.S. 90-229(11); <u>90-229(a)(11);</u></p> <p>(10) failing to comply with any provision of any contract or agreement with the Caring Dental Professionals Program;</p> <p>(11) failing to file <u>submit</u> a truthful response to a notice of complaint filed <u>against the licensee with the Board, or to any related request, accompanied by a signed verification on a form provided by the Board,</u> within the time allowed in the notice; by the Board;</p> <p>(12) failing to notify the Board of a change in current primary physical address, which shall be either a personal address or a business address at the licensee's election, within 10 business days;</p> <p>(13) working in a clinical hygiene position if the ratio of hygienists to licensed dentists present in</p> |
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Authority G.S. 90-22(a); 90-28; 90-29; 90-40; 90-40.1; 90-41; 90-48; 90-223(b).

**21 NCAC 16V .0102 DEFINITION:
UNPROFESSIONAL CONDUCT BY A DENTAL
HYGIENIST**

Unprofessional conduct by a dental hygienist as set out in G.S. 90-229(a)(12) shall include the following:

- (1) having professional discipline imposed, including the denial of licensure, by the dental

- the office is greater than 2:1, as set forth in G.S. 90-233(b);
- (14) soliciting employment of potential patients in person or by telephone or permitting or directing another to do so;
 - (15) giving or accepting anything of value in exchange for a promise to refer or referral of potential patients;
 - (16) using protected ~~patient~~ health information, as defined by 45 CFR 160.103, to solicit potential patients;
 - (17) making misleading or untruthful statements for the purpose of procuring potential patients or assisting another to do so;
 - (18) ~~making false statements or omissions in any communication with the Board or its agents regarding the subject of any disciplinary matter under investigation by the Board; committing any act that results in harm to a patient in connection with the provision of dental services and violates State or federal statutes or regulations, such as the Health Insurance Portability and Accountability Act;~~
 - (19) practicing outside the scope of dental hygiene, as defined in G.S. 90-221(a); ~~and~~
 - (20) committing any act that violates State or federal statutes or regulations governing controlled substances; and
 - ~~(20)~~(21) committing any act that would constitute civil assault or civil battery in connection with the provision of dental hygiene services. The North Carolina Pattern Jury Instructions for Civil 800.50, Assault, and for Civil 800.51, Battery, are hereby incorporated by reference, including subsequent amendments and editions. These documents may be accessed at no cost at <https://www.sog.unc.edu/resources/microsites/north-carolina-pattern-jury-instructions/north-carolina-pattern-jury-instructions-civil-cases>.

Authority G.S. 90-29; 90-221; 90-223; 90-229.

SUBCHAPTER 16Z - LIMITED SUPERVISION HYGIENISTS

21 NCAC 16Z .0101 ELIGIBILITY TO PRACTICE HYGIENE OUTSIDE DIRECT SUPERVISION

- (a) To be eligible to perform the clinical hygiene procedures set out in G.S. 90-221(a) without the direct supervision of a dentist, a dental hygienist shall:
- (1) maintain an active license to practice dental hygiene in this State;
 - (2) have no prior disciplinary history in any ~~State;~~ state;
 - (3) complete at least three years of experience in clinical dental hygiene or at least 2,000 hours of performing prophylaxis or periodontal debridement under the supervision of a dentist licensed in this State within the five calendar

- (4) years immediately preceding initial approval to work without direct supervision;
 - (5) maintain current CPR certification; and complete at least six hours of Board approved continuing education in dental office medical emergencies, in addition to the minimum hours of continuing education required for license renewal. A list of Board-approved sponsors appears in 21 NCAC 16I .0202.
- (b) To retain eligibility to perform the clinical hygiene procedures set out in G.S. 90-221(a) without direct supervision of a dentist, a dental hygienist shall:
- (1) complete at least six hours of Board approved continuing education in dental office medical emergencies each year, in addition to the minimum hours of continuing education required for license renewal;
 - (2) maintain current CPR certification;
 - (3) comply with all provisions of the N.C. Dental Practice Act and all rules of the Dental Board applicable to dental hygienists; and
 - (4) cooperate with all Board inspections of any facility at which the hygienist provides dental hygiene services without direct supervision of a dentist.
- (c) Nothing in this Rule shall be construed to permit a dental hygienist to administer local anesthetics as set out in G.S. 90-221(a) without the direct supervision of a North Carolina licensed dentist.

Authority G.S. 90-221; 90-229; 90-233.

CHAPTER 46 – BOARD OF PHARMACY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Pharmacy intends to adopt the rule cited as 21 NCAC 46 .1820 and amend the rule cited as 21 NCAC 46 .2507.

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

Proposed Effective Date: *July 1, 2022*

Public Hearing:

Date: *April 28, 2022*

Time: *10:00 a.m.*

Location: *The public hearing will be held remotely. The public can participate on Teams at <https://tinyurl.com/2p8czkmb> or may call 336-604-5350, conference ID 232 964 29#.*

Reason for Proposed Action: *Session Law 2021-110 made a number of changes governing the administration of vaccines by pharmacy personnel. Two of those changes require rule changes. First, Session Law 2021-110 permits pharmacy technicians to administer certain vaccinations under pharmacist supervision. Session Law 2021-110, Section 4.(b) requires the Board of Pharmacy and the Medical Board to adopt rules governing*

pharmacy technician administration of vaccinations. The Board of Pharmacy has proposed amendments to 21 NCAC 46.2507 to put appropriate standards in place for training, supervision, and other requirements to ensure adequate protection of the public health, safety, and welfare. Note that, by virtue of a Declaration under the Public Readiness and Emergency Preparedness (PREP) Act, since October 20, 2020, the United States Department of Health and Human Services has authorized pharmacy technicians to administer certain vaccines, preempting state law. The requirements in the amendments to Rule .2507 are based on the guidance that the Board of Pharmacy has previously provided for safe technician administration under the PREP Act, without any known incident for over a year.

Second, Session Law 2021-110 required the Board of Pharmacy and the Medical Board to adopt "a statement of ethics for immunizing pharmacists." Moreover, Session Law 2021-110 adopted "unprofessional conduct" as a new ground of discipline for pharmacists (and, by extension, pharmacies) in G.S. 90-85.38. The Boards have jointly proposed adoption of the American Pharmacists Association Code of Ethics to define professional conduct, including but not limited to that conduct by immunizing pharmacists. This reflects an approach taken by numerous licensing boards in adopting an established industry set of conduct standards as reflecting appropriate professional practice. Proposed new rule 21 NCAC 46.1820 would adopt that code of ethics by reference, and the amendments to Rule .2507 would refer to that rule as specifically governing pharmacists' immunization activities. The Medical Board has proposed amending 21 NCAC 32U .0101 to effectively adopt the amendments to Rule .2507 by reference (and also thereby the application of new Rule .1820 to immunization).

Comments may be submitted to: Jay Campbell, 6015 Farrington Rd., Ste 201, Chapel Hill, NC 27517; email ncboprulemaking@ncbop.org

Comment period ends: May 2, 2022

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 984-236-1850.

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

SECTION .1800 - PRESCRIPTIONS

21 NCAC 46.1820 CODE OF ETHICS

All pharmacists must comply with the American Pharmacist Association Code of Ethics, which is incorporated herein by reference, along with all amendments to that Code of Ethics. Any contrary conduct is unprofessional conduct under G.S. 90-85.38. A copy of the Code of Ethics is available on the Board's website at <http://ncbop.org/lawandrules.htm>.

Authority G.S. 90-85.3A; 90-85.6; 90-85.15A; 90-85.15B; 90-85.22; 90-85.26; 90-85.26A; 90-85.32; 90-85.33; 90-85.34; 90-85.44; S.L. 2021-110, s. 4.(a).

SECTION .2500 - MISCELLANEOUS PROVISIONS

21 NCAC 46.2507 ADMINISTRATION OF VACCINES BY PHARMACISTS

(a) An Immunizing Pharmacist shall administer only those vaccines or immunizations permitted by G.S. 90-85.15B and shall do so subject to all requirements of that statute and this Rule.

(b) The following words and terms, when used in this Rule, have the following meanings:

- (1) "Administer" means the direct application of a drug to the body of a patient by injection, inhalation, ingestion, or other means by:
 - (A) an Immunizing Pharmacist or a Pharmacy Intern or registered pharmacy technician who is under the ~~direct, in-person~~ supervision of an Immunizing Pharmacist; or
 - (B) the patient at the direction of either an Immunizing Pharmacist or a health care provider authorized by North Carolina law to prescribe the vaccine.
- (2) "Immunizing Pharmacist" shall have the meaning provided in G.S. 90-85.3(i1).
- (3) "Immunizing Pharmacy Personnel" means an Immunizing Pharmacist, or a Pharmacy Intern or a registered pharmacy technician who administers vaccines under the supervision of an Immunizing Pharmacist.
- ~~(3)~~(4) "Pharmacy Intern" shall have the meaning provided in 21 NCAC 46.1317(29).
- ~~(4)~~(5) "Physician" means an M.D. or D.O. currently licensed with the North Carolina Medical Board who is responsible for the supervision of the Immunizing Pharmacist pursuant to the Written Protocol between the Immunizing Pharmacist and the Physician.
- (6) RESERVED
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- (10) RESERVED
- (11) RESERVED
- (12) "Written Protocol" is a document prepared, signed, and dated by the Physician and Immunizing Pharmacist that shall contain the following:
 - (A) the name of the Physician responsible for authorizing the Written Protocol;
 - (B) the name of the Immunizing Pharmacist authorized to administer vaccines;
 - (C) the immunizations or vaccinations that may be administered by the Immunizing Pharmacist;
 - (D) the screening questionnaires and safety procedures that shall at least include the then-current minimum standard screening questionnaire and safety procedures adopted by the Medical Board, the Board of Nursing, and the Board of Pharmacy pursuant to S.L. 2013-246, s. 6, and available at the Board of Pharmacy's office and on its website (www.ncbop.org).
 - (E) the procedures to follow, including any drugs required by the Immunizing Pharmacist for treatment of the patient, in the event of an emergency or adverse event following vaccine administration;
 - (F) the reporting requirements by the Immunizing Pharmacist to the Physician, including content and time frame; and
 - (G) the locations at which the Immunizing Pharmacist may administer immunizations or vaccinations.

The Physician and the Immunizing Pharmacist shall review the Written Protocol at least annually and revise it if necessary.

(c) A registered pharmacy technician may administer those vaccines or immunizations permitted by G.S. 90-85.15B on behalf of an Immunizing Pharmacist, if the registered pharmacy technician does the following:

- (1) Completes a practical training program that is approved by the Accreditation Council of Pharmacy Education;
- (2) Holds a current basic CPR certification;
- (3) Notifies the North Carolina Board of Pharmacy of immunizing pharmacy technician status;
- (4) Is supervised by an Immunizing Pharmacist who is responsible for ensuring compliance with all legal requirements for vaccinations administered by a registered pharmacy technician under this Rule;
- (5) Either (i) has an Immunizing Pharmacist on site and readily available to assist as needed, or (ii) has another licensed health care provider authorized to administer vaccines on site and readily available to assist as needed and has a

supervising pharmacist readily available by phone or other telecommunications method for consultation as needed;

- (6) Has the Immunizing Pharmacist or other health care provider who is present under Subparagraph (5) of this Paragraph review the patient's vaccine registry or other vaccination records and the screening questionnaire before the pharmacy technician administers the vaccine;
- (7) Makes an offer of counseling to the patient, which offer to counsel and any counseling should comply with Rule .2504 of this Section; and
- (8) Maintains documentation of three hours of continuing education every two years, designed to maintain competency in vaccine administration.

(e)(d) An Immunizing Pharmacy Personnel Pharmacist who, because of physical disability, is are unable to obtain a current provider level CPR certification pursuant to G.S. 90-85.3(i1)(1), may administer vaccines in the presence of a pharmacy technician, Pharmacy Intern technician or pharmacist who holds a current provider level CPR certification.

(d)(e) With each dose of vaccine, either the Immunizing Pharmacy Personnel Pharmacist or a Pharmacy Intern shall give the most current vaccine information regarding the purpose, risks, benefits, and contraindications of the vaccine to the patient or legal representative. The Immunizing Pharmacy Personnel Pharmacist or Pharmacy Intern must ensure that the patient or legal representative has the opportunity to read, or to have read to him or her, the information provided and to have any questions answered prior to administration of the vaccine.

(e)(f) In agreeing to serve as a supervising Physician, the Physician shall agree to meet the following requirements:

- (1) be responsible for the formulation or approval of the Written Protocol and review the Written Protocol and the services provided to patients under the Written Protocol, as set out in Subparagraph (b)(12) of this Rule;
- (2) be accessible to the Immunizing Pharmacist or be available through direct telecommunication for consultation, assistance, direction, and provide back-up coverage; and
- (3) receive periodic status reports from the Immunizing Pharmacist, including any problems or complications encountered.

(f)(g) The following requirements pertain to drugs administered by an Immunizing Pharmacy Personnel Pharmacist:

- (1) Drugs administered by an Immunizing Pharmacist under the provisions of this Rule shall be in the legal possession of:
 - (A) a pharmacy, which shall be the pharmacy responsible for drug accountability, including the maintenance of records of administration of the immunization or vaccination; or

(B) the Physician, who shall be responsible for drug accountability, including the maintenance of records of administration of the immunization or vaccination;

- (2) Drugs shall be transported and stored at the proper temperatures indicated for each drug;
- (3) Immunizing Pharmacy Personnel, ~~Pharmacists~~, while engaged in the administration of vaccines under the Written Protocol, shall have in their custody and control the vaccines identified in the Written Protocol and any other drugs listed in the Written Protocol to treat adverse events; and
- (4) After administering vaccines at a location other than a pharmacy, the Immunizing Pharmacy Personnel ~~Pharmacist~~ shall return all unused prescription medications to the pharmacy or Physician responsible for the drugs.

~~(g)~~(h) Record Keeping and Reporting.

- (1) An Immunizing Pharmacist shall maintain the following information, readily retrievable, in the pharmacy records in accordance with the applicable rules and statute regarding each administration:
 - (A) the name, address, and date of birth of the patient;
 - (B) the date of the administration;
 - (C) the administration site of injection (e.g., right arm, left leg, right upper arm);
 - (D) route of administration of the vaccine;
 - (E) the name, manufacturer, lot number, and expiration date of the vaccine;
 - (F) dose administered;
 - (G) the name and address of the patient's primary health care provider, as identified by the patient; and
 - (H) the name or identifiable initials of the Immunizing Pharmacist.
- (2) An Immunizing Pharmacist shall document the annual review with the Physician of the Written Protocol as required in this Rule.
- (3) An Immunizing Pharmacist shall report adverse events associated with administration of a vaccine to either the prescriber, when administering a vaccine pursuant to G.S. 90-85.15B(a), or the patient's primary care provider, if the patient identifies one, when administering a vaccine pursuant to G.S. 90-85.15B(b).

~~(h)~~(i) The Immunizing Pharmacist shall maintain written policies and procedures for handling and disposal of used or contaminated equipment and supplies.

(j) The Immunizing Pharmacist shall comply with Rule .1820 of this Chapter in the practice of pharmacy pursuant to this Rule.

Authority G.S. 90-85.3; 90-85.6; 90-85.15B; S.L. 2021-110, s. 4.(a) and (b).

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Pharmacy intends to adopt the rule cited as 21 NCAC 46 .2514.

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

Proposed Effective Date: July 1, 2022

Public Hearing:

Date: April 28, 2022

Time: 10:00 a.m.

Location: The public hearing will be held remotely. The public can participate on Teams at <https://tinyurl.com/2p8czkmb> or may call 336-604-5350, conference ID 232 964 29#.

Reason for Proposed Action: Session Law 2021-3, Section 2.9.(a), permits "immunizing pharmacists" (as defined by statute) to administer long-acting injectable medications to adults pursuant to prescription. The law became effective on October 1, 2021, and the Board of Pharmacy adopted a temporary rule (21 NCAC 46 .2514) to implement the section, as permitted by the statute. Because of the placement of the long-acting injectable authority in the "immunizing pharmacist" statute (90-85.15B), a permanent rule governing the administration of these drugs must be approved by both the Board of Pharmacy and the Medical Board. The Board of Pharmacy has proposed adoption of a permanent version of Rule .2514. The proposed rule would put appropriate standards in place for training, recordkeeping and other requirements needed to ensure that the drugs are administered with adequate protection of the public health, safety, and welfare. The requirements in the proposed rule are largely imported from 21 NCAC 46 .2507, which governs immunizing pharmacist administration of vaccines, so that the regulated pharmacists will already be familiar with these requirements. Moreover, the proposed permanent rule does not vary in any substantial way from the temporary rule that has been operating without any known incident since October 1, 2021. The Medical Board has proposed a new rule (21 NCAC 32U .0102) that would adopt proposed permanent Rule .2514 by reference.

Comments may be submitted to: Jay Campbell, 6015 Farrington Rd Ste 201, Chapel Hill, NC 27517; email ncboprulemaking@ncbop.org

Comment period ends: May 2, 2022

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 984-236-1850.

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

SECTION .2500 - MISCELLANEOUS PROVISIONS

21 NCAC 46 .2514 ADMINISTRATION OF LONG-ACTING INJECTABLES

(a) A "long-acting injectable" is drug product formulated to produce sustained release and gradual absorption of the active pharmaceutical ingredient over an extended period of time after administration by subcutaneous or intramuscular injection.

(b) "Administer" means the direct application of a drug to the body of a patient by injection by:

- (1) an Immunizing Pharmacist or a pharmacy intern who is under the direct, in-person supervision of an Immunizing Pharmacist; or
- (2) the patient at the direction of either an Immunizing Pharmacist or a health care provider authorized by North Carolina law to prescribe the long-acting injectable.

(c) In order to administer long-acting injectables, an Immunizing Pharmacist must:

- (1) satisfy all requirements to be an "Immunizing Pharmacist" under G.S. 90-85.3(i1);
- (2) document training on administering long-acting injectables both subcutaneously and intramuscularly. This training may include a program accredited by the American Council on Pharmaceutical Education (ACPE) or the North Carolina Association of Pharmacists, curriculum based programs from an ACPE-accredited school of pharmacy, state or local health department programs, or training by a health care practitioner with experience in administering long-acting injectables;
- (3) notify the Board of the status as both an Immunizing Pharmacist and a pharmacist who administers long-acting injectables; and
- (4) administer long-acting injectables in accordance with G.S. 90-85.15B, as well as all other pertinent State and federal laws and regulations (including but not limited to U.S. Food and Drug Administration Risk Evaluation and Mitigation Strategies).

(d) An Immunizing Pharmacist who, because of physical disability, is unable to obtain a current provider level CPR certification pursuant to G.S. 90-85.3(i1)(1), may administer long-acting injectables in the presence of a pharmacy technician

or pharmacist who holds a current provider level CPR certification.

(e) Before each administration of a long-acting injectable, the Immunizing Pharmacist must personally and affirmatively conduct patient counseling that complies with Rule .2504 of this Chapter.

(f) The following requirements pertain to long-acting injectables administered by an Immunizing Pharmacist:

- (1) Drugs administered by an Immunizing Pharmacist under the provisions of this Rule shall be in the legal possession of:
 - (A) a pharmacy, which shall be the pharmacy responsible for drug accountability, including the maintenance of records of administration of the long-acting injectable; or
 - (B) a prescriber, who shall be responsible for drug accountability, including the maintenance of records of administration of the long-acting injectable.
- (2) Drugs shall be transported and stored at the proper temperatures indicated for each drug.
- (3) Immunizing Pharmacists, while engaged in the administration of long-acting injectables, shall have in their custody and control drugs needed to treat adverse events.
- (4) After administering long-acting injectables at a location other than a pharmacy, the Immunizing Pharmacist shall return all unused prescription medications to the pharmacy or prescriber responsible for the drugs.

(g) Record Keeping and Reporting.

- (1) An Immunizing Pharmacist shall maintain the following information, readily retrievable, in the pharmacy records in accordance with the applicable rules and statute regarding each administration of a long-acting injectable:
 - (A) the name, address, and date of birth of the patient;
 - (B) the date of the administration;
 - (C) the administration site of injection (e.g., right arm, left leg, right upper arm);
 - (D) route of administration of the drug;
 - (E) the name, manufacturer, lot number, and expiration date of the drug;
 - (F) dose administered;
 - (G) the name and address of the prescriber; and
 - (H) the name or identifiable initials of the Immunizing Pharmacist.
- (2) An Immunizing Pharmacist shall report to the prescriber adverse events associated with administration of a long-acting injectable.

(h) The Immunizing Pharmacist shall maintain written policies and procedures for handling and disposal of used or contaminated equipment and supplies.

Authority G.S. 90-85.3; 90-85.6; 90-85.15B.

CHAPTER 57 - APPRAISAL BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the Appraisal Board intends to amend the rules cited as 21 NCAC 57A .0201, .0203, .0204, .0206, .0208-.0210, .0402, .0404, .0405, .0407, .0501, .0601, .0604, .0605; 57B .0101, .0210, .0303, .0304, .0307, .0402, .0602, .0603, .0605, .0606, .0608, .0609, .0614; and 57D .0202.

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

Proposed Effective Date: July 1, 2022

Public Hearing:

Date: March 3, 2022

Time: 9:15 a.m.

Location: NC Appraisal Board 5830 Six Forks Road, Raleigh, NC 27609

Reason for Proposed Action:

21 NCAC 57A .0201 - This proposed change adds the option of the Practical Applications of Real Estate Appraisal (PAREA) from the Real Property Appraiser Qualifications Criteria.

21 NCAC 57A .0203 - This proposed change updates the renewal process to allow for online renewals and clarifies the requirements for an out of state licensee.

21 NCAC 57A .0204 - This proposed change reduces the minimum number of classroom hours, changes the requirement for approval of the equivalent courses and changes the requirements for out of state licensees when renewing.

21 NCAC 57A .0206 - This proposal changes the time period for reinstatement.

21 NCAC 57A .0208 - This proposal removes the term pocket card, which no longer exists.

21 NCAC 57A .0209 - This proposal updates the process for joining the registry using the Board's online system.

21 NCAC 57A .0210 - This proposed change updates the application.

21 NCAC 57A .0402 - This proposed change removes the term pocket card, which no longer exists.

21 NCAC 57A .0404 - This proposed change removes the term pocket card, which no longer exists.

21 NCAC 57A .0405 - This proposed change removes the requirement of the seal on appraisal reports, which the Board has determined is no longer needed.

21 NCAC 57A .0407 - This proposed change adds the PAREA option (as set forth in Rule .0201 above), and modifies the supervision requirements for trainees to streamline the process for trainees to receive experience credit.

21 NCAC 57A .0501 - This proposed change is for clarification of the rule.

21 NCAC 57A .0601 - This proposed change adds the PAREA option for experience, as set forth in Rule .0201 above.

21 NCAC 57A .0604 - This proposed change add the PAREA option and modifies supervision requirements for trainees.

21 NCAC 57A .0605 - This proposed change adds the PAREA option.

21 NCAC 57B .0101 - This proposed change allows online coursework for trainees

21 NCAC 57B .0210 - This proposed change updates the deadline to submit the roster to the board.

21 NCAC 57B .0303 - This proposed change allows for remote proctoring.

21 NCAC 57B .0304 - This proposed change reduces the minimum number of students for a course to be held, except for online asynchronous courses.

21 NCAC 57B .0307 - This proposed change allows all qualifying education courses to be offered online pursuant to the Real Property Appraiser Qualification Criteria.

21 NCAC 57B .0402 - This proposed change removes the specific forms of payment.

21 NCAC 57B .0602 - This proposed change removes the non-refundable application fee for course sponsors.

21 NCAC 57B .0603 - This proposed change allows course sponsors to offer classes via distance education, as set for in the Real Property Appraiser Qualification Criteria.

21 NCAC 57B .0605 - This proposed change reduces the minimum number of classroom hours for continuing education courses.

21 NCAC 57B .0606 - This proposed change is made to be consistent with the Real Property Appraiser Qualification Criteria.

21 NCAC 57B .0608 - This proposed change updates the deadline to submit the roster to the Board.

21 NCAC 57B .0609 - This proposed change allows for an online option for coursework.

21 NCAC 57B .0614 - This proposed change removes the requirement of the criminal background check

21 NCAC 57D .0202 - This proposed change updates the renewal process to allow for online renewals.

Comments may be submitted to: Donald T. Rodgers, 5830 Six Forks Road, Raleigh, NC 27609; phone (919) 870-4854; email don@ncab.org

Comment period ends: April 18, 2022

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 984-236-1850.

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

SUBCHAPTER 57A – REGISTRATION, LICENSING, CERTIFICATION AND PRACTICE

SECTION .0200 – TRAINEE REGISTRATION AND APPRAISER LICENSING AND CERTIFICATION

21 NCAC 57A .0201 QUALIFICATIONS FOR TRAINEE REGISTRATION AND APPRAISER LICENSURE AND CERTIFICATION

(a) Applicants for trainee registration, licensure as a licensed residential real estate appraiser, and for certification as a certified real estate appraiser shall satisfy the qualification requirements set forth in the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board, which is hereby incorporated by reference, including subsequent amendments and editions and can be found at www.appraisalfoundation.org at no cost.

(b) Applicants for licensure or certification who are currently registered trainees shall submit a copy of their complete appraisal log in accordance with ~~Rule .0407(c)~~ Rule .0407(d) of this Subchapter. Applicants for certification who are currently licensed or certified appraisers shall submit an appraisal log showing that they possess the amount and length of experience as set forth in the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board. All applicants for licensure or certification shall provide to the Board copies of appraisal reports and work files in order for an appraisal to be given experience credit.

(c) As an alternative to the requirements in Paragraph (b) of this Rule, applicants for licensure or certification shall complete the requirements of the Practical Applications of Real Estate Appraisal (PAREA) of the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board, and shall submit a certificate of completion.

~~(e)(d)~~ When a trainee or a licensed real estate appraiser becomes a certified real estate appraiser, his or her previous registration or licensure shall be canceled by the Board. When a certified residential real estate appraiser becomes certified as a general real estate appraiser, his or her previous certification shall be canceled by the Board.

~~(d)(e)~~ In the event that the Board requests that an applicant submit updated information or provide further information that the Board determines is necessary in order for the applicant to complete the application and the applicant fails to submit the requested information within 90 days following the Board's request, the Board will void the application, shall defer the applicant's application until the applicant requests a hearing. An applicant whose application has been ~~deferred and does not request a~~

~~hearing and who wishes to obtain a registration, license, or certificate voided~~ shall start the licensing process over by filing a complete application with the Board and paying all required fees, as set forth in G.S. 93E-1-6.

~~(e)(f)~~ If an applicant has an open complaint before the North Carolina Appraisal Board or an appraiser licensing board from any other state, the application shall be accepted but no further action shall be taken on the application until the complaint is resolved. If the applicant has any pending criminal charges in this or any state, they shall be reviewed as set forth in G.S. 93B-8.1.

(g) An applicant may request that his or her application be withdrawn at any time before final action is taken by the Appraisal Board on the application.

Authority G.S. 93E-1-6; 93E-1-10; 93B-8.1.

21 NCAC 57A .0203 REGISTRATION, LICENSE AND CERTIFICATE RENEWAL

(a) All registrations, licenses and certificates expire on June 30 of each year unless renewed before that time.

(b) A holder of a trainee registration, an appraiser license or certificate ~~desiring the applying to renew renewal of~~ such registration, license or certificate shall apply for ~~same renewal~~ in writing upon the form provided by the Board or log into the licensee login section on the Board's website and shall ~~forward~~ pay the renewal fee as prescribed in G.S. 93E-1-7(a). Forms are available ~~upon request to the Board on the Board's website at~~ www.ncappraisalboard.org. The renewal fee is not refundable ~~under any circumstances, after July 1.~~

(c) All trainees, licensees and certificate holders, either resident or non-resident, who are required by G.S. 93E-1-7 to complete continuing education as a condition of renewal, ~~must~~ shall satisfy the continuing education requirements set forth in Rule .0204 of this Section.

(d) An applicant for renewal who initially qualified for ~~his license or certificate by~~ licensure or certification pursuant to Rule .0211 of this Section, with another state may keep that license or certificate even if the applicant has moved to a different state, as long as the North Carolina license or certificate is continuously renewed pursuant to this section. Such an applicant for renewal ~~does not have~~ is not required to maintain licensure with the appraiser regulatory authority of the other state upon whose qualification requirements the license or certificate was granted. in order to renew the license in North Carolina.

(e) Any person who acts or holds himself out as a registered trainee, licensed or certified real estate appraiser while his trainee registration, appraiser license or certificate is expired shall be subject to disciplinary action and penalties as prescribed in G.S. 93E.

Authority G.S. 93E-1-7(a),(b); 93E-1-10.

21 NCAC 57A .0204 CONTINUING EDUCATION

(a) All registered trainees, real estate appraiser licensees, and certificate holders shall, upon the renewal of their registration, license, or certificate in every odd-numbered year, have obtained continuing education, as required by this Rule. Trainees and appraisers who initially registered with the Board after January 1 of an odd numbered year are not required to ~~show~~ obtain

continuing education ~~credit~~ for renewal of their registration in that odd numbered year.

(b) Each trainee, licensee, and certificate holder who is required to ~~complete~~ obtain continuing education pursuant to Paragraph (a) of this Rule shall complete 28 hours of continuing education before June 1 of every odd numbered year. Except as provided in Paragraphs (g) and (h) of this Rule, such education shall have been obtained by taking courses approved by the Board for continuing education ~~credit purposes~~, at schools approved by the Board to offer such courses, as set forth in 21 NCAC 57B .0603. Such education shall relate to real estate appraisers maintaining and increasing their skill, knowledge, and competency in real property appraising. There is no exemption from the continuing education requirement for trainees or appraisers whose status has been upgraded to the level of licensed residential, certified residential, or certified general ~~appraiser~~ appraiser, since the issuance or most recent renewal of their registration, license, or certificate. Trainees, licensees, and certificate holders shall not take the same continuing education course more than once during the two-year continuing education cycle.

(c) Each appraisal continuing education course shall ~~involve~~ include a minimum of ~~three and one-half two~~ classroom hours of instruction on real estate appraisal or related topics, ~~such as the application of appraisal concepts and methodology to the appraisal of various types of property; specialized appraisal techniques; laws, rules or guidelines relating to appraisal; standards of practice and ethics; building construction; financial or investment analysis; land use planning or controls; feasibility analysis; statistics; or accounting; as set forth in the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board. The trainee, licensee, or certificate holder shall attend at least 90 percent of the scheduled classroom hours for the course in order to receive credit for the course.~~

(d) Each trainee, licensee, and certificate holder who is required to ~~complete~~ obtain continuing education pursuant to Paragraph (a) of this Rule shall, as part of the 28 hours of continuing education required in Paragraph (b) of this Rule, complete the seven hour National USPAP update course between October 1 of an odd-numbered year and June 1 of an even numbered year, as required by the Appraiser Qualifications Board of the Appraisal Foundation. Each trainee, licensee, and certificate holder shall take the most recent USPAP update course prior to June 1 of every even numbered year.

(e) A trainee, licensee, or certificate holder who ~~elects to take~~ completes approved continuing education courses in excess of the requirement shall not carry over into the subsequent years any continuing education credit.

(f) Course sponsors shall provide a certificate of course completion to each trainee, licensee, and certificate holder who completes a course, as set forth in 21 NCAC 57B .0603. In addition, course sponsors shall send to the Board a ~~certified~~ roster of all who completed the course. This roster shall be sent within 15 days of completion of the ~~course, but not later than June 15 of each year.~~ course. In order to renew a registration, license, or certificate in a timely manner, the Board ~~must~~ shall receive proof of satisfaction of the continuing education requirement prior to processing a registration, license, or certificate renewal application. Proof of satisfaction shall be made by receipt of a

roster from a school or course sponsor showing the courses completed by the applicant or by submission of an original certificate of course completion. If proof of having satisfied the continuing education requirement is not provided, the registration, license, or certificate shall expire and the trainee, licensee, or certificate holder shall be subject to the provisions of Rules .0203(e) and .0206 of this Section.

(g) A current or former trainee, licensee, or certificate holder may request that the Board grant continuing education credit for a course ~~that has been completed taken by the trainee, licensee, or certificate holder that~~ but is not approved by the Board, or for appraisal education activity equivalent to a Board approved course, by making such request and submitting a non-refundable fee of fifty dollars (\$50.00) as set out in G.S. 93E-1-8(d) for each course or type of appraisal education activity to be evaluated. Continuing education credit for a non-approved course shall be granted only if the trainee, licensee, or certificate holder provides proof of course completion and the Board finds that the course satisfies the requirements for approval of appraisal continuing education courses with regard to subject matter, course length, instructor qualifications, and student ~~attendance~~ attendance, as set forth in 21 NCAC 57B .0603. Appraisal education activities for which credit may be awarded include teaching appraisal courses, authorship of appraisal textbooks, and development of instructional materials on appraisal subjects. Up to 14 hours of continuing education credit may be granted in each continuing education cycle for participation in appraisal education activities. Trainees, licensed or certified appraisers who have taught an appraisal course ~~or courses~~ approved by the Board for continuing education credit are deemed to have taken an equivalent course and are not subject to the fee prescribed in G.S. 93E-1-8(d), provided they submit verification of having taught the course(s). A trainee, licensee, or certificate holder who teaches a Board approved continuing education course shall not receive continuing education credit for the same course more than once every two years, regardless of how often he or she teaches the course. Requests for equivalent approval for continuing education credit shall be received before June 15 of an odd-numbered year to be credited towards the continuing education requirement for that odd-numbered year. ~~Equivalent approval shall be granted only for courses that are 7 hours or longer, and shall only be granted for a minimum of 7 hours.~~

(h) A trainee, licensee, or certificate holder may receive continuing education credit by taking any of the Board approved precertification courses, other than Basic Appraisal Principles and Basic Appraisal Procedures, or their approved equivalents. Trainees, licensees, and certificate holders who wish to use a precertification course for continuing education credit shall comply with the provisions of 21 NCAC 57B .0604.

(i) A licensee or certificate holder who resides in another state, and is currently credentialed in another state, may satisfy the continuing education requirements by submitting an affidavit which lists the course provider, title, hours, and date of completion of all continuing education completed within the current continuing education cycle. The Board will audit no less than ten percent of licensees who renew with an affidavit. ~~and is active on the National Registry in another state may satisfy the requirements of this Section, other than the seven hour National USPAP update course requirement in Paragraph (d) of this Rule;~~

~~by providing a current letter of good standing from another state showing that the licensee or certificate holder has met all continuing education requirements in the other state.~~ A licensee or certificate holder who became licensed in North Carolina by licensure or certification with another state and now resides in North Carolina may renew by letter of good standing affidavit for his or her first renewal as a resident of North Carolina only if the appraiser moved to North Carolina on or after January 1 of an odd-numbered year. If an appraiser was a resident of this state before January 1 of an odd-numbered year, the appraiser shall comply with the requirements of this section regardless of how the license or certificate was obtained.

(j) A trainee, licensee, or certificate holder who returns from active military duty on or after February 1 of an odd-numbered year may renew his or her registration, license, or certificate in that odd-numbered year even if the required continuing education is not completed before June 1 of that year. All required continuing education shall be completed within 180 days of when the trainee, licensee, or certificate holder returns from active duty. The Board may revoke the registration, license, or certificate in accordance with 93E-1-12 if the required continuing education is not completed within 180 days. This Paragraph applies to an individual who is serving in the armed forces of the United States and to whom G.S. 105-249.2 grants an extension of time to file a tax return.

Authority G.S. 93B-15; 93E-1-7(a); 93E-1-10.

21 NCAC 57A .0206 EXPIRED REGISTRATION, LICENSE OR CERTIFICATE

(a) Expired registrations, licenses, and certificates may be reinstated within 12 months after expiration upon application, payment to the Board of the renewal and late filing fees as set out in G.S. 93E-1-7, and ~~provision of~~ proof of having obtained the continuing education ~~that~~ would have been required had the registration, license, or certificate been ~~continuously~~ renewed.

(b) If a registration, license, or certificate has been expired for more than 12 months, but less than ~~24 months~~, five years, an applicant may apply for reinstatement. In order to be considered for reinstatement, the applicant shall pay the filing fee as set out in G.S. 93E-1-7 and include in the application proof that the applicant has obtained the continuing education that would have been required had the registration, license, or certificate been continuously renewed, which shall include the most recent edition of the seven hour National USPAP update, as required by the Appraiser Qualifications Board of the Appraisal Foundation. In addition, the Board shall consider whether the applicant for reinstatement has any prior or current disciplinary actions, and shall examine the applicant's fitness for registration, licensure, or certification before granting the request for reinstatement. A completed application for reinstatement shall be received by June 1 of the ~~second 12 months~~ fifth year after the registration, license, or certificate expired or it shall not be accepted.

(c) An application for reinstatement shall not be granted if the registration, license, or certificate has been expired for more than ~~24 months~~, five years.

(d) Reinstatement is effective on the date it is issued by the Board. It is not retroactive.

(e) A trainee or appraiser whose registration, license, or certification has expired and who is returning from active military duty may renew his or her registration, license, or certificate when the trainee or appraiser returns from active duty without payment of a late filing fee as long as the trainee or appraiser renews the registration, license, or certificate within 180 days of when the trainee or appraiser returns from active duty. This Rule applies to an individual who is serving in the armed forces of the United States and to whom G.S. ~~105-249.2~~ 105-249.2 grants an extension of time to file a tax return.

Authority G.S. 93E-1-6(b); 93E-1-7; 93E-1-10.

21 NCAC 57A .0208 REPLACEMENT REGISTRATION, LICENSE AND CERTIFICATE FEES

(a) A trainee, ~~licensee~~ licensee, or certificate holder may, by paying the fee prescribed in G.S. 93E-1-7(d) to the Board, obtain a duplicate trainee registration, appraiser license or certificate ~~or pocket card~~ to replace an original registration, license, ~~or certificate or pocket card which~~ that has been lost, ~~damaged~~ damaged, or destroyed or if the name of the trainee, ~~licensee~~ licensee, or certificate holder has been lawfully changed. The Request for Reissuance of Appraiser Wall Certificate is available on our website at www.ncappraisalboard.org. The Board, at its discretion, may require a trainee, licensee or certificate holder requesting a duplicate registration, license or certificate to submit an affidavit stating the reason for the request.

(b) The form shall include the following:

- (1) the appraiser's name and signature;
- (2) the appraiser's license number; and
- (3) the appraiser's address.

Authority G.S. 93E-1-7(d); 93E-1-10.

21 NCAC 57A .0209 NATIONAL APPRAISER REGISTRY

Licensees and certificate holders ~~who are qualified for enrollment in the national registry of licensed and certified real estate appraisers~~ may apply for enrollment in the national registry of licensed and certified real estate appraisers or for the renewal or reinstatement of such enrollment ~~upon a Board form~~, online through the licensee login section on the Board's website at www.ncappraisalboard.org. The application form enrollment must shall be accompanied by the fee specified in G.S. 93E-1-11(d) plus any additional fee that may be required by the appropriate federal agency, ~~agency or instrumentality~~.

Authority G.S. 93E-1-10; 93E-1-11(d).

21 NCAC 57A .0210 TEMPORARY PRACTICE

(a) A real estate appraiser who does not reside in North Carolina and who is licensed or certified by the appraiser licensing or certifying agency in another state may apply to receive temporary appraiser licensing or certification privileges in this State by filing an application with the Board. The application is available on the Board's website at www.ncappraisalboard.org. The application shall include:

- (1) the applicant's name, address, phone number, ~~email, date of birth, social security number, driver's license number; email;~~
- (2) license or certification number currently held in another state;
- (3) whether the applicant has had any disciplinary actions taken against them in connection with any appraiser, real estate, or other professional license held;
- (4) whether the applicant has ever been convicted of any criminal offense or has any criminal charges pending;
- (5) the projected beginning and ending ~~date;~~ date of the appraisal assignment;
- (6) a legal description of the subject properties and ~~state the~~ purpose of the appraisal assignment; and
- (7) the signature of the applicant.

(b) Upon filing a completed application accompanied by the fee prescribed in G.S. 93E-1-9(c), the Board shall consider whether an applicant's appraiser license or certification is or has been subject to discipline in their resident state or any other state, and shall consider all other information outlined in Rule .0202 of this Section, in determining whether to approve an application. If the application is approved, an applicant shall be granted a temporary practice permit by the Board authorizing the applicant to perform in this State the appraisal assignment described in the application, provided that the Board determines that the length of time projected by the applicant for completion of the assignment is reasonable given the scope and complexity of the assignment.

(c) Privileges granted under the provisions of this Rule shall expire upon the expiration date set forth in the temporary practice permit. If additional time is needed to complete the appraisal assignment, the permittee may request an extension of the temporary practice permit. The request shall be submitted and received by the Board prior to the expiration of the original practice permit, shall be in writing, and shall include the following:

- (1) temporary practice permit number;
- (2) the amount of additional time needed to complete the assignment; and
- (3) the reason the extension is necessary.

Upon receipt of the request, the Board shall extend the temporary practice privileges if it determines that additional time is needed to complete the assignment.

(d) An applicant for a temporary practice permit shall not begin performing any appraisal work in this State until the temporary practice permit has been issued by the Board. The Board shall deny an applicant who begins work before the permit is issued.

~~(d)(e)~~ Persons granted temporary practice privileges under this Rule shall only advertise or otherwise hold themselves out as being a North Carolina licensed or certified appraiser for the assignment for which they received the temporary practice permit. Any appraisal report for an appraisal of property located in North Carolina shall contain a copy of the temporary practice number for that assignment.

~~(e)(f)~~ A trainee shall not apply for a temporary practice permit. The term "trainee" shall include apprentices and others who are licensed and regulated by a state agency to perform real estate

appraisals under the supervision of a certified appraiser. If a trainee ~~does enter the State to inspect~~ not registered in this State inspects a property located in this State, the trainee shall be accompanied by the trainee's supervising appraiser. The trainee's supervisor shall be a North Carolina certified real estate appraiser. If not, the supervising appraiser shall be certified as a real estate appraiser in another state and shall receive a temporary practice permit for the assignment.

Authority G.S. 93E-1-9; 93E-1-10; 12 U.S.C. 3351(a).

SECTION .0400 – GENERAL APPRAISAL PRACTICE

21 NCAC 57A .0402 DISPLAY OF REGISTRATIONS, LICENSES AND CERTIFICATES

(a) The original or a copy of the ~~trainee~~ registration, ~~real estate appraiser license~~ license, or certificate ~~of a trainee, licensed or certified real estate appraiser~~ shall be displayed at each of the trainee's or appraiser's places of business.

(b) The annual registration, ~~license~~ license, or certificate renewal ~~pocket card~~ issued by the Board to each trainee, ~~licensed~~ licensed, or certified real estate appraiser shall be retained by the trainee, ~~licensee~~ licensee, or certificate holder as evidence of registration, ~~licensure~~ licensure, or certification.

Authority G.S. 93E-1-10.

21 NCAC 57A .0404 CHANGE OF NAME OR ADDRESS

All trainees, licensees, and certificate holders shall notify the Board in writing of each change of business address, residence address, or name change within 10 days of the change. The trainee, licensee, or certificate holder shall submit the Request for Reissuance of Appraiser Wall Certificate ~~and Pocket Card~~ Due to Name Change form. The form shall be accompanied by the fee prescribed in G.S. 93E-1-7(d). The form may be found on the Board's website at www.ncappraisalboard.org, and shall include the following information:

- (1) licensee's previous name;
- (2) licensee's new name;
- (3) the date the name was legally changed;
- (4) signature, date, and license number; and
- (5) the legal documentation showing the name change.

Authority G.S. 93E-1-10.

21 NCAC 57A .0405 APPRAISAL REPORTS

(a) Each written appraisal report prepared by or under the supervision of a licensed or certified real estate appraiser shall bear the signature of the licensed or certified appraiser, the license or certificate number of the licensee or certificate holder in whose name the appraisal report is issued, and the designation "licensed residential real estate appraiser," "certified residential real estate appraiser," or "certified general real estate appraiser," as applicable. Each ~~such~~ appraisal report shall also ~~indicate~~ state whether or not the licensed or certified appraiser has personally inspected the property, and shall identify in the body of the report any other person who ~~assists~~ assisted in the appraisal process other

than by providing clerical assistance. ~~Such identification must be placed in the body of the report.~~ Appraisers shall personally affix their signature to their appraisal reports and shall not allow any other person or entity to affix their signature. Trainees are not required to affix their signatures to appraisal reports, but if they do so, they must personally affix their signature and shall not allow any other person or entity to affix their signature. Trainees and appraisers shall sign their reports with the same name and in the same manner as it is printed on their pocket cards, license or certification.

~~(b) Every licensed and certified real estate appraiser shall affix or stamp to all appraisal reports a seal which shall set forth the name and license or certificate number of the appraiser in whose name the appraisal report is issued and shall identify the appraiser as a "licensed residential real estate appraiser", a "certified residential real estate appraiser", or as a "certified general real estate appraiser", as applicable. The seal must be legible, must conform to the seal authorized by the Board at time of initial licensure or certification, and must be a minimum of 1 inch in diameter. Appraisers shall personally affix their seal to their appraisal reports and shall not allow any other person or entity to affix their seal. Registered trainees are prohibited from using a seal on appraisal reports.~~

~~(c)~~(b) A licensed or certified real estate appraiser who signs an appraisal report prepared by another person, in any capacity, is responsible for the content and conclusions of the report.

~~(d)~~(c) A written appraisal report shall be issued on all real estate appraisals performed in connection with federally related transactions.

~~(e)~~(d) Appraisers shall keep a log of all appraisals performed. The log shall contain the appraiser's license or certificate number, the street address of the subject property, the date the report was signed, the name of anyone assisting in the preparation of the ~~report~~ report, and the name of the client. These logs shall be updated at least every 30 days.

~~(f)~~(e) Any appraiser who signs an appraisal report is entitled to make or retain a copy of that appraisal report, as long as the copy is made at the time the report is prepared. Any appraiser who signs an appraisal report ~~must~~ shall be given a copy of the appraisal report and the work file upon request for ~~the purpose~~ purposes of: of submission of the report and work file to the Appraisal Board; compliance with due process of law, such as a subpoena, subpoena; submission to a peer review committee, committee; or in accordance with retrieval arrangements made by the appraiser and the person or entity retaining the report and work file.

~~(g)~~(f) Appraisal reports transmitted electronically to clients shall be sent in a secure format, such as Adobe PDF.

Authority G.S. 93E-1-10.

21 NCAC 57A .0407 SUPERVISION OF TRAINEES

(a) A certified real estate appraiser may engage a registered trainee to assist in the performance of real estate appraisals. ~~appraisals, provided that the appraiser:~~ In the alternative, applicants for licensure or certification may complete the requirements of the Practical Applications of Real Estate Appraisal (PAREA) of the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board, and submit a certificate of completion.

(b) If a certified real estate appraiser engages a registered trainee to assist in the performance of real estate appraisals, the appraiser shall:

- (1) ~~has~~ have been certified for at least three years;
- (2) ~~has~~ have no more than three trainees working under his or her supervision at any one time; the number of trainees working under him or her at any one time as follows:
 - (A) ~~a certified residential appraiser may have two trainees working under his or her supervision at any one time. Once at least one of those trainees has completed 50 percent of the required appraisal experience, as set forth in G.S. 93E-1-6, a certified residential appraiser may add another trainee; and~~
 - (B) ~~a certified general appraiser may have three trainees working under his or her supervision.~~
- (3) prior to the date any trainee begins performing appraisals under his or her supervision, the supervisor shall inform the Board of the name of the trainee by filing a Supervisor Declaration Form with the Board. The form may be found on the Board's website at www.ncappraisalboard.org. The supervisor shall also inform the Board when a trainee is no longer working under his or her supervision by ~~using~~ submitting a new the Supervisor Declaration Form. The form shall include the following information:
 - (A) the name and registration number of trainee;
 - (B) the name and certification number of supervisor;
 - (C) the date the trainee completed the supervisor/trainee course;
 - (D) the date the supervisor completed the supervisor/trainee course;
 - (E) whether the supervisor has had any disciplinary action within the past three years or pending complaints against his or her certification; and
 - (F) the signature of both the supervisor and trainee (only required for association).
- (4) actively and personally ~~supervises~~ supervise the trainee on all appraisal reports and appraisal related activities until the trainee is no longer under his or her supervision;
- (5) ~~reviews~~ review all appraisal reports and supporting data used in connection with appraisals in which the services of a trainee is utilized, and assures that research of general and specific data has been conducted and reported, application of appraisal principles and methodologies has been applied, and that any analysis, opinions, or conclusions are

developed and reported so that the appraisal report is not misleading;

- (6) ~~complies~~ comply with all provisions of Rule .0405 of this Section regarding appraisal reports;
- (7) ~~reviews and signs~~ review and sign the trainee's log of appraisals prepared in accordance with Paragraph ~~(e)~~(d) of this Rule. The supervisor shall make available to the trainee a copy of every appraisal report where the trainee ~~performs more than 75 percent of the work documents appraisal experience on their experience log and the trainee's contribution is noted in the appraisal report, or the trainee signs the appraisal report; on the appraisal;~~ and
- (8) ~~has not have~~ received any disciplinary action against his or her appraisal certificate from the State of North Carolina or any other state within the previous three years. For the purposes of this Subparagraph, "disciplinary action" means an active suspension, a downgrade of a credential, a revocation, or any other action that restricts a supervisor's ability to engage in appraisal practice.

~~(b)(c)~~ "Active and personal supervision" includes direction, guidance, and support from the supervisor. The supervising appraiser shall have input into and knowledge of the appraisal report prior to its completion, and shall make any changes to the report before it is transmitted to the client. In addition, the supervisor shall accompany the trainee on the inspections of the subject property on the first ~~50~~ 25 appraisal assignments or the first ~~1500~~ 750 hours of experience, whichever comes first first, for which the trainee will perform more than 75 percent of the work, for which the trainee either signs the appraisal report or is noted as providing significant appraisal assistance in the report, in compliance with Standard Rule 2(a) and Standard Rule 2(b) of the Uniform Standards of Professional Appraisal Practice. After that point, the trainee may perform the inspections without the presence of the supervisor provided that the supervisor is satisfied that the trainee is competent to perform those inspections, and that the subject property is less than 50 miles from the supervisor's primary business location. The supervisor shall accompany the trainee on all inspections of subject properties that are located more than 50 miles from the supervisor's primary business location. inspections.

~~(e)(d)~~ An appraisal experience log shall be maintained jointly by the supervisor and the trainee. Both the supervisor and the trainee are responsible for maintaining the experience log and ensuring that it is accurate, current, and includes the following:

- (1) ~~the type of property appraised;~~
- (2) ~~the type of appraisal performed;~~
- (3) ~~the date the report was signed;~~
- (4) ~~the complete street address of appraised property;~~
- (5) ~~a description of the work performed by the trainee;~~
- (6) ~~the scope of review and supervision of the supervisor, including whether the supervisor~~

~~accompanied the trainee on the inspection of the subject property;~~

- (7) ~~the number of actual work hours by the trainee on the assignment; and~~
- (8) ~~the signature and state certification number of the supervisor.~~
- (1) the applicant's name and signature;
- (2) the supervisor's name and signature;
- (3) the supervisor's certificate number;
- (4) the date the supervisor signed the log;
- (5) the subject property address;
- (6) the date the appraisal report was signed;
- (7) the report type, such as an appraisal report, a restricted appraisal report, or the type of reporting form used;
- (8) the client's name;
- (9) the applicant's file number for the appraisal assignment, if any;
- (10) the number of actual work hours by the trainee applicant on the assignment;
- (11) whether the supervisory appraiser accompanied the applicant on the inspection of the subject property; and
- (12) a description of the work performed by the applicant and his or her supervisor on each assignment.

The log shall be updated at least every 30 days. A separate log shall be maintained for each supervising appraiser. A log form is available on the Board's website at www.ncappraisalboard.org.

~~(d)(e)~~ An appraiser shall complete the supervisor course developed by the North Carolina Appraisal Board attend an education program regarding the role of a supervisor before any supervision of a trainee. prior to supervising any trainees. This course shall be taught only by instructors approved by the Board in accordance with 21 NCAC 57B .0614.

~~(e)(f)~~ Trainees shall ensure that the Appraisal Board has received the Supervisor Declaration Form on or before the day the trainee begins assisting the supervising appraiser by contacting the Board by telephone or email at ncab@ncab.org. The form may be found on the Board's website at www.ncappraisalboard.org. Trainees shall not receive appraisal experience credit for appraisals performed in violation of this Paragraph.

~~(f)(g)~~ Supervising appraisers shall not be employed by a trainee or by a company, firm, or partnership in which the trainee has a controlling interest.

~~(g)(h)~~ If a trainee signs an appraisal report or provides assistance in the appraisal process and is noted in the report as having provided assistance, the appraiser signing the report shall have notified the Appraisal Board before the appraisal is signed that he or she is the supervisor for the trainee. If more than one appraiser signs the report, the appraiser with the highest level of credential shall be the declared supervisor for the trainee. If all appraisers signing the report have the same level of credential, at least one of them shall be declared as the trainee's supervisor before the report is signed.

~~(h)(i)~~ Only one trainee may receive credit for providing real property appraisal assistance on an appraisal report.

Authority G.S. 93E-1-6.1; 93E-1-10; 93E-1-12.

SECTION .0500 – STANDARDS OF APPRAISAL PRACTICE

21 NCAC 57A .0501 APPRAISAL STANDARDS

(a) Every registered ~~trainee~~ trainee, and licensed and certified real estate appraiser ~~shall~~ shall, in performing the acts and services of a registered trainee or licensed or certified real estate appraiser, comply with the following provisions of the "Uniform Standards of Professional Appraisal Practice" (USPAP) promulgated by the Appraisal Standards Board of the Appraisal Foundation, all of which are incorporated by reference including subsequent amendments and editions:

- (1) Definitions;
- (2) Preamble;
- (3) Ethics Rule;
- (4) Record Keeping Rule;
- (5) Competency Rule;
- (6) Scope of Work Rule;
- (7) Jurisdictional Exception Rule; and
- (8) Standards Rules 1, 2, 3, and 4.

(b) A copy of USPAP may be obtained from the Appraisal Foundation at <https://www.appraisalfoundation.org>. The cost for a copy of USPAP is seventy-five dollars (\$75.00).

Authority G.S. 93E-1-10.

SECTION .0600 - EXPERIENCE CREDIT

21 NCAC 57A .0601 EXPERIENCE CREDIT TO UPGRADE

Applicants for licensure or certification shall meet the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board. An applicant shall obtain the required experience by performing or reviewing appraisals using appraisal methods and processes that are employed by real estate appraisers and shall comply with the edition of the USPAP in effect at the time of the appraisal, in addition to meeting the applicable requirements set forth in this Section. In the alternative, applicants for licensure or certification may complete the requirements of the Practical Applications of Real Estate Appraisal (PAREA) of the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board, and submit a certificate of completion.

Authority G.S. 93E-1-10.

21 NCAC 57A .0604 TYPES OF APPRAISAL EXPERIENCE

(a) An applicant may receive experience credit for standard appraisals, ~~supervising appraiser's reviews, and~~ review appraisals, and ~~condemnation~~ demonstration appraisals. In the alternative, applicants for licensure or certification may complete the requirements of the Practical Applications of Real Estate Appraisal (PAREA) of the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board, and submit a certificate of completion.

~~(b) If the applicant performed at least 75 percent of the work associated with an appraisal, including a field inspection and~~

~~preparation of the appraisal report, full credit shall be given for that appraisal. Except as provided in Paragraphs (d) and (e) of this Rule, no credit shall be awarded if the applicant performed less than 75 percent of the work on an appraisal.~~

~~(e)(b)~~ A "standard appraisal" means is the process of developing an appraisal in accordance with Standard Rule 1 of USPAP and preparing a written appraisal report or file memorandum describing the appraisal and reporting the estimate of value.

~~(d)~~ A "supervising appraiser's review" means the process of reviewing an appraisal report prepared by an affiliated appraiser and signing the appraisal report, including signing as "review appraiser" on a Uniform Residential Appraisal Report form. ~~It shall not include signing a report that a real estate appraiser trainee has prepared.~~

~~(e)(c)~~ A "review appraisal" means is the process of reviewing an appraisal report prepared by another appraiser and preparing a separate written appraisal report or file memorandum setting forth the results of the review process. ~~No more than 50 percent of an applicant's appraisal experience credit shall be from preparing review appraisals.~~

~~(f)~~ A "condemnation appraisal" means an appraisal of real property for eminent domain proceedings where a partial taking is involved and the appraiser must develop both a "before taking" and an "after taking" value.

~~(g)(d)~~ A "demonstration appraisal" means is an appraisal performed without a client. ~~No more than 25 percent of the applicant's experience shall be from preparing demonstration appraisals.~~ If a trainee performs a demonstration appraisal, the trainee's supervisor shall sign the appraisal in order for the trainee to receive experience credit for it.

Authority G.S. 93E-1-10.

21 NCAC 57A .0605 REPORTING APPRAISAL EXPERIENCE

(a) Applicants shall use the Appraisal Board's Appraisal Experience Log to report appraisal ~~experience~~. experience, or in the alternative, applicants shall complete the requirements of the Practical Applications of Real Estate Appraisal (PAREA) of the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board, and shall submit a certificate of completion. The appraisal experience log is available on the Board's website at www.ncappraisalboard.org.

(b) The Log shall contain the following:

- (1) the applicant's name and signature;
- (2) the supervisor's name and signature;
- (3) the supervisor's certificate number;
- (4) the date the supervisor signed the log;
- (5) the subject property address;
- (6) the date the appraisal report was signed;
- (7) the report ~~type~~ type, such as an appraisal report, a restricted appraisal report, or the type of reporting form used;
- (8) the client's name;
- (9) the applicant's file number for the appraisal assignment, if any;

- (10) the number of actual work hours by the trainee applicant on the assignment; ~~requested for appraisal experience;~~
- (11) whether the supervisory appraiser accompanied the applicant on the inspection of the subject property; and
- (12) a description of the work performed by the applicant and his or her supervisor on each assignment.

(c) Applicants shall retain copies of all appraisals and their associated work files in accordance with the Record Keeping Rule of USPAP to support all appraisal experience reported on the log.

Authority G.S. 93E-1-6.1; 93E-1-10.

SUBCHAPTER 57B - REAL ESTATE APPRAISAL EDUCATION

SECTION .0100 - COURSES REQUIRED FOR REGISTRATION, LICENSURE AND CERTIFICATION

21 NCAC 57B .0101 REGISTERED TRAINEE COURSE REQUIREMENTS

(a) Each applicant for registration as a trainee shall meet the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board.

(b) The Board shall approve all course sponsors, schools, and course content that qualify for credit. These courses shall be completed within the five-year period immediately preceding the date when application for registration is made to the Board by the applicant.

~~(c) Basic Appraisal Principles shall be a prerequisite to taking Basic Appraisal Procedures, and Basic Appraisal Procedures shall be a prerequisite to taking the 15-hour USPAP course.~~

~~(d) These courses shall be obtained in a classroom setting. No credit shall be given for these courses taken by any other method, such as correspondence school courses or online courses.~~

~~(e)(c) Before the application may be granted by the Board, the applicant shall complete the supervisor-supervisor-trainee course developed by the North Carolina Appraisal Board as set forth in 21 NCAC 57A .0407(d).~~ 21 NCAC 57A .0407(c).

Authority G.S. 93E-1-6(a); 93E-1-8(a); 93E-1-10.

SECTION .0200 – COURSE SPONSOR STANDARDS FOR PRELICENSING AND PRECERTIFICATION EDUCATION

21 NCAC 57B .0210 COURSE RECORDS

Schools and course sponsors ~~must~~ shall:

- (1) retain on file for five years copies of all grade and attendance records for each approved course and ~~must~~ shall make such records available to the Board upon request;
- (2) retain on file for two years a master copy of each final course examination, ~~and such the file copy which shall indicate~~ include the answer key, course title, course ~~dates~~ dates, and name

of instructor. Examination file copies shall be made available to the Board upon request;

- (3) within 15 days of course completion, ~~but not later than June 15 of each year~~, submit to the Board a roster of all students who ~~satisfactorily~~ completed the course; and
- (4) provide each student with contact information for the Appraisal Board so that students may contact the Board with questions or concerns regarding the course.

Authority G.S. 93E-1-8(a); 93E-1-10.

SECTION .0300 – COURSE STANDARDS FOR PRELICENSING AND PRECERTIFICATION EDUCATION

21 NCAC 57B .0303 COURSE COMPLETION STANDARDS

(a) Academic standards for course completion shall assure that students receiving a passing grade possess knowledge and understanding of the subject areas prescribed for the course. A student's grade shall be based on his or her performance on examinations, graded homework, and class work assignments.

(b) Course completion requirements shall include a comprehensive final examination that accounts for at least 50 percent of a student's grade for the course. ~~Take home or open~~ Open book final examinations shall be prohibited. Schools and course sponsors may, within 90 days of the course ending date, allow a student one opportunity to make up any missed course examination or to retake any failed course examination without repeating the course; however, any make up examination shall be comparable to the initial examination with regard to the number of questions and overall difficulty, and at least 75 percent of the questions in the make up examination shall be different from those used in the initial examination.

(c) The final examination shall be ~~proctored~~ proctored in person or remotely. ~~The~~ If in person, the proctor shall:

- (1) require photographic identification from the applicant, such as a driver's license or a passport;
- (2) not allow a student to bring ~~a~~ any personal items such as a backpack, purse, briefcase, or device that would enable the student to access the internet during the examination; and
- (3) be the school or course sponsor director, an employee of the school or course sponsor, or the instructor for the course. If a director, employee, or instructor is not available to proctor the examination, the school or course sponsor shall employ an official to serve as a proctor. Officials that may serve as proctors include a public librarian, notary public, attorney, police officer, or teacher. A proctor ~~Proctors~~ shall not be a family member or friend of a student unless that person is the director, an employee, or an instructor of the school or the course sponsor.

~~(d) The attendance required for satisfactory course completion shall be 90 percent of all scheduled classroom hours for the course.~~

(d) If the final examination is proctored remotely, the proctor shall ensure that it is a closed book exam with no study materials available during the exam, through continuously observing the student remotely from a web camera or through use of software with bio-metric proctoring.

(e) The instructor may offer additional hours of instruction so that students may make up lost hours of instruction.

(f) Students who are taking a qualifying course, other than the 15 hour National USPAP course, for continuing education ~~credit~~ credit, may sit for the final course examination, but they shall not be required to pass the examination in order to receive continuing education credit. Students who take and pass the examination, and who comply with the provisions of this Rule shall be given a course completion certificate. Students who do not take and pass the examination but who otherwise comply with the provisions of this Rule shall be given a certificate of attendance. The requirements set forth in a conditional dismissal, consent order, or order of the Board after a hearing shall not be modified by the provisions of this Paragraph.

Authority G.S. 93E-1-8(a); 93E-1-10.

21 NCAC 57B .0304 COURSE SCHEDULING

~~(a) All courses shall have fixed beginning and ending dates, and schools and course sponsors shall not utilize a scheduling system that allows students to enroll late for a course and then complete their course work in a subsequently scheduled course. dates. Late enrollment shall be permitted only if the enrolling student satisfies the attendance requirements set forth in Paragraphs (d) and Paragraph (e) of Rule .0303 of this Section.~~

(b) Courses shall be scheduled in a manner that provides for class meetings of up to eight classroom hours in any given day.

(c) A classroom hour consists of 50 minutes of classroom instruction. Classroom breaks at the rate of 10 minutes per classroom hour shall be scheduled; however, instructors shall not use accumulated, unused break time to end the class early.

(d) Instruction shall be given for the minimum hours as set forth in G.S. 93E-1-6: the Real Property Appraiser Qualifications Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board.

~~(e) All courses, except those taught online via the Internet, asynchronous distance education courses, shall have a minimum of five three students enrolled in attendance in order for the course to be held.~~

Authority G.S. 93E-1-8(a); 93E-1-10.

21 NCAC 57B .0307 CRITERIA FOR COURSE RECOGNITION

(a) Schools and course sponsors seeking to offer appraiser qualifying courses shall make written application to the Board and pay applicable fees as required by G.S. 93E-1-8(b). The application may be accessed ~~at~~ on the Board's website at www.ncappraisalboard.org. This application shall include:

- (1) the name of school, mailing address, and phone number;

- (2) the name and email address of the school owner and contact person;
- (3) the name of the school's Director pursuant to Rule .0207 of this Subchapter;
- (4) whether the school owner(s), Director, or any proposed instructor have had any criminal convictions or had any disciplinary action taken against a professional license;
- (5) whether the classroom facilities meet the minimum requirements in Rule .0204 of this Subchapter;
- (6) the courses they are seeking approval for;
- (7) the proposed instructors for the courses; and
- (8) the applicant's signature.

(b) Appraisal subject matter electives offered for credit pursuant to the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board shall meet all other requirements of this Chapter. The content of these electives shall be related to the appraisal of real property to be approved for credit. Appraisal subject matter elective courses shall contain a minimum of 15 hours.

~~(c) The 15 hour USPAP course shall be the 15-hour National USPAP Course~~ as approved by the Appraiser Qualifications Board of the Appraisal Foundation.

(d) The application shall state the name of the instructor for each course. All instructors shall be approved by the Board pursuant to Rule .0306 of this Section. After the course is approved, if a school or course sponsor ~~wishes~~ seeks to change instructors, the school shall notify the Board of the name of the new instructor at least seven calendar days before the proposed change would take effect. If the proposed instructor is not currently approved in accordance with Rule .0306 of this Section, the instructor shall be approved by the Board before the school or course sponsor may allow the instructor to start instructing.

~~(e) Course sponsors may offer all qualifying classes other than Basic Appraisal Principles, Basic Appraisal Procedures, and the 15-hour USPAP course online. via distance education, as set forth in the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board. The Board shall be provided access to the course online and shall not be charged any fee for such access. To be approved for credit, an online qualifying education course shall meet all of the conditions imposed by the Rules in this Subchapter. The course shall be interactive, permitting the participant to communicate, via telephone, electronic mail, or a website bulletin board, with the presenter and other participants. The sponsor of an online course shall have a method for recording and verifying attendance. A participant may periodically log on and off of an online course provided the total time spent participating in the course is equal to or exceeds the credit hours assigned to the program. The course design and delivery mechanism for an online course shall have received approval from the International Distance Education Certification Center (IDECC). Information about the IDECC may be found on their website at www.idecc.org. A course completion certificate shall be forwarded to the student as stated in Rule .0607 of this Subchapter.~~

Authority G.S. 93E-1-8(a); 93E-1-10.

**SECTION .0400 – COURSE SPONSOR FEES FOR
PRELICENSING AND PRECERTIFICATION
EDUCATION**

**21 NCAC 57B .0402 ORIGINAL COURSE
APPROVAL FEE**

The original ~~application prelicensing and precertification approval~~ fee shall be that specified in G.S. 93E-1-8(b). The fee shall be ~~paid by certified check, bank check or money order~~ payable to the North Carolina Appraisal Board and is non-refundable. Schools and course sponsors may offer approved courses as frequently as is desired during the period for which approval is granted without paying additional course fees.

Authority G.S. 93E-1-8(b); 93E-1-10.

SECTION .0600 - CONTINUING EDUCATION COURSES

21 NCAC 57B .0602 APPLICATION AND FEE

(a) Course sponsors seeking approval of ~~their courses as~~ appraisal continuing education courses ~~must shall~~ make written application to the Board. A course sponsor ~~must shall~~ be the owner of the proprietary rights to the course for which approval is sought or ~~must shall~~ have the permission of the course owner to seek course approval. ~~If the course for which approval is sought is one that may be offered outside North Carolina, and the course owner wants the Board to approve such course when it is conducted outside North Carolina, application must be made by the course owner.~~ After receipt of a properly completed application, the Board ~~will shall~~ review the application pursuant to the criteria set forth in 21 NCAC 57B .0603 and shall notify the sponsor of its decision.

(b) The original application fee shall ~~as prescribed be that specified~~ in G.S. 93E-1-8(d) for each course for which approval is ~~sought, sought, provided that no~~ A fee is not required if the course sponsor is an accredited North Carolina college, university, junior college, or community or technical college, or if the course sponsor is an agency of the federal, ~~state state~~, or local government. ~~The fee is non-refundable.~~ A course sponsor may offer approved courses as frequently as is desired during the period for which approval is granted without paying additional fees.

(c) Each application ~~must shall~~ be accompanied by copies of all course materials, including handbooks, slides, overheads, and other non-published materials. The application ~~must shall~~ also include the title, author, publisher and edition for each published textbook. Each application ~~must shall~~ also have a timed outline for the course.

(d) The application ~~must shall~~ state the name of the instructor for the course.

Authority G.S. 93E-1-8(c),(d).

**21 NCAC 57B .0603 CRITERIA FOR COURSE
APPROVAL**

The following requirements shall be satisfied in order for course sponsors to obtain approval of a course for appraiser continuing education credit:

- (1) The subject matter of the course shall comply with the requirements of Rule .0204 of Subchapter 57A and the information to be provided in the course shall be both accurate and current.
- (2) The course shall involve a minimum of ~~three and one-half classroom~~ two hours of instruction on acceptable subject matter as outlined in ~~21 NCAC 57A.0201(e)~~ 21 NCAC 57A .0204(c). A classroom hour consists of 50 minutes of classroom instruction and 10 minutes of break time. Instruction shall be given for the full number of hours for which credit is given. Instructors shall not accumulate unused break time to end the class early.
- (3) The course instructor(s) shall:
 - (a) possess the fitness for licensure required of applicants for trainee registration, real estate appraiser licensure, or certification; and
 - (b) either:
 - (i) two years' full-time experience that is related to the subject matter to be taught;
 - (ii) a baccalaureate or higher degree in a field that is related to the subject matter to be taught;
 - (iii) two years' full-time experience teaching the subject matter to be ~~taught;~~ taught; or
 - (iv) an equivalent combination of such education and ~~experience; or experience.~~
 - (v) ~~be approved by the Board pursuant to Rule .0606(11) of this Section.~~
- (4) ~~If two or more instructors shall be utilized to teach a course during the approval period and the course shall be taught in states other than North Carolina, it is sufficient for the course sponsor to show that it has minimum instructor requirements comparable to these requirements. The inquiry into fitness shall include consideration of whether the instructor has had any disciplinary action taken on his or her appraisal license or any other professional license in North Carolina or any other state, or whether the instructor has been convicted of or pleaded guilty to any criminal act.~~
- (5)(4) The course shall be one involving a qualified instructor who, except as noted in Item (6)(5) of

this Rule, shall be physically present in the classroom at all times, and ~~who~~ shall personally provide the instruction for the course. The course instructor may utilize ~~videotape~~ video instruction, ~~remote television instruction~~, or similar types of instruction by other persons to enhance or supplement his or her personal instruction; however, such other persons shall not be considered to be the course instructor and the course instructor shall be physically present when such indirect instruction by other persons is being utilized. No portion of the course shall consist of correspondence instruction. The instructor shall comply with Rule .0306(c) of this Subchapter. Instructors for the National USPAP courses shall be certified by the Appraiser Qualifications Board of the Appraisal Foundation. Current Appraisal Board members shall not teach continuing education courses during their term of office on the Board.

(6)(5) Course sponsors may offer all continuing education classes via distance education as set forth in the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board. A sponsor seeking approval of a computer-based education course shall provide the Board access to the course via the internet at a date and time satisfactory to the Board and the Board shall not be charged any fee for such access. ~~To be approved for credit, an on line course shall meet all of the conditions imposed by the Rules in this Subchapter in advance. The course must be interactive, permitting the participant to communicate, via telephone, electronic mail, or a website bulletin board, with the presenter and other participants. The sponsor of an on line course shall have a reliable method for recording and verifying attendance. A participant may periodically log on and off of an on line continuing education course provided the total time spent participating in the course is equal to or exceeds the credit hours assigned to the program. The course design and delivery mechanism for an on line course offered on the Internet shall be approved by the International Distance Education Certification Center (IDECC). Information about the IDECC may be found on their website at www.idecc.org. A course completion certificate shall be forwarded to the student as stated in Rule .0607 of this Section, and a course roster shall be sent to the Appraisal Board in accordance with Rule .0608 of this Section.~~

(7)(6) The course shall be an educational program intended to improve the knowledge, skill and

competence of trainees, and licensed and certified real estate appraisers.

- (8)(7) The course sponsor shall certify that the course shall be conducted in accordance with the operational requirements stated in Rule .0606 of this Section and that the course sponsor will comply with all other applicable rules contained in this Section.
- (9)(8) The course title shall not include the words "Uniform Standards of Professional Appraisal Practice" or "USPAP" unless the course is either the 15 hour National USPAP course or the 7 hour National USPAP update course. If the course is the 7 hour National USPAP course, the course title shall state which edition of USPAP will be taught in that specific course.
- (10)(9) Each course shall utilize a textbook or course materials that have been approved by the Board.
- (11)(10) If the course content is related to technology, such as software, hardware, electronic devices, manuals, or databases, the course shall be developed specifically for utilization in the real estate appraisal business in order to be approved for continuing education credit. Such courses shall not require the student to purchase specific products, and ~~shall not use~~ the course shall not be used to sell or advertise particular products or software.

Authority G.S. 93E-1-8(c); 93E-1-10.

21 NCAC 57B .0605 CONTINUING EDUCATION CREDIT HOURS

The course approval issued to a course sponsor shall include the number of hours of continuing education credit that will be awarded for the course. The minimum number of continuing education credit hours awarded for a course shall be ~~three and one-half hours~~, two hours, and the maximum number of continuing education credit hours awarded for a course, regardless of its length, shall be thirty hours. Continuing education credit hours shall not be carried forward into subsequent licensing periods. No continuing education credit shall be ~~given~~ awarded for courses taken before the student was registered as a trainee or licensed or certified as an appraiser in this state or any other state.

Authority G.S. 93E-1-8(c); 93E-1-10.

21 NCAC 57B .0606 COURSE OPERATIONAL REQUIREMENTS

Course sponsors shall maintain compliance with Rule .0603 of this Section and shall also comply with the following requirements:

- (1) Courses shall last a maximum of eight classroom hours in any day. A classroom hour shall consist of 50 minutes of classroom instruction and ten minutes of break time.
- (2) Course sponsors shall not utilize advertising of any type that is false or misleading about the course content, number of hours of credit that

- have been awarded by the Board, or credentials of instructor. Sponsors shall specify the number of continuing education credit hours awarded by the Board for the course.
- (3) Course sponsors shall, upon request, provide any prospective student a description of the course content regarding the instruction to be provided in the course.
- (4) Courses ~~shall be~~ conducted in a facility ~~that meets~~ shall meet the following requirements:
- (a) contains a student chair, desk or worktable space for each student;
 - (b) is free of noise or visual distractions that disrupt class sessions; and
 - (c) complies with all applicable local, state and federal laws and regulations regarding safety, health, and sanitation.
 - (d) Classes shall not be held in a personal residence
- (5) ~~The course sponsor shall require students to attend at least 90 percent of the scheduled classroom hours in order to complete the course, even if the number of continuing education credit hours awarded by the Board for the course is less than the number of scheduled classroom hours.~~ Attendance shall be monitored during all class sessions to ensure compliance with the attendance requirement. Instruction shall be given for the number of hours for which credit is given. Instructors shall not accumulate unused break time to end the class early.
- (6) Instructors shall require student attentiveness during class sessions. Students shall not be permitted to engage in activities that are not related to the instruction being provided.
- (7) Course sponsors for which an application fee is required by Rules .0602(b) and .0611(b) of this Section shall ~~administer~~ have course cancellation and fee refund policies. In the event a scheduled course is canceled, efforts shall be made to notify preregistered students of the cancellation and all prepaid fees received from such preregistered students shall be refunded within 30 days of the date of cancellation or, with the student's permission, applied toward the fees for another course.
- (8) Upon request of the Board, in order to ensure compliance with the requirements of this Rule, the course sponsor shall submit to the Board a recording that depicts the instructor teaching portions of any continuing education course.
- (9) Course sponsors shall provide the Board in writing or via an electronic link to the sponsors' website with the dates and locations of all classes the sponsor is offering in North Carolina at least 10 calendar days before the class is offered, unless circumstances beyond the control of the course sponsor require that the course be rescheduled, such as a weather emergency. If the dates or location of the classes change after such information is provided to the Board, the course sponsor shall notify the Board of such changes within five days of the rescheduled date in writing or via an electronic link.
- (10) Course sponsors shall provide each student with contact information for the Appraisal Board.
- (11) If an instructor has any disciplinary action taken ~~on~~ against his or her appraisal license or any other professional license in North Carolina or any other state, or if the instructor has been convicted of or pled guilty to any misdemeanor or felony, the school or course sponsor shall report that fact to the Board within 15 business days.
- (12) All courses, except ~~those taught online,~~ asynchronous distance education courses, shall have a minimum number of ~~five~~ three students enrolled in the course in order for the course to take place.

Authority G.S. 93E-1-8(c); 93E-1-10.

21 NCAC 57B .0608 SPONSOR REPORTING OF CONTINUING EDUCATION CREDIT

Course sponsors ~~must, shall,~~ within 15 days of course ~~completion~~ completion ~~but no later than June 15 of each year,~~ submit to the Board a roster of all North Carolina registered trainees, licensed and certified ~~appraisers~~ appraisers, who ~~satisfactorily~~ completed the course.

Authority G.S. 93E-1-8(c); 93E-1-1.

21 NCAC 57B .0609 CHANGES DURING THE APPROVAL PERIOD

(a) Course sponsors ~~must~~ shall obtain advance approval from the Board for any changes to be made in approved courses with regard to the number of ~~classroom~~ hours, course ~~content~~ content, or instructors. Requests for approval of such changes ~~must~~ shall be in writing, and ~~must~~ shall be sent to the Board at least 15 calendar days before the proposed change would take effect.

(b) In the event of an emergency, such as the disability, ~~death~~ death, or unforeseen departure of the instructor or school director, where it is not possible to request approval of a change at least 15 days in advance, the school ~~must~~ shall request such change immediately but no later than the end of the next business day via fax, ~~telephone~~ telephone, or other electronic means.

Authority G.S. 93E-1-8(c); 93E-1-10.

21 NCAC 57B .0614 INSTRUCTORS FOR THE TRAINEE/SUPERVISOR COURSE REQUIRED BY G.S. 93E-1-6.1

(a) Instructors for the trainee supervision course set forth in G.S. 93E-1-6.1 shall be real estate appraisers who have been certified residential or certified general appraisers for at least three years.

(b) Instructors shall not have received any disciplinary action regarding their appraisal certificate from the State of North Carolina or any other state within the previous three years. ~~In addition, instructors shall not have been convicted of or pleaded guilty to any criminal act. "Criminal act" shall not include traffic infractions.~~

~~(c) All applicants for instructor of the trainee supervision course shall obtain a criminal records check. This records check shall have been performed within 60 days of the date the completed application for approval as an instructor is received by the Board. Applicants shall pay the vendor directly for the cost of these reports. The records check shall comply with the provisions of 21 NCAC 57A .0202(e).~~

~~(d)(c)~~ Persons who wish to teach the trainee supervision course shall be approved by the Board before they may teach this course. Approval of a trainee supervision course instructor authorizes the instructor to teach the course for any approved course sponsor.

~~(e)(d)~~ Applicants who wish to become instructors for the trainee supervision course shall attend an educational workshop sponsored by the Board or complete the trainee supervision course with another approved sponsor, before they may be approved. Applicants may check the Board's website for information regarding the date and location of the workshop. The website may be accessed at www.ncappraisalboard.org.

~~(f)(e)~~ Approval of trainee supervision course instructors expires on the next December 31 following the date of approval. Applications for renewal of Board approval, shall be filed with the Board annually on or before December 1.

Authority G.S. 93E-1-6.1; 93E-1-8(c); 93E-1-10.

SUBCHAPTER 57D – APPRAISAL MANAGEMENT COMPANIES

SECTION .0200 – APPRAISAL MANAGEMENT COMPANY REGISTRATION

21 NCAC 57D .0202 REGISTRATION RENEWAL

(a) All registrations shall expire on June 30 of each year, unless renewed ~~before that time.~~ during the renewal period. The renewal period shall be from May 1 through June 30 of each year.

(b) A holder of an appraisal management company registration ~~desiring the renewal~~ applying for renewal of registration shall apply in writing upon the form provided by the Board or log into the licensee login section on the Board's website and shall forward ~~pay~~ the renewal fee. The renewal fee shall be two thousand dollars (\$2000). The renewal fee is not ~~refundable.~~ refundable after July 1.

(c) The renewal form shall include the following:

- (1) The appraisal management company's name and registration number;
- (2) the contact person for renewal;
- (3) the updated address for the company, service of process of agent, and compliance manager, if applicable;
- (4) whether the company owner(s) have had any disciplinary action;
- (5) a copy of the bond that expires to sooner than June 30th of the year following renewal;

- (6) the signature of the applicant; and
- (7) the operation type, total number of appraisers on the panel in North Carolina for the previous year, the total number of appraisers on the panel nationwide for the previous year, and the number of appraisers on the panel who performed one or more appraisals in connection with a covered transaction in North Carolina for the previous year.

~~(e)(d)~~ In addition to the renewal fee, an appraisal management company shall submit with its renewal the annual appraisal management company fee required by the Appraisal Subcommittee pursuant to 12 C.F.R. 1102.402. The fee shall then be transmitted by the Board to the Appraisal Subcommittee.

~~(f)(e)~~ Any company who acts or holds itself out as a registered appraisal management company while its appraisal management company registration is expired shall be subject to disciplinary action and penalties in G.S. 93E-2-8 and G.S. 93E-2-10.

Authority G.S. 93E-2-3; 93E-2-6.

CHAPTER 58 - REAL ESTATE COMMISSION

Notice is hereby given in accordance with G.S. 150B-21.2 that the Real Estate Commission intends to amend the rules cited as 21 NCAC 58A .1712; 58B .0101-.0105, .0201-.0203, .0301, .0401, .0402, .0501, .0601, .0602; 58H .0210 and .0303.

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

Proposed Effective Date: *July 1, 2022*

Public Hearing:

Date: *March 16, 2022*

Time: *9:00 a.m.*

Location: *NC Real Estate Commission, 1313 Navaho Dr, Raleigh, NC 27609*

In an abundance of caution and to address protective measures to help prevent the spread of COVID-19, this public hearing will also be held by webinar.
<https://ncrec.zoom.us/j/87561333510?pwd=QkZiUzkrcHZMaW03OWZlZjM0UUtoUT09>

Reason for Proposed Action:

21 NCAC 58A .1712 – BROKER-IN-CHARGE COURSE

Amend this Rule to reflect that the 12-hour BIC Course is a distance education course.

21 NCAC 58B – TIMESHARES

21 NCAC 58B .0101-.0105, .0201-.0203, .0301, .0401-.0402, .0501, and .0601-.0602

Amend this Subchapter to reflect the legislative changes in S.L. 2021-163 that modernized the Timeshare Act.

21 NCAC 58H .0210 – DENIAL, WITHDRAWAL, OR TERMINATION OF EDUCATION PROVIDER CERTIFICATION

Amend this Rule to limit an education provider's certification that fails to exceed the 40% license performance examination record in the previous two years. An education provider with a limited certification would not be allowed to offer prelicensing or postlicensing courses for a period of one year and be required to complete a written improvement plan, consult with a Commission staff member, and employ an instructor without approval limitations to remove the certification limitation.

21 NCAC 58H .0303 – DENIAL, WITHDRAWAL, OR TERMINATION OF INSTRUCTOR APPROVAL

Amend this Rule to limit an instructor's approval that fails to exceed the 40% license performance examination record in the previous two years. An instructor with limited approval would not be allowed to teach prelicensing or postlicensing courses for a period of one year and be required to complete a written improvement plan, consultation with a Commission staff member, and the Commission's New Instructor Seminar to remove the instructor approval limitation.

Comments may be submitted to: *Melissa Vuotto, PO Box 17100, Raleigh, NC 27619; email Public.Comment@ncrec.gov*

Comment period ends: *April 18, 2022*

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 984-236-1850.

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

SUBCHAPTER 58A – REAL ESTATE BROKERS

SECTION .1700 – MANDATORY CONTINUING EDUCATION

21 NCAC 58A .1712 BROKER-IN-CHARGE COURSE

(a) The Broker-in-Charge Course is a 12-hour educational course that is required for all brokers designating as broker in charge a broker to attain BIC Eligible Status under Rule .0110 of this Subchapter. ~~The 12-hour course is divided into an 8-hour module~~

~~and a 4-hour module. A broker shall complete the 8-hour module before beginning the 4-hour module.~~

(b) In order to receive credit for completing the Broker-in-Charge Course, a broker shall:

- ~~(1) attend at least 90 percent of the scheduled instructional hours for the course;~~
- ~~(2) provide his or her legal name and license number to the course provider;~~
- ~~(3) present his or her pocket card or photo identification card, if necessary;~~
- ~~(4)(1) personally perform all work required to complete the course; and~~
- ~~(5)(2) complete the 12-hour Broker-in-Charge Broker-in-Charge Course no later than 120 30 days after the broker registers for the course. the course and no later than the following June 10, whichever comes first.~~

(c) Upon completion of the 12-hour Broker-in-Charge Course, a broker shall receive four credit hours of elective continuing education. The four credit hours will be awarded in the license year in which the broker completes the 12-hour Broker-in-Charge Course.

Authority G.S. 93A-3(c); 93A-4.1; 93A-4.2.

SUBCHAPTER 58B – TIME SHARES TIMESHARES

SECTION .0100 – TIME SHARE PROJECT TIMESHARE PROGRAM REGISTRATION

21 NCAC 58B .0101 APPLICATION FOR REGISTRATION

~~(a) Every application for time share project registration shall be filed at the Commission's office upon a form prescribed by the Commission. Every such application shall contain or have appended thereto:~~

- ~~(1) information concerning the developer's title or right to use the real property on which the project is located, including a title opinion provided by an independent attorney performed within 30 days preceding the date of application;~~
- ~~(2) information concerning owners of time shares at the project other than the developer;~~
- ~~(3) a description of the improvements and amenities located at the project, including a description of the number and type of time share units;~~
- ~~(4) a description of the time share estate to be sold or conveyed to purchasers;~~
- ~~(5) information concerning the developer and his or her financial ability to develop the project (including the developer's most recent audited financial statement, any loan commitments for completion of the proposed time share project, a projected budget for the construction, marketing and operation of the time share project until control by purchasers is asserted, and details of any source of funding for the time~~

- ~~share project other than consumer sales proceeds), and information concerning the marketing and managing entities and their relationship to the developer;~~
- (6) ~~the developer's name and address, past real estate development experience and such other information necessary to determine the moral character of those selling and managing the project;~~
- (7) ~~copies of all documents to be distributed to time share purchasers at the point of sale or immediately thereafter; and~~
- (8) ~~such information as may be required by G.S. 93A-52.~~

The form shall also describe the standards for its proper completion and submission.

(b) In accordance with G.S. 93A-52, an application for time share registration shall be considered to be properly completed when it is wholly and accurately filled out and when all required documents are appended to it and appear to be in compliance with the provisions of the Time Share Act, and, where the project is a condominium, the Condominium Act or Unit Ownership Act.

(c) An entity which owns time shares at a time share project where there are one or more existing registered developers may also apply to the Commission for registration of its time shares, provided that the entity does not control a registered developer, is not controlled by a registered developer, and is not in common control of the project with a registered developer.

(a) A timeshare program seeking registration shall apply to the Commission on a form available on the Commission's website and shall, in addition to the requirements set forth in G.S. 93A-52, set forth:

- (1) the timeshare program's physical and mailing address and telephone number;
- (2) the developer's name, address, telephone number, email address, type of business structure with supporting documentation, legal counsel's contact information, if any, and previous real estate experience;
- (3) information concerning the developer's title or right to use the real property on which the project is located, including a title opinion provided by an independent attorney performed within 30 days preceding the date of application;
- (4) a description of the timeshare estate to be sold or conveyed to purchasers;
- (5) the developer's past real estate development experience and any criminal, bankruptcy, and occupational licensing history;
- (6) the developer's financial information including the following:
 - (A) audited financial statement within the previous six months;
 - (B) loan commitments for completion of the timeshare program; and
 - (C) projected budget for construction, marketing, and operations of the timeshare program;

- (7) the Registrar, Program Broker, marketing entity, and managing entity's:
 - (A) name;
 - (B) business and email address;
 - (C) real estate license number, if applicable;
 - (D) telephone number; and
 - (E) executed affidavit, if applicable;
- (8) the names and real estate license number of brokers associated with the timeshare program; and
- (9) a signed affidavit by the developer.

(b) An entity which owns time shares at a timeshare program where there are one or more existing registered developers may also apply to the Commission for registration of its timeshares, provided that the entity does not control a registered developer, is not controlled by a registered developer, and is not in common control of the program with a registered developer.

Authority G.S. 47A; 47C; 93A-51; 93A-52(a); 93A-52.

21 NCAC 58B .0102 REGISTRATION FEE

(a) For the initial registration or subsequent registration of a time share project by a developer proposing to sell or develop 16 or more time shares, the fee shall be one thousand dollars (\$1,000). For an initial or subsequent registration of a time share project in which the developer proposes to sell 15 or fewer time shares, the fee shall be seven hundred dollars (\$700.00). For any time share registration by a homeowner association for the purpose of reselling time shares in its own project which it has acquired in satisfaction of unpaid assessments by prior owners, the fee shall be four hundred fifty dollars (\$450.00).

(b) Payment of application fees for time share registration shall be made to the Commission by certified check, money order, debit card, or credit card. Applications for registration not accompanied by the appropriate fee shall not be considered by the Commission.

(c) In the event a properly completed application filed with the Commission is denied for any reason, or if an incomplete application is denied by the Commission or abandoned by the developer prior to a final decision by the Commission, the amount of two hundred fifty dollars (\$250.00) shall be retained by the Commission from the application fee and the balance refunded to the applicant developer.

The timeshare program registration fee pursuant to Rule .0101 of this Subchapter shall be:

- (1) one thousand dollars (\$1,000) for programs with 16 or more units;
- (2) seven hundred dollars (\$700.00) for programs with 15 or fewer units; and
- (3) four hundred fifty dollars (\$450.00) for programs offering to resell 51 or more units through a homeowner association which has acquired the units in satisfaction of unpaid assessments by prior owners.

Authority G.S. 93A-51; 93A-52.

**21 NCAC 58B .0103 RENEWAL OF ~~TIME SHARE~~
PROJECT TIMESHARE PROGRAM REGISTRATION**

(a) A developer seeking a renewal of a ~~time share project timeshare program~~ registration shall submit a ~~complete~~ renewal application ~~form during the month of June. A renewal application form is available on the Commission's website at www.ncree.gov. In the renewal application form, the developer shall set forth: on a form available on the Commission's website that sets forth the:~~

- (1) ~~the time share's project timeshare program's~~ name, registration number, and mailing address;
- (2) ~~the~~ developer's name, telephone number, and email address;
- (3) ~~the full legal name of brokers that are associated with the time share project and their real estate license numbers; names and license numbers of~~ brokers associated with the timeshare program;
- (4) ~~the name of all exchange programs associated with the time share project timeshare program~~ along with a current copy of the Exchange Disclosure Report pursuant to G.S. 93A-48;
- (5) ~~the~~ name, address, email address, telephone number, real estate broker license number if applicable, and the assignment date ~~for each of the following: for the:~~
 - (A) ~~the~~ managing entity;
 - (B) ~~the~~ marketing entity;
 - (C) ~~the registrar, registrar~~ pursuant to G.S. 93A-58(a);
 - (D) ~~the independent escrow agent, independent escrow agent~~ pursuant to G.S. 93A-42(a); and
 - (E) ~~the project broker, program broker~~ pursuant to 93A-58(c);
- (6) a certification that the information contained in the renewal registration ~~filed with the Commission~~ is accurate and current on the date of the renewal application; and
- (7) ~~the~~ developer's attorney or ~~project broker's~~ program broker's signature.

(b) The developer shall submit a ~~nonrefundable renewal registration fee of eight hundred dollars (\$800.00) payable to the North Carolina Real Estate Commission by certified check, money order, debit card, or credit card. for timeshare programs not offered for resale by a homeowners association. A homeowners association shall submit a renewal registration fee of four hundred fifty dollars (\$450.00).~~

~~(c) A complete renewal application shall be accompanied by the prescribed fee and shall be received at the Commission's office prior to the expiration of the certificate of registration as described in G.S. 93A-52(d).~~

~~(d)(c)~~ Making a false certification on a time share project registration renewal application shall be grounds for disciplinary action by the Commission : pursuant to G.S. 93A-54(b)(13).

Authority G.S. 93A-51; 93A-52(d).

**21 NCAC 58B .0104 AMENDMENTS TO ~~TIME SHARE PROJECT~~
TIMESHARE PROGRAM REGISTRATION**

(a) A developer shall notify the Commission immediately, but in no event later than ~~45~~ 30 days, after any material change in the information contained in the ~~time share project timeshare program~~ registration.

(b) A material change shall be any change which reflects a difference in:

- (1) the nature, quality or availability of the purchaser's ownership or right to use the ~~time share; timeshare;~~
- (2) the nature, quality or availability of any amenity at the project;
- (3) the developer's title, control or right to use the real property on which the project is located;
- (4) the information concerning the developer, the managing or marketing entities, or persons connected therewith, previously filed with the Commission;
- (5) the purchaser's right to exchange his or her unit; however, a change in the information required to be disclosed to a purchaser by G.S. 93A-48 shall not be a material change; or
- (6) the project or ~~time share timeshare~~ as originally registered which would be significant to a reasonable purchaser.

~~(c) Amendments to time share project registrations shall be submitted in the form of substitute pages for material previously filed with the Commission. New or changed information shall be conspicuously indicated by underlining in red ink. A timeshare developer seeking to amend a program's registration shall submit each document to be amended with new or changed information underlined in red ink. Every amendment submitted shall be accompanied by a cover letter signed by the developer or the developer's attorney containing a summary of the amendment and a statement of reasons for which the amendment has been made. The cover letter shall state:~~

- (1) the name and address of the ~~project timeshare program~~ and its registration number;
- (2) the name and address of the developer;
- (3) the document or documents to which the amendment applies;
- (4) whether or not the changes represented by the amendment required the assent of the time share owners and, if so, how the assent of the time share owners was obtained; and
- (5) the recording reference in the office of the register of deeds for the changes, if applicable.

~~Developers of multiple projects must submit separate amendments and cover letters for each project for which amendments are submitted.~~

(d) The Commission may, in its discretion, require the developer to file a new ~~time share project timeshare program~~ registration application in the place of an amendment form. Such refiling shall be without fee.

Authority G.S. 93A-51; 93A-52(a3).

21 NCAC 58B .0105 NOTICE OF TERMINATION

(a) A developer of a registered time share project which, for any reason, terminates its interest, rights, ownership or control of the project or any significant part thereof shall immediately notify the Commission in writing on a form prescribed by the Commission for that purpose. Notice of termination to the Commission shall include the date of termination, the reasons therefor, the identity of the developer's successor, if any, and a report on the status of time share sales to purchasers on the date of termination. A developer seeking to terminate its interest in a timeshare program shall file a Notice of Termination form available on the Commission's website and shall set forth the timeshare program's:

- (1) name;
- (2) physical, mailing, and email address;
- (3) telephone number;
- (4) reason the developer is terminating its interest;
- (5) date of termination;
- (6) new owner, if the developer's interest will be sold or transferred; and
- (7) the signature of the developer.

(b) Upon receipt of a properly executed notice of termination of the developer's interest in a time share project, the Commission shall enter a notation of cancellation of registration in the file of the project, and shall notify the developer of cancellation. A developer's failure to give notice of termination as provided herein shall not prevent cancellation of the project's registration under G.S. 93A-52.

Authority G.S. 93A-51; 93A-52(a); 93A-52.

SECTION .0200 - PUBLIC OFFERING STATEMENT

21 NCAC 58B .0201 GENERAL PROVISIONS

(a) Information contained in a public offering statement pursuant to G.S. 93A-44(b) shall be accurate on the day it is supplied to a purchaser. Before any public offering statement is supplied to a purchaser, the developer shall file a copy of the statement with the Commission.

(b) In addition to the information required to be contained in a public offering statement by G.S. 93A-44, every public offering statement shall disclose to the purchaser of a time share complete and accurate information concerning:

- (1) ~~the real property type of the time share program, whether tenancy in common, condominium or other, and a description of the estate the purchaser will own, the term of that estate and the remainder interest, if any, once the term has expired;~~
- (2) ~~the document creating the time share program, a statement that it is the document which governs the program and a reference to the location where the purchaser may obtain or examine a copy of the document;~~
- (3) ~~whether or not the property is being converted to a time share from some other use and, if so, a statement to that effect and disclosure of the prior use of the property;~~
- (4) ~~the maximum number of time shares in the project, each recreational and other commonly~~

~~used facility offered, and who or what will own each facility, if the project is to be completed in one development or construction phase;~~

- (5) ~~if the project is planned in phased construction or development, the complete plan of phased offerings, including the maximum number of time shares which may be in the project, each recreational and other commonly used facility, who or what will own each facility, and the developer's representations regarding his or her commitment to build out the project;~~
- (6) ~~the association of owners or other entity which will ultimately be responsible for managing the time share program, the first date or event when the entity will convene or commence to conduct business, each owner's voting right, if any, and whether and for how long the developer, as time share owner, will control the entity;~~
- (7) ~~the location where owners may inspect the articles and bylaws of the owners association, or other organizational documents of the entity and the books and records it produces;~~
- (8) ~~whether the entity has lien rights against time share owners for failure to pay assessments;~~
- (9) ~~whether or not the developer has entered into a management contract on behalf of the managing entity, the extent to which the managing entity's powers are delegated to the manager and the location where a copy of the management contract may be examined;~~
- (10) ~~whether or not the developer will pay assessments for time shares which it owns and a statement that the amount of assessments due the managing entity from owners will change over time, as circumstances may change;~~
- (11) ~~whether or not the developer sponsors or will sponsor a rental or resale program and, if so, a summary of the program or programs; and~~
- (12) ~~the developer's role at the project, if the developer is a separate entity from any other registered developer of the time share project.~~

(c)(b) The inclusion of false or misleading statements in a public offering statement shall be grounds for disciplinary action by the Commission.

Authority G.S. 93A-44(8); 93A-51.

21 NCAC 58B .0202 PUBLIC OFFERING STATEMENT SUMMARY

~~Every~~ In addition to the requirements in G.S. 93A-44, a public offering statement shall contain a ~~one page cover~~ cover page prescribed by the Commission and completed by the developer entitled Public Offering Statement Summary. Summary in conspicuous type. The Public Offering Statement Summary shall read as follows:

PUBLIC OFFERING STATEMENT SUMMARY

NAME OF PROJECT:

**NAME AND REAL ESTATE LICENSE NUMBER OF
BROKER: BROKER (IF ANY):**

~~This Public Offering Statement contains information which deserves your careful study, as you decide whether or not to purchase a time share.~~

~~The Public Offering Statement includes general information about the real estate type, the term, and the size of this time share project. It also includes a general description of the recreational and other facilities existing now, or to be provided in the future. The Public Offering Statement will tell you how maintenance and management of the project will be provided and how the costs of these services will be charged to purchasers. From the Public Offering Statement, you will also learn how the project will be governed and whether purchasers will have a voice in that government. You will also learn that a time share instrument will be recorded to protect your real estate interest in your time share. The Public Offering Statement contains important information, but is not a substitute for the detailed information contained in the contract of purchase and the legal documents which create and affect the time share program at this project.~~

Please study this Public Offering Statement carefully. Satisfy yourself that any questions you may have are answered before you decide to purchase. If a salesperson or other representative of the developer has made a representation which concerns you, and you cannot find that representation in writing, ask that it be pointed out to you.

NOTICE

UNDER NORTH CAROLINA LAW, YOU MAY CANCEL YOUR TIME SHARE TIMESHARE PURCHASE WITHOUT PENALTY WITHIN FIVE DAYS AFTER SIGNING YOUR CONTRACT. TO CANCEL YOUR TIME SHARE TIMESHARE PURCHASE, YOU MUST MAIL OR HAND DELIVER WRITTEN NOTICE OF YOUR DESIRE TO CANCEL YOUR PURCHASE TO (name and address of project). IF YOU CHOOSE TO MAIL YOUR CANCELLATION NOTICE, THE NORTH CAROLINA REAL ESTATE COMMISSION RECOMMENDS THAT YOU USE REGISTERED OR CERTIFIED MAIL AND THAT YOU RETAIN YOUR POSTAL RECEIPT AS PROOF OF THE DATE YOUR NOTICE WAS MAILED. UPON CANCELLATION, ALL PAYMENTS WILL BE REFUNDED TO YOU.

Authority G.S. 93A-44; 93A-51.

21 NCAC 58B .0203 RECEIPT FOR PUBLIC OFFERING STATEMENT

(a) Prior to the execution of any contract to purchase a ~~time share~~, timeshare, a ~~time share~~ developer or a ~~time share~~ timeshare salesperson shall obtain from the purchaser a written receipt for the public offering statement, which shall display, directly over the buyer signature line in type in all capital letters, no smaller than the largest type on the page on which it appears, the following statement: DO NOT SIGN THIS RECEIPT UNLESS YOU HAVE RECEIVED A COMPLETE COPY OF THE

~~PUBLIC OFFERING STATEMENT TO TAKE WITH YOU. STATEMENT.~~

(b) Receipts for public offering statements shall be maintained as part of the records of the sales transaction.

Authority G.S. 93A-45(a); 93A-51.

SECTION .0300 - CANCELLATION

21 NCAC 58B .0301 PROOF OF CANCELLATION

(a) The postmark date affixed to any written notice of a purchaser's intent to cancel ~~his or her time share~~ a timeshare purchase shall be presumed by the Commission to be the date the notice was mailed to the developer. Evidence tending to rebut this presumption shall be admissible at a hearing before the Commission.

(b) Upon receipt of a purchaser's written notice of ~~his or her~~ intent to cancel ~~his or her time share~~ a timeshare purchase, the developer, or ~~his or her~~ their agent or representative, shall retain the notice and any enclosure, envelope or other cover in the developer's ~~files at the project,~~ files, and shall produce the file upon the Commission's request.

(c) When there is more than one ~~registered~~ developer at a ~~time share project~~ timeshare program and a purchaser gives written notice of ~~his or her~~ intent to cancel ~~his or her time share~~ a timeshare purchase that is received by a developer or sales staff other than the one from whom ~~his or her time share~~ the timeshare was purchased, the developer or sales staff receiving such notice shall promptly deliver it to the proper developer who shall then honor the notice if it was timely sent by the purchaser.

Authority G.S. 93A-45; 93A-51; 93A-54(d).

SECTION .0400 - TIME SHARE SALES OPERATION

21 NCAC 58B .0401 RETENTION OF TIME SHARE RECORDS

~~A time share developer and a time share salesperson shall retain or cause to be retained for a period of three years complete records of every time share sale, rental, or exchange transaction made by or on behalf of the developer. Records required to be retained shall include but not be limited to offers, applications and contracts to purchase, rent or exchange time shares; records of the deposit, maintenance and disbursement of funds required to be held in trust; receipts; notices of cancellation and their covers if mailed; records regarding compensation of salespersons; public offering statements; and any other records pertaining to time share transactions. Such records shall be made available to the Commission and its representatives upon request.~~

(a) A developer and a timeshare salesperson shall retain or cause to be retained complete timeshare records for a period of not less than three years after the completion or termination of a timeshare sale, rental, or exchange.

(b) Timeshare records shall include, at a minimum, copies of the following:

- (1) offers to purchase;
- (2) applications and contracts to purchase;
- (3) rent or exchange timeshares;
- (4) records of deposits;

- (5) maintenance and disbursement of funds required to be held in trust;
- (6) receipts;
- (7) notices of cancellations;
- (8) compensation of timeshare salespersons;
- (9) public offering statement and summary; and
- (10) any other records pertaining to the timeshare transaction or termination.

(c) Timeshare records shall be made available for inspection and reproduction by the Commission or its authorized representatives without prior notice.

Authority G.S. 93A-51; 93A-54(d).

21 NCAC 58B .0402 ~~TIME SHARE~~ TIMESHARE AGENCY AGREEMENTS AND DISCLOSURE

Time share Timeshare sales transactions conducted by licensees brokers on behalf of a time share developer are subject to 21 NCAC 58A .0104.

Authority G.S. 93A-3(c); 93A-51.

SECTION .0500 – HANDLING AND ACCOUNTING OF FUNDS

21 NCAC 58B .0501 ~~TIME SHARE~~ TIMESHARE TRUST FUNDS

(a) Except as otherwise permitted by G.S. 93A-45(e), 93A-45(d), all monies received by a time share developer or a time share timeshare salesperson in connection with a time share timeshare sales transaction shall be deposited into a trust or escrow account not later than three banking days following receipt and shall remain in such account for ten days from the date of sale or ~~until~~ cancellation by the purchaser, whichever first occurs.

(b) All monies received ~~by a person licensed as a broker~~ in connection with a time share timeshare transaction shall be delivered immediately to ~~his or her project~~ the program broker.

(c) ~~When a time share purchaser timely cancels his or her time share purchase, the developer shall refund to the purchaser all monies paid by the purchaser in connection with the purchase. The refund shall be made no later than 30 days following the date of execution of the contract. Amounts paid by the purchaser with a bankcard or a credit card shall be refunded by a cash payment or by issuing a credit voucher to the purchaser within the 30 day period.~~

(d) ~~Every project broker shall obtain and keep a written representation from the developer as to whether or not lien free or lien subordinated time share instruments can be recorded within 45 days of the purchaser's execution of the time share purchase agreement. When a lien free or lien subordinated instrument cannot be recorded within said time period, on the business day following the expiration of the ten day time share payment escrow period, a project broker shall transfer from his or her trust account all purchase deposit funds or other payments received from a purchaser who has not cancelled his or her purchase agreement, to the independent escrow agent in a check made payable to the independent escrow agent. Alternatively, the check may be made payable to the developer with a restrictive endorsement placed on the back of the check providing "For deposit to the account of the~~

~~independent escrow agent for the (name of time share project) only."~~

Authority G.S. 93A-42(c); 93A-51.

SECTION .0600 - PROJECT PROGRAM BROKER

21 NCAC 58B .0601 DESIGNATION OF PROJECT PROGRAM BROKER

~~The developer of a registered timeshare project shall designate for each project subject to the developer's control a project broker by filing with the Commission an affidavit on the form prescribed. The developer may from time to time change the designated project broker by filing a new designation form with the Commission within 10 days following the change. A broker licensed under the provisions of Section .1800 of Subchapter 58A shall not be designated as a project broker. Provisional brokers shall not be designated as a project broker.~~

(a) The developer shall designate a program broker for each registered timeshare program. The developer shall file an Affidavit of Timeshare Program Broker available of the Commission's website and shall set forth the timeshare program's:

- (1) name and registration number;
- (2) program broker's name, business and email address, real estate license number, telephone number, and notarized signature.

(b) A developer seeking to designate a new program broker may submit an Affidavit of Timeshare Program Broker pursuant to Paragraph (a) of this Rule. The developer must file the Affidavit of Timeshare Program Broker within 10 days of the change.

(c) Brokers licensed pursuant to 21 NCAC 58A .1800 and provisional brokers shall not be designated as a program broker.

Authority G.S. 93A-41(7a); 93A-51; 93A-58(c); 93A-9.

21 NCAC 58B .0602 DUTIES OF THE PROJECT PROGRAM BROKER

(a) ~~The broker designated by the developer of a time share project to be project broker shall assume responsibility for: The program broker shall:~~

- (1) ~~The display of the time share project certificate the timeshare program registration certificate and the license certificates of the real estate brokers associated with or engaged on behalf of the developer at the project;~~
- (2) ~~The determination of whether each licensee employed has complied with Rules .0503 and .0506 of Subchapter 58A; ensure that each broker affiliated with the program has complied with Rules .0503 and .0504 of this Subchapter;~~
- (3) ~~The notification to the commission of any change in the identity or address of the project or in the identity or address of the developer or marketing or managing entities at the project; notify the Commission of any change in the developer or material change pursuant to Rule .0104(b) of this Subchapter;~~
- (4) ~~The deposit and maintenance of time share purchase or rental monies in a trust or escrow~~

~~account until proper disbursement is made; and deposit and maintain the trust or escrow account of the timeshare program and the records pertaining thereto;~~

- (5) ~~The proper maintenance of accurate retain and maintain the timeshare program's records at the project including all records relating to the handling of trust monies at the project, records relating to time share sales and rental transactions and the project registration and renewal pursuant to Rule .0401 of this Subchapter.~~

(b) The ~~project program~~ broker shall review all contracts, public offering statements and other documents distributed to the ~~timeshare program's~~ purchasers of ~~time shares at the project~~ to ensure that the documents comport with the requirements of the Time Share Act and the rules adopted by the ~~commission~~, Commission, and to ensure that true and accurate documents have been given to the purchasers.

~~(e) The project broker shall not permit time share sales to be conducted by any person not licensed as a broker and shall not delegate or assign his or her supervisory responsibilities to any other person, nor accept control of his or her supervisory responsibilities by any other person.~~

~~(d)(c) The project program broker shall notify the commission~~ Commission in writing of any change in his or her status as ~~project broker within ten days following the change.~~ program broker within 10 days.

Authority G.S. 93A-51; 93A-58(c).

SUBCHAPTER 58H - REAL ESTATE EDUCATION

SECTION .0200 - REAL ESTATE EDUCATION PROVIDERS

21 NCAC 58H .0210 LIMITATION, DENIAL, WITHDRAWAL, OR TERMINATION OF EDUCATION PROVIDER CERTIFICATION

(a) The Commission may limit, ~~deny~~ deny, or withdraw certification of an education provider or suspend, revoke, or deny renewal of the certification of an education provider upon finding that an education provider:

- (1) was found by a court or government agency of competent jurisdiction to have violated any state or federal law;
- (2) made any false statements or presented any false, incomplete, or incorrect information in connection with an application;
- (3) failed to provide or provided false, incomplete, or incorrect information in connection with any report the education provider is required to submit to the Commission;
- (4) presented to its students or prospective students false or misleading information relating to its instructional program, to the instructional programs of other institutions, or related to employment opportunities;

- (5) collected money from students but refused or failed to provide the promised instruction;
- (6) failed to submit the per student fee as required by G.S. 93A-4(a2) or 93A-38.5(e).
- (7) refused at any time to permit authorized representatives of the Commission to inspect the education provider's facilities or audit its courses;
- (8) or education director violated the rules of this Subchapter or was disciplined by the Commission under G.S. 93A-6;
- (9) obtained or used, or attempted to obtain or use, in any manner or form, North Carolina real estate license examination questions;
- (10) failed to provide to the Commission a written plan describing the changes the education provider made or intends to make in its instructional program including instructors, course materials, methods of student evaluation, and completion standards to improve the performance of the education provider's students on the license examination within 30 days of the Commission's request during an investigation or application process;
- (11) provided the Commission a fee that was dishonored by a bank or returned for insufficient funds;
- (12) Certificate of Authority was revoked, subject to a revenue suspension, or subject to administrative dissolution by the NC Secretary of State;
- (13) failed to utilize course materials pursuant to Rule .0205 of this Section;
- (14) failed to submit reports pursuant to Rule .0207 of this Section;
- (15) provided false, incomplete, or misleading information relating to real estate licensing, education matters, or the broker's education needs or license status;
- (16) discriminated in its admissions policy or practice against any person on the basis of age, sex, race, color, national origin, familial status, handicap status, or religion; or
- (17) refused or failed to comply with the provisions of this Subchapter.

(b) A broker shall be subject to discipline pursuant to G.S. 93A-6 if the broker engages in dishonest, fraudulent, or improper conduct in connection with the operations of an education provider if that broker:

- (1) has an ownership interest in the education provider;
- (2) is the education director; or
- (3) is an instructor for an education provider.

~~(c) The Commission shall withdraw an education provider's certification when its~~ If an education provider's annual License Examination Performance Record fails to exceed 40 percent in each of the previous two license years. Following withdrawal, the education provider shall be ineligible to apply for certification for a period of one year. ~~years, the Commission shall limit the~~

education provider's certification such that the education provider shall not offer prelicensing or postlicensing courses for a period of one year effective July 1 of the following license year. At the expiration of the one year certification limitation, the limitation shall be removed from the education provider's certification if the education provider completes the following during the year in which the certification was limited:

- (1) a written plan describing the changes the education provider has made or intends to make in its instructional program to improve the performance of the students on the license examination;
- (2) a consultation with a designated Commission staff member to review the written plan and needs for improvement; and
- (3) employed an instructor with no limitations to teach prelicensing and postlicensing courses.

(d) An education provider whose certification has been limited that fails to complete the requirements to remove its limitations under Paragraph (c) of this Rule may renew its certification but shall not offer prelicensing or postlicensing courses until the requirements to remove the limitations on its certification are completed.

~~(d)~~(e) When ownership of a certified education provider is transferred and the education provider ceases to operate as the certified entity, the certification is not transferable and shall terminate on the effective date of the transfer. All courses shall be completed by the effective date of the transfer. The transferring owner shall report course completion(s) to the Commission. The new entity shall obtain an original certification for each location where the education provider will conduct courses as required by G.S. 93A-34 and Rule .0202 of this Section prior to advertising courses, registering students, accepting tuition, conducting courses, or otherwise engaging in any education provider operations.

Authority G.S. 93A-4(d); 93A-34(c); 93A-35(c); 93A-38.

SECTION .0300 – APPROVED INSTRUCTORS

21 NCAC 58H .0303 ~~DENIAL OR LIMITATION,~~ DENIAL, OR WITHDRAWAL OF INSTRUCTOR APPROVAL

(a) The Commission may ~~deny or limit, deny, or~~ withdraw approval of any instructor applicant or approved instructor upon finding that the instructor or instructor applicant:

- (1) has failed to meet the criteria for approval described in Rule .0302 of this Section or the criteria for renewal of approval described in Rule .0306 of this Section at the time of application or at any time during an approval period;
- (2) made any false statements or presented any false, incomplete, or incorrect information in connection with an application for approval or renewal of approval or any report that is required to be submitted to the Commission;

- (3) has failed to submit to the Commission any report, course examination, or video recording required by these Rules;
- (4) has failed to demonstrate the ability to teach a Prelicensing, Postlicensing, or Update ~~course~~ course in a manner consistent with the course materials;
- (5) taught a Prelicensing course and failed to provide to the Commission a written plan describing the changes the instructor has made or intends to make in his or her instructional program to improve the performance of the instructor's students on the license examination within 30 days of the Commission's request during an investigation or application process;
- (6) has been convicted of, pleaded guilty to, or pleaded no contest to, a misdemeanor or felony violation of state or federal law by a court of competent jurisdiction;
- (7) has been found by a court or government agency of competent jurisdiction to have violated any state or federal regulation prohibiting discrimination;
- (8) has obtained, used, or attempted to obtain or use, in any manner or form, North Carolina real estate license examination questions;
- (9) has failed to take steps to protect the security of end-of-course examinations;
- (10) failed to take any corrective action set out in the plan described in Subparagraph (a)(5) of this Rule or as otherwise requested by the Commission;
- (11) engaged in any other improper, fraudulent, or dishonest conduct;
- (12) failed to utilize course materials pursuant to Rule .0205 of this Subchapter;
- (13) has taught or conducted a course in any manner that discriminated against any person on the basis of age, sex, race, color, national origin, familial status, handicap status, or religion; or
- (14) failed to comply with any other provisions of this Subchapter.

~~(b) The Commission shall withdraw an instructor's approval when their If an instructor's annual License Examination Performance Record fails to exceed 40 percent in each of the previous two license years. Following withdrawal, the instructor shall be ineligible to apply for approval for a period of one year.~~ years, the Commission shall limit the instructor's approval such that the instructor shall not teach prelicensing or postlicensing courses for a period of one year effective July 1 of the following license year. At the expiration of the one year approval limitation, the limitation shall be removed if the instructor completes the following during the year in which the approval was limited:

- (1) a written plan describing the changes the instructor has made or intends to make in his or her instructional program to improve the performance of the students on the license examination;

- (2) a consultation with a designated Commission staff member to review the written plan and needs for improvement; and
- (3) the Commission's New Instructor Seminar.

(c) An instructor whose approval has been limited that fails to complete the requirements to remove the limitations under Paragraph (b) of this Rule may renew his or her instructor approval but shall not teach prelicensing or postlicensing courses until the requirements to remove the limitations on his or her instructor approval are completed.

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

CHAPTER 68 - ADDICTIONS SPECIALIST PROFESSIONAL PRACTICE BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the Addictions Specialist Professional Practice Board intends to amend the rules cited as 21 NCAC 68 .0101, .0203-.0206, .0208, .0305, .0306, and repeal the rule cited as 21 NCAC 68 .0212.

Pursuant to G.S. 150B-21.17, the Codifier has determined it impractical to publish the text of rules proposed for repeal unless the agency requests otherwise. The text of the rule(s) are available on the OAH website at <http://reports.oah.state.nc.us/ncac.asp>.

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

Proposed Effective Date: *June 1, 2022*

Public Hearing:

Date: *March 2, 2022*

Time: *1:00 p.m.*

Location: *1046 Washington Street, Raleigh, NC 27605*

Reason for Proposed Action: *Updates clinical terms, expands use of technology based supervision, expands allowance for online training.*

Comments may be submitted to: *Barden Culbreth, PO Box 10126, Raleigh, NC 27605; email barden@ncaddictionsboard.org*

Comment period ends: *April 18, 2022*

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 984-236-1850.

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

SECTION .0100 - GENERAL

21 NCAC 68 .0101 DEFINITIONS

As used in ~~the General Statutes or~~ this Chapter, the following terms mean:

- (1) "Applicant" means a person who submits documentation seeking Board status for registration, certification, or licensure.
- (2) "Approved supervisor " means a person who monitors and directs the activities of a substance use disorder professional in the role of a supervisor or a practice supervisor as set out in G.S. 90-113.31A. This is a person who fulfills or is in the process of fulfilling the requirements for this Board designation of approved supervisor pursuant to Rule .0211 of this Chapter by completing its academic, didactic, and experiential requirements.
- (3) "Assessment" means identifying and evaluating an individual's strengths, weaknesses, problems, and needs for the development of a treatment or service plan for a substance use disorder.
- (4) "Clinical application" means the assumption of professional and ethical responsibilities in the form of clinical supervision defined in Item (7) of this Rule in a clinical setting for 300 hours as well as the utilization of practice dimensions that include:
 - (a) clinical evaluation;
 - (b) treatment planning;
 - (c) referral;
 - (d) service coordination;
 - (e) counseling;
 - (f) education for the individual client, family, or community; and
 - (g) documentation.
- (5) "Clinical setting" means a location where the primary purpose is the delivery of behavioral health care to clients, patients, and consumers.
- (6) "Clinical supervision" means clinical oversight required for ~~all credentials with 50 percent clinical supervision that shall accrue in person and face to face while in the same room. The balance of this requirement may be fulfilled electronically via video, face-to-face, if~~

- ~~performed in real time; a substance use disorder or addictions specialist professional that is held at scheduled times or at regular intervals where the practice supervisor or supervisor of record reviews the clinical work of a professional for the purpose of feedback and instruction. This may be conducted electronically via live face-to-face video conducted in real time.~~
- (7) "Clinical supervision specific education" means training that covers the aspects of clinical supervision of a substance use disorder professional or any of the core functions of addictions counseling in their clinical application.
 - (8) "Client" means an individual who is in receipt of substance use disorder counseling.
 - (9) "Complainant" means a person who has filed an ethical complaint pursuant to these Rules.
 - (10) "Consultation" means a meeting for discussion, decision-making, and planning with other service providers for the purpose of providing substance use disorder counseling services.
 - (11) "Crisis" means a radical change of status event in the course of treatment related to alcohol or drug use that threatens to compromise or destroy the rehabilitation effort.
 - (12) "Deemed status group" means those persons who are credentialed as clinical addictions specialists because of their membership in a deemed status as defined in G.S. 90-113.31A(15).
 - (13) "Education" means a service that is designed to inform and teach various groups including clients, families, schools, businesses, churches, industries, civic, and other community groups about the nature of substance use disorders and about available community resources. It also serves to improve the social functioning of recipients by increasing awareness of human behavior and providing alternative cognitive or behavioral responses to life's problems.
 - (14) "Full-time" means 2,000 hours of substance use disorder professional experience per year.
 - (15) "General professional skill building" means education provided to enhance the general skills of a substance use disorder professional.
 - (16) "Hearing panel" means members of a committee designated by the chairperson of the committee to conduct an informal hearing to determine whether the applicant meets the standards required to be maintained for or awarded a credential.
 - (17) "Impairment" means a mental illness, substance use disorder, chemical dependency, or physical illness that inhibits the ability of the professional to meet the treatment needs of the client and his or her family.
 - (18) "Letter of reference" means a letter that recommends a person for credentialing.
 - (19) "Membership in good standing" means a member's credential is not in a state of revocation, lapse, or suspension. However, an individual whose credential is suspended and the suspension is stayed is a member in good standing during the period of the stay.
 - (20) "Passing score" means the score set and provided by the entity administering the exam.
 - (21) "Person served" means an individual who is not a client but is in receipt of substance use disorder prevention counseling.
 - (22) "Personal service" means the delivery of a document into the hands of the person to whom it is addressed.
 - (23) "Prevention consultation" means a service provided to other mental health, human service, community planning, development organization, or to individual practitioners in other organizations to assist in the development of insights and skills of the practitioner necessary for prevention of alcohol and drug misuse.
 - (24) "Prevention performance domains" means areas of professional activities to include:
 - (a) planning and evaluations;
 - (b) education and skill development;
 - (c) community organization;
 - (d) public and organizational policy; and
 - (e) professional growth and responsibility.
 - (25) "Referral" means identifying the needs of an individual that cannot be met by the counselor or agency and assisting the individual in utilizing the support systems and community resources available to transfer services.
 - (26) "Rehabilitation" means re-establishing the functioning needed for professional competency.
 - (27) "Reinstatement" means an action where the Board restores registration, certification, or licensure to an applicant after the applicant completes the requirements imposed by the Board.
 - (28) "Relapse" means a return to the pattern of substance misuse as well as the process during which indicators appear prior to the person's return to the pattern of substance misuse or a re-appearance or exacerbation of physical, psychological, or emotional symptoms of impairment.
 - (29) "Renewal" means an action by the Board granting a substance use disorder professional a consecutive registration, certification, or licensure based upon the completion of requirements for renewal as prescribed by statute and the rules of the Board.
 - (30) "Revival" means an action by the Board granting a substance use disorder professional a registration, certification, or licensure

following a lapse of registration, certification, or licensure wherein the professional must also meet the requirements for renewal.

- (31) "Respondent" means a person who is making application for registration, certification, or licensure by the Board or is registered, certified, or licensed by the Board against whom a complaint has been filed.
- (32) "Sexual activity" or "sexual contact" means soliciting or engaging in any activities of a sexual nature, including kissing, fondling, or touching of the body, specifically to the genitals but may include other parts of the body meant to cause sexual arousal.
- (33) "Substance use disorder counseling experience" means approved supervised experience that may be full-time, part-time, paid or voluntary, and shall include all of the core functions of addiction counseling as set forth in Rule .0204 of this Chapter as documented by a job description and a supervisor's evaluation.
- (34) "Substance use disorder prevention ~~consultant~~ specialist experience" means approved supervised experience that may be full-time, part-time, paid, or voluntary, and shall include the prevention domains referenced by Rule .0206 of this Chapter and as documented by a job description and supervisor's evaluation.
- (35) "Substance use disorder specific" means education focused upon alcohol and other drugs and the substance using population and is provided for a substance use disorder professional by an individual whose education and experience is in the field of alcohol and other drugs.
- (36) "Supervised practice" means supervision of the applicant in the knowledge and skills related to substance use disorder professionals.
- (37) "Supervisor of record" means the substance use disorder professional primarily responsible for providing applicant or practice supervision to a supervisee.
- (38) "Suspension" means a loss of registration, certification, or licensure by a substance use disorder professional or the privilege of making application for registration, certification, or licensure by an applicant for one of these credentials.

Authority G.S. 90-113.30; 90-113.31A; 90-113.31B; 90-113.33; 90-113.40; 90-113.41; 90-113.41A.

SECTION .0200 - CERTIFICATION

21 NCAC 68 .0203 DESIGNATION AS SUBSTANCE ABUSE ALCOHOL AND DRUG COUNSELOR INTERN

- (a) To be designated as a ~~Substance Abuse~~ an Alcohol and Drug Counselor Intern, a counselor shall:

- (1) Submit the requirements for Registration status issued by the Board; as described in Rule .0202 of this Chapter, if not submitted previously;
- (2) Provide documentation to the Board verifying the completion of 300 hours of supervised practice by a Certified Clinical Supervisor or Clinical Supervisor ~~Intern; Intern; and~~
- (3) Achieve a passing score on the Alcohol and Drug Counselor examination developed by the IC&RC or its successor ~~organization; and organization.~~
- (4) ~~Pay a non-refundable, one hundred fifty dollar (\$150.00) exam fee plus a one hundred fifty dollar (\$150.00) certification fee if not already Registered with the Board.~~

- (b) Upon the failure of an applicant to achieve a passing score, the applicant may request a reexamination and pay a non-refundable reexamination fee of one hundred fifty dollars (\$150.00) after a period of three months from the date of the failed test.

- (c) Once an individual has been designated as a ~~Substance Abuse~~ an Alcohol and Drug Counselor Intern, ~~he or she~~ they may function as a counselor intern under an approved supervisor at a ratio of one hour of supervision for every 40 hours of practice.

Authority G.S. 90-113.30; 90-113.33; 90-113.34; 90-113.38; 90-113.39; 90-113.40; 90-113.41.

21 NCAC 68 .0204 SUPERVISED PRACTICUM FOR CERTIFIED ALCOHOL AND DRUG COUNSELOR AND LICENSED CLINICAL ADDICTIONS SPECIALIST

- (a) All applicants for the certified alcohol and drug counselor or the clinical addictions specialist credential shall complete a 300 hour practicum supervised by an applicant supervisor and the practicum shall cover all core functions of addictions counseling as set forth by the International Certification and Reciprocity Consortium which is hereby incorporated by reference and available in the Candidate Guides including subsequent amendments or additions at internationalcredentialing.org. The practicum shall be supervised at a ratio of one hour of supervision for every 10 hours of practice.

- (b) The remaining ~~180~~ hours of this practicum shall be in any of the core function areas.

- (c) Upon completion of the 300 ~~hours~~, hours of practice, the supervisor shall complete an evaluation reviewing the certified alcohol and drug counselor's or clinical addictions specialist professional's development and provide it to the Board, documenting the 300 hours of practice.

- (d) ~~Pursuant to G.S. 90-113.40(a)(7), the~~ The 300 hour practicum of the Certified Alcohol and Drug Counselor and the Certified Prevention Specialist may be completed as part of an academic course of study in a regionally accredited college or university or it may be developed in the work setting as long as it is supervised by an applicant supervisor. The 300 hour practicum may be completed as part of the three years (or 6,000 hours) of alcohol and drug counseling experience required for certification.

- (e) ~~Pursuant to G.S. 90-113.40(e)(1), the~~ The 300 hours of practical training hour practicum of the Licensed Clinical Addictions Specialist Criteria A applicant provided by an

~~applicant supervisor~~ shall be completed as part of the required two years postgraduate supervised clinical addictions counseling ~~experience, and does not include the clinical application or practical training completed as a part of the master's degree used to apply for the Licensed Clinical Addictions Specialist.~~

Authority G.S. 90-113.30; 90-113.31; 90-113.33; 90-113.34; 90-113.39; 90-113.40.

**21 NCAC 68 .0205 CERTIFIED ~~SUBSTANCE~~
~~ABUSE ALCOHOL AND DRUG~~ COUNSELOR
CERTIFICATION**

Requirements for certification as a Certified ~~Substance Abuse~~
~~Alcohol and Drug~~ Counselor shall be as follows:

- (1) Completion of 6,000 hours of paid or volunteer supervised experience as set out in G.S. 90-113.40(a). If the work setting is not exclusively substance ~~abuse~~ use disorder focused, the applicant may accumulate experience proportional to the substance ~~abuse~~ use disorder services performed or as determined and verified by the applicant ~~supervisor, supervisor;~~
- (2) Board approved education and training of at least 270 clock hours, consisting of:
 - (a) Substance ~~Abuse~~ Use Disorder Specific (SAS) education and training in the amount of at least 190 ~~hours;~~ hours of substance use disorder specific core competencies, to include the following:
 - (i) Basic alcoholism and drug addiction knowledge;
 - (ii) Screening, ~~intake,~~ orientation, and assessment;
 - (iii) Individual, group, and family counseling and intervention techniques;
 - (iv) Case management, treatment planning, reporting, and record keeping;
 - (v) Crisis intervention skills;
 - (vi) Prevention and client education;
 - (vii) Consultation, referral, and networking that utilizes community resources;
 - (viii) Ethics, legal issues, and confidentiality;
 - (ix) Special populations that include individuals or groups with ethnic, cultural, sexual orientation, and gender characteristics as well as persons dealing with HIV, co-occurring disabilities, persons with criminal justice related issues, and perinatal issues;

- (x) Physiology and pharmacology of alcohol and other drugs that include the licit and illicit drugs, inhalants, and nicotine;
 - (xi) Psychological, emotional, personality, and developmental issues; and
 - (xii) Traditions and philosophies of 12-step and other recovery support groups;
- (b) Up to 80 hours may be directed toward general professional skill building to enhance counselor development;
 - (c) No more than 25% of the 270 hours (67.5) hours may be in-service education received within the applicant's organization by staff of the same ~~organization; organization; and~~
 - (d) ~~The 190 Substance Abuse Specific clock hours needed for initial certification must be in the core competencies. Core competencies are listed as follows:~~
 - (i) ~~Basic alcoholism and drug addiction knowledge;~~
 - (ii) ~~Screening, ~~intake,~~ orientation, and assessment;~~
 - (iii) ~~Individual, group, and family counseling and intervention techniques;~~
 - (iv) ~~Case management, treatment planning, reporting, and record keeping;~~
 - (v) ~~Crisis intervention skills;~~
 - (vi) ~~Prevention and client education;~~
 - (vii) ~~Consultation, referral, and networking that utilizes community resources;~~
 - (viii) ~~Ethics, legal issues, and confidentiality;~~
 - (ix) ~~Special populations that include individuals or groups with ethnic, cultural, sexual orientation, and gender characteristics as well as persons dealing with HIV, co-occurring disabilities, persons with criminal justice related issues, and perinatal issues;~~
 - (x) Physiology and pharmacology of alcohol and other drugs that include the licit and illicit drugs, inhalants, and nicotine;

- (xi) ~~Psychological, emotional, personality, and developmental issues; and~~
- (xii) ~~Traditions and philosophies of 12-step and other recovery support groups;~~
- (e)(d) Of the 270 clock hours, applicants for certification as a must ~~Substance Abuse Professional~~ document six hours of HIV/AIDS/STDS/TB/Bloodborne pathogens training and education, six hours professional clinical ethics education, and six hours of education to be selected from the following:
 - (i) nicotine use disorder;
 - (ii) psychopathology;
 - (iii) evidence-based treatment;
 - (iv) substance use disorder issues and older adults;
 - (v) substance use disorder issues affecting veterans; and
 - (vi) substance use disorder and domestic violence.
- (3) A one hundred fifty dollar (\$150.00) exam fee and a two hundred dollar (\$200.00) non-refundable certification fee, unless previously paid. ~~The applicant may request a reexamination and pay a non-refundable reexamination fee as set out in G.S. 90-113.38(c) for the written exam if a passing score is not achieved and at least three months have passed from the date of failed test, paid;~~
- (4) Achieving a passing score on the IC&RC or its successor organization Alcohol and Drug Counselor ~~exam, exam;~~
- (5) Completed evaluation forms by the professional's applicant supervisor documenting 6,000 hours of clinical substance use disorder counseling experience submitted to the Board, and two references from other substance use disorder professionals as part of the application for ~~certification, certification;~~
- (6) An attestation or otherwise signed adherence by the applicant to the Ethical Standards of the ~~Board, Board;~~
- (7) Documentation of highest level education. Verification of high school graduation or completion of GED may be evidenced by diploma. Applicants presenting baccalaureate or advanced degrees must submit a completed ~~transcript, transcript;~~
- (8) Completed registration application found on the Board's ~~website, website;~~
- (9) ~~Resume, Resume; and~~
- (10) Job description that verifies job function to include the 12 Core Functions.

21 NCAC 68 .0206 PROCESS FOR PREVENTION CONSULTANT SPECIALIST CERTIFICATION

(a) The Board shall certify an applicant as a certified ~~substance abuse prevention consultant specialist~~ as set out in Article 5C of Chapter 90 of the North Carolina General Statutes. A certified ~~substance abuse prevention consultant's specialist's~~ primary responsibilities are to provide substance use disorder information and education, environmental approaches, alternative activities, community organization, networking, and referral to promote personal health and well-being to individuals, families, and communities who may not otherwise be clients receiving substance use disorder treatment.

(b) The requirements for certification are:

- (1) Supervised work experience as set out in G.S. 90-113.40(a)(8) in prevention ~~consultation, consultation;~~
- (2) 270 hours of academic and didactic training divided in the following manner:
 - (A) 170 hours primary and secondary prevention and in the prevention performance domains; and
 - (B) 100 hours in substance use disorder specific studies, which includes six hours of HIV/AIDS/STDS/TB/Bloodborne pathogens training and education, six hours professional ethics education, and six hours of education to be selected from the following:
 - (i) nicotine use disorder;
 - (ii) psychopathology;
 - (iii) evidence-based treatment;
 - (iv) substance use disorder issues and older adults;
 - (v) substance use disorder issues affecting veterans; and
 - (vi) substance use disorder and domestic ~~violence, violence;~~ and
- (3) A minimum of 300 hours of supervised practical training practice hours documented by a certified clinical supervisor, clinical supervisor intern, or certified ~~substance abuse prevention consultant specialist~~ who has been certified more than three years;
- (4) An attestation or otherwise signed adherence by the applicant to the Ethical Standards of the ~~Board, Board as found in Section .0500 of this Chapter; and~~
- (5) An application fee of twenty-five dollars (\$25.00), a certification fee of two hundred dollars (\$200.00) and an examination fee of one hundred fifty dollars (\$150.00).

Authority G.S. 90-113.30; 90-113.31B; 90-113.33; 90-113.38; 90-113.39; 90-113.40; 90-113.41.

21 NCAC 68 .0208 RENEWAL REQUIREMENTS FOR COUNSELOR, CRIMINAL JUSTICE ADDICTIONS

Authority G.S. 90-113.30; 90-113.33; 90-113.39; 90-113.40.

**PROFESSIONAL AND PREVENTION CONSULTANT
SPECIALIST**

(a) In order to renew a certification, a certified ~~substance abuse alcohol and drug counselor counselor, certified criminal justice addictions professional, and certified substance abuse prevention consultant specialist~~ shall:

- (1) Complete 60 hours of training recognized by the Board as follows:
 - (A) A minimum of 50 percent (30 hours) shall be substance use disorder specific.
 - ~~(A)~~(B) No more than 25 percent may be in-service education, received within the professional's place of employment by staff of the same employment;
 - ~~(B)~~(C) No more than 25 percent may be educational training presented by the renewing professional. A presentation shall be a part of an event recognized by the Board as set out in the rules of this Chapter;
 - ~~(C)~~(D) An applicant shall include documentation of each event ~~submitted; submitted; and~~
 - ~~(D)~~(E) All applicants shall include three hours of HIV/AIDS/STDS/TB/Bloodborne pathogens training and education, three hours of ~~professional clinical~~ ethics training and education, and three hours of education to be selected from the list appearing in ~~Rule 21 NCAC 68 .0205(e); and Rule .0205(e)~~ of this Section.
 - ~~(E)~~ No more than 50 percent shall be self-study or pre-recorded online training; and

- (2) Submit the following:
 - (A) A completed renewal ~~application~~ found on the Board website;
 - (B) A non-refundable one hundred fifty dollar (\$150.00) recertification fee; and
 - (C) An attestation or otherwise signed adherence by the applicant to the Ethical Standards of the ~~Board. Board~~ as found in Section .0500 of this Chapter.

(b) ~~Thirty hours shall be substance use disorder specific. In order to renew a certification, a certified criminal justice addictions professional shall:~~

- (1) Complete 40 hours of training recognized by the Board as follows:
 - (A) A minimum of 50 percent (20 hours) shall be substance use disorder specific.
 - (B) No more than 25 percent may be in-service education, received within the

professional's place of employment by staff of the same employment;

- (C) No more than 25 percent may be educational training presented by the renewing professional. A presentation shall be a part of an event recognized by the Board as set out in the rules of this Chapter;
- (D) An applicant shall include documentation of each event submitted; and
- (E) All applicants shall include three hours of HIV/AIDS/STDS/TB/Bloodborne pathogens training and education, three hours of clinical ethics training and education, and three hours of education to be selected from the list appearing in Rule .0205(e) of this Section.

(2) Submit the following:

- (A) A completed renewal found on the Board website;
- (B) A non-refundable one hundred fifty dollar (\$150.00) recertification fee; and
- (C) An attestation or otherwise signed adherence by the applicant to the Ethical Standards of the Board as found in Section .0500 of this Chapter.

(c) The renewal ~~application~~ of a certified criminal justice addictions professional and a certified ~~substance abuse alcohol and drug~~ counselor shall include a post-certification supervision agreement between a practice supervisor and supervisee. The supervision required by this Rule shall be provided according to G.S. 90-113.37A(b).

Authority G.S. 90-113.30; 90-113.33; 90-113.37A; 90-113.38; 90-113.39.

21 NCAC 68 .0212 PROCESS FOR RESIDENTIAL FACILITY DIRECTOR CERTIFICATION

Authority G.S. 90-113.30; 90-113.33; 90-113.37A; 90-113.38; 90-113.39; 90-113.40.

SECTION .0300 - CLINICAL ADDICTIONS SPECIALIST

21 NCAC 68 .0305 LICENSURE REQUIREMENTS FOR INITIAL APPLICANTS FOR LICENSED CLINICAL ADDICTIONS SPECIALIST

In addition to meeting the requirements of G.S. 90-113.40, an applicant seeking licensure as a clinical addictions specialist shall submit the following:

- (1) Documentation of completion of:
 - (a) Six hours of HIV/AIDS/STDS/TB/Bloodborne pathogens training and education;

- (b) Six hours of ~~professional~~ clinical ethics training;
 - (c) Six hours of clinical supervision specific training; and
 - (d) Six hours selected from the following list:
 - (i) nicotine use disorder;
 - (ii) psychopathology;
 - (iii) evidence-based treatment;
 - (iv) substance use disorder issues and older adults;
 - (v) substance use disorder issues and veterans; and
 - (vi) substance use disorder issues and domestic violence.
- All hours listed in this Item may be included in the 180 hours of substance use disorder training required for licensure;
- (2) A copy of a substance ~~abuse use disorder~~ specialty certificate or transcript if the applicant is applying under Criteria C as defined in G.S. 90-113.40 (c)(3), or is seeking education credit as described in Item (1) of this Rule under any other criteria outlined in G.S. 90-113.40 (c);
 - (3) An official transcript of completed masters or other advanced degree in a human services field with a clinical application as found in Rule .0101(5) of this Chapter, if not previously submitted under Item (2) of this Rule;
 - (4) A completed application found on the Board's website; and
 - (5) Payment of the following fees:
 - (a) All applicants who are in the deemed status group shall make payment of a non-refundable application fee of ten dollars (\$10.00) and payment of a non-refundable credentialing fee of forty dollars (\$40.00).
 - (b) All other applicants shall make payment of an application fee of twenty-five dollars (\$25.00) and payment of a non-refundable certification fee of two hundred dollars (\$200.00).
 - (c) All applicants seeking credentialing pursuant to Criteria A, Criteria B, and Criteria C of G.S. 90-113.40(c) shall make payment of a non-refundable examination fee of one hundred fifty dollars (\$150.00). An applicant seeking credentialing pursuant to Criteria D (Deemed Status) who has not completed an examination as required by G.S. 90-113.41(b), shall complete and pass the examination at his or her own expense.

Authority G.S. 90-113.30; 90-113.33; 90-113.38; 90-113.40; 90-113.41.

21 NCAC 68 .0306 RENEWAL OF LICENSED CLINICAL ADDICTIONS SPECIALIST

(a) An applicant who is in the deemed status group shall submit the following every two years:

- (1) A completed application and a copy of the applicant's current substance ~~abuse use disorder~~ licensure certificate or its equivalent from the deemed status professional discipline.
- (2) A non-refundable renewal fee of thirty-five dollars (\$35.00).

(b) All other individual applicants shall:

- (1) Renew licensure as classified by the criteria for their original licensing every two years.
- (2) Document completing 40 hours of education pursuant to ~~Section .0400~~ Rule .0401 of this Chapter, during the current licensing period. A minimum of 30 hours shall be substance use disorder specific. This education may include a combination of hours including attending and providing workshops.
- (3) Meet re-licensing educational guidelines as a substance use disorder professional as follows:
 - (A) No more than 25 percent may be in-service education, received within the applicant's organization by staff of the same employment.
 - ~~(B) No more than 25 percent receiving supervision with two hours of supervision translating to one hour of education.~~
 - ~~(C)(B)~~ No more than 25 percent of workshop presentation with one hour of presentation translating to one hour of education. Workshop presentation shall be pursuant to Rule .0213 of this Chapter.
 - ~~(D)(C)~~ All applicants shall include three hours of HIV/AIDS/STDS/TB/Bloodborne pathogens training and education, three hours of professional clinical ethics training and education, and three hours of education to be selected from the list appearing in Rule.0305(1)(d) of this Section.
- (4) Submit a completed application with continuing education documented.
- (5) Submit a non-refundable one hundred fifty dollar (\$150.00) renewal fee.

Authority G.S. 90-113.30; 90-113.33; 90-113.37A; 90-113.38; 90-113.39; 90-113.41A.

This Section contains information for the meeting of the Rules Review Commission January 20, 2022 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 2nd 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. (2nd Vice Chair)
Margaret Currin
Jeff Hyde
Robert A. Rucho

Appointed by House

Andrew P. Atkins (1st Vice Chair)
Wayne R. Boyles, III
Barbara A. Jackson
Randy Overton
Paul Powell

COMMISSION COUNSEL

Amber Cronk May 984-236-1936
Brian Liebman 984-236-1948
Lawrence Duke 984-236-1938

RULES REVIEW COMMISSION MEETING DATES

February 17, 2022 April 21, 2022
March 17, 2022 May 19, 2022

RULES REVIEW COMMISSION MEETING**MINUTES****January 20, 2022**

The Rules Review Commission met on Thursday, January 20, 2022, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx.

Commissioners Wayne R. Boyles III, Jeanette Doran, and Bob Rucho were present in the Commission Room. Commissioners present via WebEx were Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, and Paul Powell.

Staff members present were Alexander Burgos; Commission Counsel Lawrence Duke, Brian Liebman, and Amber May.

The meeting was called to order at 9:00 a.m. with Chair Doran presiding.

The Chair introduced new Commission Counsel Lawrence Duke to the Commission.

The Chair read the notice required by G.S. 138A-15(e) and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearance of conflicts of interest.

APPROVAL OF MINUTES

The Chair asked for any discussion, comments, or corrections concerning the minutes of the December 16, 2021, meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the minutes were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

FOLLOW UP MATTERS

Soil and Water Conservation Commission

02 NCAC 59A .0101, .0102, .0103, .0104, .0201, .0202, .0203, .0204, .0301, and .0302 - The agency is addressing the request for technical changes from the December meeting. No action was required by the Commission.

Environmental Management Commission

15A NCAC 02L .0202 - The agency is addressing the request for technical changes from the December meeting. No action was required by the Commission.

Board of Examiners of Electrical Contractors

21 NCAC 18B .0308 - The agency is addressing the objection from the December meeting. No action was required by the Commission.

Board of Pharmacy

21 NCAC 46 .1417 and .1816 - The agency is reviewing comments received from the public from the December meeting. No action was required by the Commission.

Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors

21 NCAC 50 .0415 - The agency is addressing the objection from the December meeting. No action was required by the Commission.

LOG OF FILINGS (PERMANENT RULES)**DHHS - Division of Health Service Regulation**

Upon the call of the Chair, 10A NCAC 14C .1703 was approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Private Protective Services Board

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Marine Fisheries Commission

Upon the call of the Chair, the period of review was extended as requested by the agency to address technical changes by roll-call vote ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Coastal Resources Commission

Upon the call of the Chair, the period of review was extended as requested by the agency to address technical changes by roll-call vote ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

Wildlife Resources Commission

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

LOG OF FILINGS (TEMPORARY RULES)**Criminal Justice Education and Training Standards Commission**

Upon the call of the Chair, the Commission objected to 12 NCAC 09B .0101 and 09G .0205 by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

The RRC reviewed the amendments to 12 NCAC 09B .0101 and 09G .0205 filed by the Criminal Justice Education and Training Standards Commission CJETS on January 13, 2022. The Findings of Need Forms filed with these Rules indicate that the Rules were adopted by the agency on January 10, 2022. The Commission declined to approve the temporary rules in accordance with G.S. 150B-21.1(b), finding that the agency did not meet the required implementation date set forth in Session Law 2021-138, Section 7.(i).

The Findings of Need Forms for the Rules state that the temporary rules were mandated by Session Law 2021-138, Section 7(c), which states the following:

SECTION 7.(c) G.S. 17C-10(c) reads as rewritten:

"(c) In addition to the requirements of subsection (b) of this section, the Commission, by rules and regulations, shall fix other qualifications for the employment, training, and retention of criminal justice officers including minimum age, education, physical and mental standards, citizenship, good moral character, experience, and such other matters as relate to the competence and reliability of persons to assume and discharge the responsibilities of criminal justice officers, ~~and the officers.~~ The Commission shall prescribe the means for presenting evidence of fulfillment of these requirements. The Commission shall require the administration of a psychological screening examination, including a face-to-face, in-person interview conducted by a licensed psychologist, to determine the criminal justice officer's psychological suitability to properly fulfill the responsibilities of the criminal justice officer. If face-to-face, in-person is not practicable, the face-to-face evaluation can be virtual as long as both the audio and video allow for a professional clinical evaluation in a clinical environment. The psychological screening examination shall be given (i) prior to the initial certification or (ii) prior to the criminal justice officer performing any action requiring certification by the Commission.

Where minimum educational standards are not met, yet the individual shows potential and a willingness to achieve the standards by extra study, they may be waived by the Commission for the reasonable amount of time it will take to achieve the standards required. Such an educational waiver shall not exceed 12 months."

Session Law 2021-138, Section 7.(i) further states:

SECTION 7.(i) The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall implement the requirements of subsections (a) through (d) of this section no later than January 1, 2022. The requirements of subsections (c) and (d) of this section shall apply to certifications issued and employees entering employment on or after the implementation date of those requirements.

The RRC found the agency lacked the statutory authority to promulgate temporary rules under G.S. 150B-21.1(2) as Session Law 2021-138 required the Criminal Justice Education and Training Standards Commission to "implement the requirements... no later than January 1, 2022." Based upon the Findings of Need form filed with the above-referenced Rules on January 13, 2022, the agency did not adopt these Rules until January 10, 2022, and did not meet the required date of January 1, 2022 to "implement the requirements" of the Session Law.

Charminique Williams, the rulemaking coordinator with the agency, addressed the Commission.

Review of the 2022 State Medical Facilities Plan

Upon the call of the Chair, the 2022 State Medical Facilities Plan was approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

COMMISSION BUSINESS**Medical Care Commission**

Due to a clerical error of OAH Staff, upon the call of the Chair, the Commission voted to rescind the approval of Rule 10A NCAC 13F .0405 from the December meeting and voted to approve the revised version of this Rule by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Wayne R. Boyles III, Bobby Bryan, Margaret Currin, Jeff Hyde, Barbara Jackson, Randy Overton, Paul Powell, and Bob Rucho – 9. Voting in the negative: None.

The meeting adjourned at 9:29 a.m.

The next regularly scheduled meeting of the Commission is Thursday, February 17, 2022, at 9:00 a.m.

Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:
Jeanette Doran, Chair

RULES REVIEW COMMISSION

Rules Review Commission Meeting January 20, 2022
Held Via WebEx

| Name | Agency |
|----------------------|------------------|
| Charminique Williams | CJETS |
| Nadine Pfeiffer | DSHR |
| Jennifer Everett | DEQ |
| Catherine Blum | Marine Fisheries |
| Amy Craddock | DHHS |
| Ross Smith | NC Manufacturers |
| Hannah Jernigan | DOT |
| Shalisa Jones | DHHS |
| Tom Hudson | WEYERHAEUSER |
| Laura Rowe | Treasurer |
| Micheala Mitchell | DHHS |
| Jessica Adams | Cardinal Health |
| Ashley Pekrul | WRC |
| Dodie Renfer | Nelson Mullins |
| Helen Landi | DOT |
| Libby Kinsey | DHHS |
| Dennis Seavers | Barber Examiners |
| Libby Kinsey | DHHS |
| Maria Bruner | DOJ |
| Bridget Shelton | DENR |

LIST OF APPROVED PERMANENT RULES
January 20, 2022 Meeting**MEDICAL CARE COMMISSION**

Qualification of Food Service Supervisor 10A NCAC 13F .0405

HHS - HEALTH SERVICE REGULATION, DIVISION OF

Performance Standards 10A NCAC 14C .1703

PRIVATE PROTECTIVE SERVICES BOARD

Reporting Requirements 14B NCAC 16 .0110

Experience Requirements for a Polygraph License 14B NCAC 16 .0501

Training Requirements for Armed Security Guards 14B NCAC 16 .0807

Fees for Trainer Certificate 14B NCAC 16 .0903

Accreditation Standards 14B NCAC 16 .1203

WILDLIFE RESOURCES COMMISSION

Importation of Gray Foxes 15A NCAC 10B .0102

Shining Lights in Deer Areas 15A NCAC 10B .0115

Wild Birds Defined 15A NCAC 10B .0121

Prohibited Hunting on State Fish Hatcheries 15A NCAC 10B .0122

| | |
|--|--------------------|
| <u>Importation of Animal Parts</u> | 15A NCAC 10B .0124 |
| <u>Release of Mute Swans</u> | 15A NCAC 10B .0125 |
| <u>Bear</u> | 15A NCAC 10B .0202 |
| <u>Quail</u> | 15A NCAC 10B .0208 |
| <u>Wild Turkey</u> | 15A NCAC 10B .0209 |
| <u>Ruffed Goose</u> | 15A NCAC 10B .0210 |
| <u>Pheasant (Nonnative Varieties)</u> | 15A NCAC 10B .0211 |
| <u>Groundhog</u> | 15A NCAC 10B .0213 |
| <u>Wildcat (Bobcat)</u> | 15A NCAC 10B .0214 |
| <u>Crows</u> | 15A NCAC 10B .0215 |
| <u>Coyote</u> | 15A NCAC 10B .0219 |
| <u>Nutria</u> | 15A NCAC 10B .0220 |
| <u>Striped Skunk</u> | 15A NCAC 10B .0221 |
| <u>Armadillo</u> | 15A NCAC 10B .0222 |
| <u>Elk</u> | 15A NCAC 10B .0225 |
| <u>Definitions</u> | 15A NCAC 10B .0301 |
| <u>Identification</u> | 15A NCAC 10C .0201 |
| <u>Fish Hatcheries</u> | 15A NCAC 10C .0212 |
| <u>Snagging Fish</u> | 15A NCAC 10C .0213 |
| <u>Public Access for Anglers Only</u> | 15A NCAC 10C .0217 |
| <u>Controlled Rabbit Hunting Preserves</u> | 15A NCAC 10H .1601 |