

NORTH CAROLINA REGISTER

VOLUME 36 • ISSUE 17 • Pages 1429 – 1471

March 1, 2022

I. IN ADDITION

DHHS/ Innovative Approval of a Wastewater System..... 1429

II. PROPOSED RULES

Agriculture and Consumer Services, Department of

Pesticide Board 1430 – 1431

Justice, Department of

Criminal Justice Education and Training Standards Commission 1431

Environmental Quality, Department of

Public Health, Commission for 1431 – 1435

Public Instruction, Department of

State Board of Education 1435 – 1436

Occupational Licensing Boards and Commissions

Chiropractic Examiners, Board of 1436 – 1437

Interpreter and Transliterator Licensing Board 1437 – 1439

Medical Board..... 1439 – 1442

Licensed Clinical Mental Health Counselors, Board of..... 1442 – 1449

State Human Resources, Office of

State Human Resources Commission 1449 – 1450

III. TEMPORARY RULES

Justice, Department of

Criminal Justice Education Training and Standards Commission 1451 – 1454

IV. APPROVED RULES..... 1455 – 1466

Health and Human Services, Department of

Medical Care Commission

Health Service Regulation, Division of

Public Safety, Department of

Private Protective Services Board

Environmental Quality, Department of

Wildlife Resources Commission

V. RULES REVIEW COMMISSION 1467 – 1471

PUBLISHED BY

The Office of Administrative Hearings

Rules Division

1711 New Hope Church Road

Raleigh, NC 27609

Telephone 984-236-1850

Fax 984-236-1947

Donald R. van der Vaart, Director

Ashley B. Snyder, Codifier of Rules

Dana McGhee, Publications Coordinator

Cathy Matthews-Thayer, Editorial Assistant

Contact List for Rulemaking Questions or Concerns

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

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

Office of Administrative Hearings

Rules Division

1711 New Hope Church Road

Raleigh, North Carolina 27609

984-236-1850

984-236-1947 FAX

contact: Ashley B. Snyder, Codifier of Rules

ashley.snyder@oah.nc.gov

984-236-1941

Dana McGhee, Publications Coordinator

dana.mcghee@oah.nc.gov

984-236-1937

Cathy Matthews-Thayer, Editorial Assistant

cathy.thayer@oah.nc.gov

984-236-1901

Rule Review and Legal Issues

Rules Review Commission

1711 New Hope Church Road

Raleigh, North Carolina 27609

984-236-1850

984-236-1947 FAX

contact: Amber Cronk May, Commission Counsel

amber.may@oah.nc.gov

984-236-1936

Brian Liebman, Commission Counsel

brian.liebman@oah.nc.gov

984-236-1948

Lawrence Duke, Commission Counsel

lawrence.duke@oah.nc.gov

984-236-1938

Alexander Burgos, Paralegal

alexander.burgos@oah.nc.gov

984-236-1940

Julie Brincefield, Administrative Assistant

julie.brincefield@oah.nc.gov

984-236-1935

Fiscal Notes & Economic Analysis

Office of State Budget and Management

116 West Jones Street

Raleigh, North Carolina 27603-8005

Contact: Carrie Hollis, Economic Analyst

osbmruleanalysis@osbm.nc.gov

984-236-0689

NC Association of County Commissioners

215 North Dawson Street

Raleigh, North Carolina 27603

919-715-2893

contact: Amy Bason

amy.bason@ncacc.org

NC League of Municipalities

424 Fayetteville Street, Suite 1900

Raleigh, North Carolina 27601

919-715-2925

contact: Monica Jackson

mjackson@ncml.org

Legislative Process Concerning Rulemaking

545 Legislative Office Building

300 North Salisbury Street

Raleigh, North Carolina 27611

919-733-2578

919-715-5460 FAX

Jason Moran-Bates, Staff Attorney

Chris Saunders, Staff Attorney

Aaron McGlothlin, Staff Attorney

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.

Notice of Application for a new Innovative Approval of a Wastewater System for On-site Subsurface Use

Pursuant to NCGS 130A-343(g), the North Carolina Department of Health and Human Services (DHHS) shall publish a Notice in the NC Register that a manufacturer has submitted a request for approval of a wastewater system, component, or device for on-site subsurface use. The following applications have been submitted to DHHS:

Application by: Todd Harrell
Prinsco
1717 16th St NE
Willmar, MN 56201

For: New Innovative Approval for Chamber Trench Systems

DHHS Contact: Jon Fowlkes
1-919-707-5875
Fax: 919-845-3973
jon.fowlkes@dhhs.nc.gov

These applications may be reviewed by contacting the applicant or Jon Fowlkes, Branch Head, at 5605 Six Forks Rd, Raleigh, NC, On-Site Water Protection Branch, Environmental Health Section, Division of Public Health. Draft proposed innovative approvals and proposed final action on the application by DHHS can be viewed on the On-Site Water Protection Branch web site: <http://ehs.ncpublichealth.com/oswp/>.

Written public comments may be submitted to DHHS within 30 days of the date of the Notice publication in the North Carolina Register. All written comments should be submitted to Mr. Jon Fowlkes, Branch Head, On-site Water Protection Branch, 1642 Mail Service Center, Raleigh, NC 27699-1642, jon.fowlkes@dhhs.nc.gov, or fax 919-845-3973. Written comments received by DHHS in accordance with this Notice will be taken into consideration before a final agency decision is made on the innovative subsurface wastewater system application.

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 02 – DEPARTMENT OF AGRICULTURE AND
CONSUMER SERVICES**

Notice is hereby given in accordance with G.S. 150B-21.2 that the Pesticide Board intends to adopt the rules cited as 02 NCAC 09L .0530 and .1112.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.ncagr.gov/SPCAP/pesticides/board.htm>

Proposed Effective Date: July 1, 2022

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): Any person may request a public hearing on the proposed rules by submitting a request in writing no later than March 15, 2022 to James W., Burnette, Jr., Secretary, NC Pesticide Board, 1090 Mail Service Center, Raleigh NC 27699-1090*

Reason for Proposed Action: *State pesticide regulatory agencies issue certifications to pesticide applicators who demonstrate, under a US Environmental Protection Agency (EPA)-approved program, that they can use the products safely. Under EPA's 2017 final rule for certification of pesticide applicators(40 CFR Part 171), States with existing EPA-approved plans are required to submit proposed modifications to comply with the federal standards. This action is required of the NC Pesticide Board by the EPA in order for North Carolina's state plan for certification of pesticide applicators, operators, dealers, pest control consultants and private pesticide applicators to remain in compliance with 40 CFR 171.303 (7):*

(7) The application for Agency approval of a State certification plan must include a complete copy of all State laws and regulations relevant to the State certification plan. In addition, the application for Agency approval of a State plan must include citations to the specific State laws and regulations that demonstrate specific legal authority for each of the following:

(i) Provisions for and listing of the acts which would constitute grounds for denying, suspending, and revoking certification of applicators. Such grounds must include, at a minimum, misuse of a pesticide, falsification of any records required to be maintained by the certified applicator, a criminal conviction under section 14(b) of FIFRA, a final order imposing civil penalty under section 14(a) of FIFRA, and conclusion of a State enforcement action for violations of State laws or regulations relevant to the State certification plan.

Sections 14(a) and (b) of Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 USC 136l(a) and (b))

Comments may be submitted to: James W., Burnette, Jr., Secretary, NC Pesticide Board, 1090 Mail Service Center, Raleigh NC 27699-1090 email james.burnette@ncagr.gov

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

CHAPTER 09 - FOOD AND DRUG PROTECTION

SUBCHAPTER 09L - PESTICIDE SECTION

SECTION .0500 - PESTICIDE LICENSES

02 NCAC 09L .0530 PROHIBITED ACTS

A final order imposing civil liability under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)(7 USC 136l(a)) against any pesticide dealer, pesticide applicator, public operator, or pest control consultant, or a criminal conviction, entry of a plea of guilty, or of nolo contendere under Section 14(b) of FIFRA (7 USC 136l(b)) by any pesticide dealer, pesticide applicator, public operator, or pest control consultant shall constitute grounds for the denial, suspension, or revocation of any license or certification issued by the board.

Authority G.S. 143-437; 143-451(a)(3); 143-456(a)(5); 143-461(1).

**SECTION .1100 - PRIVATE PESTICIDE APPLICATOR
CERTIFICATION**

02 NCAC 09L .1112 PROHIBITED ACTS

A final order imposing civil liability under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)(7 USC 136l(a)) against any private pesticide applicator, or a criminal conviction, entry of a plea of guilty, or of nolo contendere under Section 14(b) of FIFRA (7 USC 136l(b)) by any private pesticide applicator, shall constitute grounds for the denial, suspension, or revocation of any license or certification issued by the board.

Authority G.S. 143-437(1); 143-451(a)(3); 143-456(a)(5); 143-461(1).

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Criminal Justice Education and Training Standards Commission intends to amend the rule cited as 12 NCAC 09G .0205.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/>

Proposed Effective Date: July 1, 2022

Public Hearing:

Date: May 11, 2022

Time: 10:00 a.m.

Location: Wake Technical Community College Public Safety Center, 321 Chapanoke Rd., Raleigh, NC 27603

Reason for Proposed Action: *To ensure compliance with pre-employment psychological examination screening.*

Comments may be submitted to: Charminique D. Williams, 1700 Tryon Park Drive, Raleigh, NC 27602; email cdwilliams@ncdoj.gov

Comment period ends: May 11, 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 09 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SUBCHAPTER 09G - STANDARDS FOR CORRECTIONS EMPLOYMENT, TRAINING, AND CERTIFICATION

SECTION .0200 - MINIMUM STANDARDS FOR CERTIFICATION OF CORRECTIONAL OFFICERS, PROBATION/PAROLE OFFICERS, AND PROBATION/PAROLE OFFICERS-SURVEILLANCE

12 NCAC 09G .0205 PHYSICAL AND MENTAL STANDARDS

(a) Every person employed as a correctional officer or probation/parole officer by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice shall have been examined and certified within one year prior to employment with the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice by a physician licensed in North Carolina, physician's assistant, or nurse practitioner to meet the physical requirements to fulfill the officer's particular responsibilities as stated in the essential job functions.

(b) Every person employed as a correctional officer or probation/parole officer by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice shall have been administered ~~within one year prior to employment with the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice a psychological screening examination by a clinical psychologist or psychiatrist licensed to practice in North Carolina to determine the officer's mental and emotional suitability to fulfill the officer's particular responsibilities as stated in the essential job functions. a psychological screening examination in accordance with G.S. 17C-10(c). The psychological screening shall be valid for a period of one year to the criminal justice officer's initial appointment and applies to any criminal justice officer seeking initial or probationary certification.~~

Authority G.S. 17C-6; 17C-10.

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health intends to adopt the rule cited as 15A NCAC 18A .2545 and amend the rule cited as 15A NCAC 18A .2508.

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

Proposed Effective Date: July 1, 2022

Public Hearing:

Date: April 11, 2022

Time: 2:00 p.m.

Location: This public hearing will be held by teleconference at (919) 715-0769 (no access code required).

Reason for Proposed Action: Session Law 2021-77, Section 8.(a) amended G.S. 130A-280 to include "spas operating for display at temporary events" within the term "public swimming pool," effective July 1, 2022. The proposed rules establish a framework to regulate these spas for protection of the public health and safety.

Comments may be submitted to: Virginia Niehaus, CPH Rulemaking Coordinator, 1931 Mail Service Center, Raleigh, NC 27699-1931; email cphcomment@lists.ncmail.net

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

CHAPTER 18 - ENVIRONMENTAL HEALTH

SUBCHAPTER 18A - SANITATION

SECTION .2500 - PUBLIC SWIMMING POOLS

15A NCAC 18A .2508 DEFINITIONS

The following definitions apply throughout this Section:

- (1) "Department" means North Carolina Department of Health and Human Services.

- (2) "Equipment replacement" means replacement of individual components of the hydraulic and disinfection systems such as pumps, filters, and automatic chemical feeders.
- (3) "Public swimming pool" means public swimming pool as defined in G.S. 130A-280. Public swimming pools are divided into five types:
 - (a) "Swimming pools" are public swimming pools used primarily for swimming.
 - (b) "Spas" are public swimming pools designed for recreational and therapeutic use that are not drained, cleaned, or refilled after each individual use. Spas may include units designed for hydrojet circulation, hot water, cold water mineral bath, air induction bubbles, or any combination thereof. Common terminology for spas includes "therapeutic pool," "hydrotherapy pool," "whirlpool," "hot spa," and "hot tub."
 - (c) "Wading pools" are public swimming pools designed for use by children, including wading pools for toddlers and children's activity pools designed for casual water play ranging from splashing activity to the use of interactive water features placed in the pool.
 - (d) "Water recreation attractions" are pools designed for special purposes that differentiate them from swimming pools, wading pools, and spas. They include:
 - (i) water slide plunge pools and run out lanes, which transfer the kinetic energy of the users' velocity through friction to the slide;
 - (ii) wave pools;
 - (iii) rapid rides;
 - (iv) lazy rivers;
 - (v) interactive play attractions that incorporate devices using sprayed, jetted, or other water sources contacting the users and that do not incorporate standing or captured water as part of the user activity area;
 - (vi) training pools deeper than a 24 inch deep wading pool and shallower than a 36 inch deep swimming pool; and
 - (vii) artificial swimming lagoons as defined in G.S. 130A-280.

- (e) "Special purpose and therapy pools" are pools designed and used for therapeutic treatments or physical training and fitness outside of a licensed medical facility or practice of a licensed physical therapist. They include:
- (i) float tanks used for float therapy in a salt brine solution;
 - (ii) swim spa training pools which use jetted water for stationary swimming against a water current;
 - (iii) exercise therapy and treadmill pools equipped for water resistance exercise therapy; and
 - (iv) scuba pools designed and used for training swimmers to use self-contained underwater breathing apparatus.
- (f) "Display spa at a temporary event" or "DSTE" is a portable, above ground spa that contains water but is not used for body immersion and is displayed at a temporary event.
- (4) "Registered Design Professional" means an individual who is registered or licensed to practice engineering as defined by G.S. 89C or architecture as defined by G.S. 83A.
- (5) "Remodeled" means renovated in a manner requiring disruption of the majority of the pool shell or deck, changes in the pool profile, or redesign of the pool hydraulic system.
- (6) "Repair" means returning existing equipment to working order, replastering or repainting of the pool interior, replacement of tiles or coping, and similar maintenance activities. This term includes replacement of pool decks where the Department has determined that no changes are needed to underlying pipes or other pool structures.
- (7) "Safety vacuum release system" means a system or device capable of providing vacuum release at a suction outlet caused by a high vacuum occurrence due to suction outlet flow blockage.
- (8) "Splash zone" means the area of an interactive play attraction that sheds water to a surge tank or container to be recirculated.
- (9) "Temporary event" means a transitory fair, carnival, circus, festival, or public exhibition.
- ~~(9)~~(10) "Unblockable drain" means a drain of any size and shape that a human body cannot sufficiently block to create a suction entrapment hazard.
- ~~(40)~~(11) "Water feature" means any component within a public swimming pool that pumps, jets, or sprays water above the waterline.
- Authority G.S. 130A-280; 130A-282; S.L. 2019-88; S.L. 2021-77.*
- 15A NCAC 18A .2545 DISPLAY SPA AT A TEMPORARY EVENT**
- A display spa at a temporary event (DSTE) shall not be required to comply with the rules of this Section except as specified in this Rule.
- (1) A DSTE shall not operate without a permit that has been issued by the local health department that serves the county in which the temporary event is located. The duration of a permit for a DSTE shall be no more than 21 consecutive calendar days. The applicant may apply for additional permits to operate a DSTE for multiple 21-day periods at the same temporary event.
 - (2) One permit application shall be submitted for each DSTE. The applicant shall submit the application for a permit at least 15 calendar days before commencing operation of a DSTE. The application form shall be submitted to the local health department that serves the county in which the temporary event is located and shall include the following information:
 - (a) applicant's name, address, and phone number;
 - (b) name of the temporary event;
 - (c) street address of the temporary event;
 - (d) proposed operating dates; and
 - (e) signature of the applicant.
 - (3) A DSTE shall meet the requirements of Rule .2535 of this Section, except as follows:
 - (a) automatic chemical feeders shall not be required;
 - (b) written records shall only be required to include disinfectant concentration, pH, and the type and amount of chemicals added to the DSTE;
 - (c) disinfectant residual shall be measured every day before opening the DSTE to the public;
 - (d) disinfectant concentrations shall be maintained at or above 4 ppm free chlorine or 8 ppm free bromine; and
 - (e) pH shall be maintained between 7.0-7.8.
 - (4) A sign shall be posted on each permitted DSTE that states: "DISPLAY SPA – ONLY HANDS AND FOREARMS ALLOWED IN WATER." The text on the sign shall be at least two inches in height.
 - (5) When the water in a DSTE does not meet the water quality standards set out in the rules of this Section, the DSTE shall be kept closed with a latched or locked cover that prevents the

- public from coming into contact with the DSTE water. The applicant shall post a sign on the DSTE that states: "SPA CLOSED." The text on the sign shall be at least two inches in height.
- (6) The applicant shall keep water quality records on site during the temporary event and for six months after the completion of the temporary event. The applicant shall provide water quality records to the local health department that issued the DSTE permit and the Department upon request.
- (7) All pool chemicals stored on-site at the temporary event shall be stored in a water resistant, covered container in an area that is not used by the public.
- (8) When the applicant or applicant's designee is not available to supervise a DSTE, the DSTE shall be kept closed with a latched or locked cover that prevents the public from coming into contact with the DSTE water.
- (9) The permit for each DSTE shall be posted for the duration of the temporary event in a location that is visible to the public.
- (10) The applicant or the applicant's designee shall report any death, serious injury, or complaint of illness attributed to the applicant's DSTE in accordance with Rule .2540 of this Section.

Authority G.S. 130A-280; 130A-282; S.L. 2021-77.

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Commission for Public Health intends to readopt with substantive changes the rule cited as 15A NCAC 18A .2901.

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

Proposed Effective Date: July 1, 2022

Public Hearing:

Date: April 1, 2022

Time: 2:00 p.m.

Location: This public hearing will be held by teleconference at (919) 715-0769 (no access code required).

Reason for Proposed Action: This rule is proposed for readoption in accordance with G.S. 150B-21.3A and, as part of that process, is being updated to clarify existing language and add new language to establish a methodology for distributing funds to local health departments impacted by certain disasters, emergencies, or events.

Comments may be submitted to: Virginia Niehaus, CPH Rulemaking Coordinator, 1931 Mail Service Center, Raleigh, NC 27699-1931; email cphcomment@lists.ncmail.net

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 (>= \$1,000,000)**
☒ **Approved by OSBM**
☐ **No fiscal note required**

CHAPTER 18 - ENVIRONMENTAL HEALTH

SUBCHAPTER 18A - SANITATION

SECTION .2900 - RESTAURANT AND LODGING FEE COLLECTION AND INVENTORY PROGRAM

15A NCAC 18A .2901 DISBURSEMENT OF FUNDS

(a) For the purposes of this Rule, the following definitions shall apply:

- (1) "Department" means the North Carolina Department of Health and Human Services.
- (2) "Disaster" means when a declaration has been made by the President of the United States under 44 C.F.R. Part 206, Subpart B, which is hereby incorporated by reference, including any subsequent editions or amendments, or by the Governor of North Carolina under G.S. 166A-19.3(3).
- (3) "Emergency" means when a state of emergency declaration has been issued under G.S. 166A-19.3(19).
- (4) "Event" means a National Special Security Event designated by the President of the United States under 18 U.S.C. 3056(e)(1), which is hereby incorporated by reference, including any subsequent editions or amendments.
- (5) "Rate of compliance" means the number of inspections for food and lodging establishments conducted by the local health department during the previous state fiscal year divided by the number of inspections mandated to be

conducted by the local health department per state fiscal year pursuant to G.S. 130A-249 and 10A NCAC 46 .0213, not to exceed a value of 1.

(b) Fees collected pursuant to G.S. 130A-248(d), minus state expenses budgeted for the collection and inventory program, shall be distributed to local health departments for the support of local public health programs and activities as follows:

- (1) ~~Seven~~ seven hundred and fifty dollars (\$750.00) to each county; and
- (2) the ~~remaining~~ balance of funds that remain after the distribution described in Subparagraph (b)(1) of this Rule shall be distributed to each county in accordance with the ~~following formula:~~ formula provided in Part (b)(2)(A) of this Rule. After the distribution of funds pursuant to Part (b)(2)(A) of this Rule, the balance of any funds that remain shall be distributed in accordance with the formula provided in Part (b)(2)(B) of this Rule to the counties that have one hundred percent compliance with the inspection requirements for food and lodging establishments as set out in G.S. 130A-249 and 10A NCAC 46 .0213 in the immediately preceding state fiscal year:

~~(a)(A)~~ [the remaining balance of funds after distribution in ~~Paragraph~~ ~~(A)~~ Subparagraph (b)(1) of this Rule] multiplied by (the number of facilities in the county divided by the number of facilities in the state) multiplied by ~~(the (the county's percentage rate of compliance compliance) with mandatory inspection requirements for food and lodging establishments in G.S. 130A-249 and 15A NCAC 25 .0213 for the previous fiscal year, not to exceed 100 percent)~~ equals the allocation to the county; and

~~(b)(B)~~ distribution of remaining funds to counties with 100 percent compliance with mandatory inspection requirements for food and lodging establishments in G.S. 130A-249 and 15A NCAC 25 .0213 during the previous fiscal year shall be made in accordance with the following: [total amount of remaining funds after distribution in ~~Paragraph~~ Part (b)(2)(A)] ~~(2)(a)~~ multiplied by (the number of facilities in the county divided by the number of facilities in all counties with 100 percent compliance with mandatory inspection requirements for food and lodging establishments as set forth in G.S. 130A-249 and ~~45A~~10A NCAC ~~2546~~ .0213 during the previous fiscal

year) equals the additional allocation to the county.

(c) Notwithstanding the definition of rate of compliance in Paragraph (a) of this Rule, the total amount of funds distributed to a local health department shall be calculated in accordance with Paragraph (b) of this Rule, but using the local health department's rate of compliance from the last state fiscal year that was completed immediately prior to a disaster, emergency, or event, when:

- (1) one or more counties served by the local health department is named in a disaster or emergency declaration or in an event designation;
- (2) the local health director or the local health director's designee submits a written attestation to the State Environmental Health Director that includes the following:
 - (A) an explanation of how disruption caused by the disaster, emergency, or event is such that inspections that are required pursuant to G.S. 130A-249 and 10A NCAC 46 .0213 for food and lodging establishments cannot be carried out as planned because of the local health department's involvement in the response to the disaster, emergency, or event; and
 - (B) a statement that the loss of funds as a result of the local health department's decreased rate of compliance is expected to result in a financial hardship to the local health department's environmental health program; and
- (3) the Department determines that sufficient funds are available to make a disbursement to the local health department in accordance with this Paragraph.

(d) Attestations written pursuant to Paragraph (c) of this Rule shall be submitted to the State Environmental Health Director by mail at 5605 Six Forks Road, 1632 Mail Service Center, Raleigh, NC 27699-1632.

Authority G.S. 130A-9; 130A-248; 130A-249.

TITLE 16 – DEPARTMENT OF PUBLIC INSTRUCTION

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Board of Education intends to adopt the rule cited as 16 NCAC 06D .0403.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.dpi.nc.gov/about-dpi/state-board-education/rules-apa>

Proposed Effective Date: July 1, 2022

Public Hearing:
Date: March 24, 2022

Time: 9:00 a.m.

Location: <https://ncgov.webex.com/meet/lou.martin> 1+415-655-0003 US Toll Access code: 615 950 383

Reason for Proposed Action: Required by G.S. 115C-12(47).

Comments may be submitted to: Thomas Ziko, Rulemaking Coordinator, SBE, 6302 Mail Service Center, Raleigh, NC 27699-6302; phone (984) 236-2249; fax (984) 236-2249; email thomas.ziko@dpi.nc.gov

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

**CHAPTER 06 - ELEMENTARY AND SECONDARY
EDUCATION**

SUBCHAPTER 06D - INSTRUCTION

SECTION .0400 - BEP SUPPORT SERVICES

**16 NCAC 06D .0403 PROVIDE INFORMATION ON
CHILD ABUSE AND NEGLECT**

Each public school unit shall provide to students in grades 6 through 12 the information on child abuse and neglect, including age-appropriate information on sexual abuse, specified in G.S. 115C-12(47).

Authority G.S. 115C-12(47).

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

**CHAPTER 10 – BOARD OF CHIROPRACTIC
EXAMINERS**

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Chiropractic Examiners intends to adopt the rule cited as 21 NCAC 10 .0803 and amend the rule cited as 21 NCAC 10 .0503.

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

Proposed Effective Date: October 1, 2022

Public Hearing:

Date: March 22, 2022

Time: 10:00 a.m.

Location: Join Zoom Meeting:
<https://us02web.zoom.us/j/82670271726> Meeting ID: 826 7027 1726 One tap mobile +13017158592,,82670271726# US (Washington DC);+13126266799,,82670271726# US (Chicago)

Reason for Proposed Action:

21 NCAC 10 .0503 - To update the probable cause process and to clarify that it is an informal conference rather than a "hearing."
21 NCAC 10 .0803 - To consolidate all fees into one rule.

Comments may be submitted to: Dr. Joe Siragusa, NC Board of Chiropractic Examiners, 9121 Anson Way, Suite 200, Raleigh, NC 27615

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 .0500 - INVESTIGATION OF COMPLAINTS

21 NCAC 10 .0503 DETERMINATION OF PROBABLE CAUSE

~~(a) General. Complaints deemed likely to have occurred, based on the findings of the Investigative Report, shall be referred to the Chiropractic Review Committee. The committee shall hold a hearing to determine whether there is probable cause to believe a violation of the laws governing Chiropractic has occurred.~~

~~(b) Composition of Chiropractic Review Committee. The committee shall be composed of:~~

- ~~(1) the secretary of the Board of Examiners. If the secretary is unable to attend a specific probable cause hearing, he or she may designate another physician member of the Board to serve and assume his or her duties at said hearing;~~
- ~~(2) an alternate Board member. "Alternate Board member" means:~~
 - ~~(A) a former Board member selected by the secretary;~~
 - ~~(B) a current Board member selected by the secretary; or~~
 - ~~(C) a licensee selected by the secretary from among those who, at any election held pursuant to Rule .0103(e) of this Chapter, have been elected nominees for Board membership but not appointed to the Board.~~

~~(c) Notice of hearing. The secretary shall provide notice of the probable cause hearing in accordance with G.S. 150B-38(b).~~

~~(d) Conduct of Probable Cause Hearing. The secretary, or designee per Subparagraph (b)(1) of this Rule, shall preside over the probable cause hearing. The Chiropractic Review Committee may consider evidence at the probable cause hearing that would not be admissible if offered at the hearing in a contested case.~~

~~(e) Action by the Chiropractic Review Committee. After examining the evidence presented at the probable cause hearing, the Chiropractic Review Committee shall dispose of each charge in a complaint as follows:~~

- ~~(1) If no probable cause exists to believe that a violation of G.S. 90-154 has occurred, the charge shall be dismissed;~~
- ~~(2) If probable cause exists to believe that a violation of G.S. 90-154 has occurred, and if the Committee and licensee at issue fail to resolve the matter through settlement, the case shall be considered a "contested case" and set for hearing before either the Board, or an Administrative Law Judge at the NC Office of Administrative Hearings, in accordance with G.S. 150B-40.~~

(a) General. Complaint allegations deemed likely to have occurred, based on the findings of the Investigative Report, shall be referred to the Disciplinary Review Committee (DRC). The DRC shall conduct an informal conference with the party in order to consider the possibility of resolving the complaint.

(b) Composition of the DRC. The DRC shall be composed of:

- (1) The Board Secretary; and
- (2) Either a former Board member or a licensee from among those who, at any election held pursuant to Rule .0103(c) of this Chapter, have

been elected nominees for Board membership but not appointed to the Board. The Board Secretary shall select the second DRC member.

(c) The Board Secretary shall preside over the conference.

(d) Action by the DRC. The DRC shall dispose of each complaint charge as follows:

- (1) Dismissal of the complaint with no action;
- (2) Resolution by settlement; or
- (3) Scheduling for contested case hearing and whether the case shall be set before either the Board or an Administrative Law Judge in accordance with G.S. 150B-40(e).

Authority G.S. 90-141; 90-143; 90-154.

SECTION .0800 - MISCELLANEOUS

21 NCAC 10 .0803 FEE SCHEDULE

(a) The Board shall charge the following fees:

- (1) License application: \$300.00;
- (2) License renewal: \$300.00;
- (3) Certification of Competence: \$35.00;
- (4) Renewal of Certification of Competence: \$50.00;
- (5) Corporate registration: \$50.00;
- (6) Corporate registration renewal: \$25.00; and
- (7) Predetermination request: \$45.00.

(b) All fees charged by the Board are non-refundable.

Authority G.S. 55B-10; 55B-11; 90-143.2; 90-143.4; 90-155; 93B-8.1.

**CHAPTER 25 - INTERPRETER AND
TRANSLITERATOR LICENSING BOARD**

Notice is hereby given in accordance with G.S. 150B-21.2 that the Interpreter and Transliterators Licensing Board intends to amend the rule cited as 21 NCAC 25 .0205.

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

Proposed Effective Date: July 1, 2022

Public Hearing:

Date: March 31, 2022

Time: 10:00 a.m.

Location:

<https://us02web.zoom.us/j/81262280421?pwd=N1JWam9VMVkiTzZmV1VvUmJSZlVRUT09>

Meeting ID: 812 6228 0421

Password: 366307

Reason for Proposed Action: *Through an amendment in 2016, the NCITLB removed the then-existing 21 NCAC 25 .0205(f), which prohibited the NCITLB from renewing a provisional license for a sixth time. That change was necessary at that time*

due to a testing moratorium preventing provisional licensees on a major pathway to full licensure from taking the examination required to become fully licensed. However, that moratorium has since been lifted. An additional moratorium regarding testing for interpreters who are deaf has also been effectively lifted by a new test that is now available.

Since the prohibition was removed in 2016, the number of provisional licensees seeking renewal for a sixth time and beyond (rather than obtaining full licensure) has increased. In 2021 alone, approximately 20 provisional licensees would not qualify for an extension of their provisional license under the pre-2016 version of 21 NCAC 25 .0205(f).

The Deaf and Hard of Hearing Community, which the licensees of the NCITLB serve as interpreters, has expressed concern over the poor quality of the interpreting skills of the provisional licensees seeking multiple renewals/extensions of their provisional licenses. In fact, a person currently seeking a provisional license need only obtain an Associate's Degree in interpreting to qualify for a provisional license under one pathway to licensure. That person need not pass any separate skills test to determine the accuracy of the words correctly interpreted in order to obtain a provisional license. At present, such person can linger for years as a provisional licensee without developing the accuracy and skills necessary to become fully licensed. Interpreting accuracy and skill are of paramount importance during medical appointments, financial transactions, and numerous other interpreting situations.

The NCITLB finds that there is a compelling need to protect both the Deaf and Hard of Hearing Community and the hearing community, which also relies upon accurate interpreting, by requiring provisional interpreters to advance to full licensure in an expedient manner by limiting the number of provisional license extensions allowable. In this regard, the NCITLB also finds that there is a compelling need to motivate provisional licensees to increase their skills to become full licensees in a timely manner in order to improve the quality of interpreting necessary for the protection of the health, safety, and welfare of the members of the public who rely upon interpreters.

The NCITLB further finds that the standards for becoming a provisional licensee contained in N.C. Gen. Stat. § 90D-8, while in need of improvement, mean that a person holding a provisional license must (or should) already have basic interpreting skills, education, and training, such that the marginal advancement to full licensee should not take unlimited or even several years. Limiting renewals to four at most in the proposed amendment means that a provisional licensee would have an initial provisional license lasting up to a year and then up to four additional renewal years in which to progress from provisional licensee to full licensee. The Board finds that such is ample time, it is just and reasonable, and that the benefit to, and protection of, the deaf and hearing consumers of interpreting services substantially outweighs any burden to provisional licensees affected by this amendment.

Finally, the NCITLB has considered the impact of Covid-19 and the months during which testing was not conducted. However, during those months, most provisional licensees could have been working on their skills at home and/or through online resources and/or otherwise to improve their skills for obtaining full

licensure when testing resumed. At present, testing has been generally available for at least several months.

Comments may be submitted to: Caitlin Schwab-Falzone, Board Administrator, North Carolina Interpreter and Transliterator Licensing Board, P.O. Box 98328, Raleigh, NC 27624; 701 Exposition Place, Suite 206, Raleigh, NC 27615; phone 919-779-5709; email ncitlb@caphill.com

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 .0200 – LICENSING

21 NCAC 25 .0205 RENEWAL OF A PROVISIONAL LICENSE

(a) An application for the renewal of a provisional license is not timely filed unless it is received by the Board on or before the expiration date of the license being renewed.

(b) If a licensee does not timely file an application for the renewal of a provisional license, the licensee shall not practice or offer to practice as an interpreter or transliterator for a fee or other consideration, represent himself or herself as a licensed interpreter or transliterator, ~~or~~ use the title "Licensed Interpreter for the Deaf," "Licensed Transliterator for the Deaf," or use any other title or abbreviation to indicate that the person is a licensed interpreter or transliterator until he or she receives either a renewed provisional license, as described in Paragraph (c) of this Rule, or an initial full license.

(c) An application to renew an expired provisional license shall be approved by the Board if it is received by the Board within one year after the provisional license expired and if the application demonstrates that the applicant continues to qualify for a provisional license. A provisional license shall not be renewed after it has expired a second time.

(d) If the license being renewed has been suspended by the Board, any renewal license issued to the applicant shall also be suspended until the term of the suspension has expired.

(e) The Board shall renew a provisional license no more than three times upon receipt of timely applications that demonstrate that the applicant continues to qualify for a provisional license. The Board may extend a provisional license on an annual basis after the third renewal if the applicant timely files an application prior to the expiration of the third renewal, and on an annual basis thereafter if further extension is sought by the applicant, that demonstrates that the applicant's progress toward full licensure was delayed by:

- (1) a life-altering event, such as the birth or adoption of a child to the applicant or the applicant's spouse or an acute or chronic illness suffered by either the applicant or a member of the applicant's immediate family;
- (2) active military service;
- (3) a catastrophic natural event, such as a pandemic, flood, hurricane, or tornado; or
- (4) the certifying organization's identified in G.S. 90D-7 having imposed a moratorium on testing or certification that has prevented the applicant from sitting for the qualifying examination and obtaining the results thereof prior to the expiration of the provisional license or any annual extension, extension thereof; provided, however, that a provisional license that has been extended because of a moratorium may be extended one additional time following the end of the moratorium to allow sufficient time for the applicant to take the qualifying examination and to receive the results thereof, but it shall not be extended thereafter on the basis of the moratorium.

(f) The Board shall not for any reason renew or extend a provisional license for a fifth time.

~~(g)~~ The Board shall not issue an initial provisional license to anyone who has previously held a provisional license.

~~(g)~~(h) The Board shall extend the deadline for filing a license renewal application for any individual who currently holds a provisional license and is in good standing with the Board, if the individual is serving in the armed forces of the United States and if G.S. 105-249.2 grants the individual an extension of time to file a tax return. The extension shall be in effect for any period that is disregarded under Section 7508 of the Internal Revenue Code in determining the taxpayer's liability for a federal tax.

Authority G.S. 90D-6; 90D-8; 90D-11; 90D-12; 93B-15.

CHAPTER 32 - MEDICAL BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the Medical Board intends to amend the rule cited as 21 NCAC 32A .0112.

Link to agency website pursuant to G.S. 150B-19.1(c): www.ncmedboard.org/about_the_board/rule_changes

Proposed Effective Date: July 1, 2022

Public Hearing:

Date: May 2, 2022

Time: 10:00 a.m.

Location: The public hearing will be held remotely via teleconference: 1-919-518-9840; Conference ID: 232 308 023#

Reason for Proposed Action: To promote judicial economy by providing that the Board will decline to issue declaratory rulings for matters that are currently under investigation or are the subject of public disciplinary charges. The proposed amendments reflect the exhaustion of administrative remedies doctrine.

Comments may be submitted to: Wanda Long, P.O. Box 20007, Raleigh, NC 27619-0007; email rules@ncmedboard.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

SUBCHAPTER 32A - ORGANIZATION

21 NCAC 32A .0112 DISPOSITION OF REQUEST

(a) Upon receipt of a Request for Declaratory Ruling, the Board shall determine whether a ruling is appropriate under the facts stated.

(b) When the Board determines that the issuance of a declaratory ruling is inappropriate, the Board shall notify, in writing, the person requesting the ruling, stating the reasons for the denial of the request.

(c) The Board shall decline to issue a declaratory ruling where:

- (1) there has been a similar controlling factual determination made by the Board in a contested case;
- (2) the rule-making record shows that the factual issues raised by the request were specifically considered prior to adoption of the rule; ~~or~~
- (3) the subject-matter of the request is involved in pending litigation in any state or federal court in North Carolina;
- (4) the subject-matter of the request involves matters which are currently being investigated by the Board;
- (5) the subject matter of the request involves matters which are currently being adjudicated in a noticed disciplinary or denial hearing heard by the Board or the Office of Administrative Hearings; or
- ~~(4)~~(6) the petitioner fails to show that the circumstances are so changed since the adoption of the statute or rule that a ruling is warranted.

Authority G.S. 150B-4.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Medical Board intends to adopt the rule cited as 21 NCAC 32U .0102 and amend the rule cited as 21 NCAC 32U .0101.

Link to agency website pursuant to G.S. 150B-19.1(c):
www.ncmedboard.org/about_the_board/rule_changes

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 may participate on Teams at <https://tinyurl.com/2p8czkmb> or may call 336-604-5350, conference ID 232 964 29#

Reason for Proposed Action:

21 NCAC 32U .0101: 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).

21 NCAC 32U .0102: 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 longacting 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: Wanda Long, P.O. Box 20007, Raleigh, NC 27619-0007; email rules@ncmedboard.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

**SUBCHAPTER 32U - PHARMACISTS VACCINATIONS
AND ADMINISTRATION OF LONG-ACTING
INJECTABLES**

**SECTION .0100 - PHARMACISTS VACCINATIONS AND
ADMINISTRATION OF LONG-ACTING INJECTABLES**

**21 NCAC 32U .0101 ADMINISTRATION OF
VACCINES BY PHARMACISTS**

Pharmacist personnel may administer vaccines in accordance with 21 NCAC 46 .2507.

~~(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 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) "Pharmacy Intern" shall have the meaning provided in 21 NCAC 46 .1317(28).~~

~~(4) "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.~~

~~(5) RESERVED~~

~~(6) RESERVED~~

~~(7) RESERVED~~

~~(8) RESERVED~~

~~(9) RESERVED~~

~~(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 North Carolina Medical Board's office and on its website (www.ncmedboard.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) 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 vaccines in the presence of a pharmacy technician or pharmacist who holds a current provider level CPR certification.~~

~~(d) With each dose of vaccine, either the Immunizing 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 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) 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 a periodic status reports from the Immunizing Pharmacist, including any problems or complications encountered.~~

~~(f) The following requirements pertain to drugs 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 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 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 Pharmacist shall return all unused prescription medications to the pharmacy or Physician 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:~~

~~(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) 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(r); 90-85.15B.

21 NCAC 32U .0102 ADMINISTRATION OF LONE-ACTING INJECTABLES

Pharmacists may administer long-acting injectables in accordance with 21 NCAC 46 .2514.

Authority SL 2021-110.

CHAPTER 53 – BOARD OF LICENSED CLINICAL MENTAL HEALTH COUNSELORS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Licensed Clinical Mental Health Counselors intends to amend the rules cited as 21 NCAC 53 .0204-.0206, .0308, .0601, .0602, .0604, .0701 and .0902.

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

Proposed Effective Date: July 1, 2022

Public Hearing:

Date: April 7, 2022

Time: 9:00 a.m.

Location: 7 Terrace Way, Greensboro, NC 27403

Reason for Proposed Action:

21 NCAC 53 .0204 - This proposed change updates the process to allow for online submission of Professional Disclosure Statement.

21 NCAC 53 .0205 - This proposal reflects legislative update regarding reciprocity agreements and clarifies the requirements for out of state licensees.

21 NCAC 53 .0206 - This proposal reflects legislative updates regarding graduate counseling experience, clarifies the requirements for internship, practicum, and clinical mental health settings, and states the contents of Verification of Graduate Counseling Experience Form.

21 NCAC 53 .0308 - This proposal clarifies the definition of receipt of application by the Board and sets additional requirements for provision of an email address and for documents verifying the name change.

21 NCAC 53 .0601 - This proposal adds a requirement that licensees shall be notified by email or mail of licensure renewal within 45 days before the license expiration.

21 NCAC 53 .0602 - This proposal sets an additional requirement for a current email address to be provided and for additional documents to be provided verifying the name change.

21 NCAC 53 .0604 - This proposal adds the licensee's extended family members whose major illness or death can be the basis for renewal extension; adds the requirement that the major illness be documented by a licensed healthcare provider;

21 NCAC 53 .0701 - This proposal reflects legislative update regarding the educational requirements and course work for licensed clinical mental health counselor associates;

21 NCAC 53 .0902 - This proposal adds that a notification for renewal of professional corporation or professional limited liability company can be sent by electronic mail.

Comments may be submitted to: *Melanie Davis, 2C Terrace Way, Greensboro, NC 27403; phone (336) 217-6007; email NCFAQ@ncblcmhc.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 .0200 - DEFINITIONS AND CLARIFICATION OF TERMS

21 NCAC 53 .0204 PROFESSIONAL DISCLOSURE STATEMENT REQUIREMENTS FOR LCMHCAS LCMHCA AND LCMHC

A Professional Disclosure Statement is a printed document that includes the following information:

- (1) name of licensee or applicant;
- (2) the licensee's or applicant's highest relevant degree, year degree received, discipline of degree (e.g., counseling, school counseling), and name of institution granting the degree;
- (3) names and numbers of all relevant credentials (licenses, certificates, or registrations);
- (4) number of years of counseling experience;
- (5) description of services offered and clientele (populations) served;
- (6) length of sessions, specific fee or range of fees charged per session (if no fee is charged, a statement to that effect), and methods of payments for services, including information about billing or insurance reimbursement;
- (7) an explanation of confidentiality, including responsibilities and exceptions (e.g., child or elder abuse, court order);

- (8) a statement of procedure for registering complaints, including the full name, address, and telephone number of the Board's office;
- (9) signature and date spaces for both the client and licensee; and
- (10) level of licensure and whether the licensee is under supervision. If under supervision, include name of supervisor.

A current copy of this statement shall be provided to each client prior to the performance of professional counseling services. An updated Professional Disclosure Statement shall be submitted at the time of renewal to the Board's office at 2-C Terrace Way, Greensboro, NC ~~27403~~, 27403 or electronically by uploading on the Board's website at <https://portal.ncblcmhc.org/>. The counselor shall retain a file copy of the Professional Disclosure Statement signed by each client.

Authority G.S. 90-334; 90-334(h); 90-343.

21 NCAC 53 .0205 COUNSELING EXPERIENCE

(a) The counseling experience required by G.S. 90-336(c)(2) shall include ~~a minimum of~~ 2000 hours of supervised professional practice hours of direct counseling experience. ~~Direct counseling experience~~ "Direct Counseling Experience" shall consist consists of live contact with individuals, groups, or families through counseling as defined in ~~G.S. 90-330(a)(3)a and b~~, G.S. 90-330(a)(3)a, b, and d. Experience shall be gained at a rate of no more than 40 hours per week. At least 100 hours of clinical supervision, as defined in Rule .0210 and Rule .0211 of this Section, shall be documented during the ~~minimum of~~ 3000 hours of supervised professional practice, as defined in Rule .0208 of this Section. No less than three-quarters of the hours of clinical supervision shall be individual clinical supervision.

(b) Out of state applicants shall satisfy the requirements determined by the Board to be substantially similar to or exceeding those established under Chapter 90 Article 24 and these Rules, endorsements as stated in Rule .0304, or reciprocity agreements, if applicable.

(c) For purposes of this Rule, the term "reciprocity" means the ability of a mental health counselor with an active independent license that does not require supervision and is in good standing, to practice mental health counseling in another state or U.S. jurisdiction.

Authority G.S. ~~90-330(a)(3)~~; 90-334(h),(i); 90-336(c).

21 NCAC 53 .0206 GRADUATE COUNSELING EXPERIENCE

(a) ~~Applicants enrolled in master's programs before July 1, 2015, a separate practicum and an internship shall be completed as part of the graduate course of study with at least 17 hours of graduate counseling supervision, as defined in Rules .0210 and .0211 of this Section. Supervised graduate counseling shall be verified by a university faculty member on forms available on the Board's website, www.ncblcmhc.org, and shall consist of a minimum of 300 hours of supervised graduate counseling experience at a rate of not less than one hour of clinical supervision per 40 hours of graduate counseling experience, as defined by Rule .0701(2)(b) of this Chapter. At least 180 hours of this counseling experience~~

~~shall be direct counseling experience as defined in Rule .0205 of this Section.~~

~~(b)(a) For Applicants applicants who enroll in a master's program on or after apply prior to July 1, 2015, 2022, graduate counseling experience shall consist of the following separate courses:~~

- ~~(1) one or more courses in practicum totaling at least three semester hours or five quarter hours;~~
- ~~(2) one or more courses in internship totaling at least three semester hours or five quarter hours; and~~
- ~~(3) at least 17 hours of graduate counseling supervision as defined in Rules .0210 and .0211 of this Section.~~

Supervised graduate counseling shall comply with the requirements of Rule .0212 of this Section, shall be verified by a university faculty member on the Verification of Graduate Counseling Experience Form as described in Paragraph (c) of this Rule.

(b) For applicants who apply on or after July 1, 2022, graduate counseling experience shall consist of the following separate courses:

- (1) one or more courses in practicum that meet the standards related to practicum of the current version of the Council for Accreditation of Counseling and Related Educational Programs (CACREP), available at www.cacrep.org, at the time of the receipt of application as defined in Rule .0308(a). The practicum courses shall include graduate counseling supervision as defined by the current version of the CACREP Standards at the time of application; and
- (2) one or more courses in internship that meet the standards related to internship of the current version of the Council for Accreditation of Counseling and Related Educational Programs (CACREP), available at www.cacrep.org, at the time of the receipt of application as defined in Rule .0308(a). The internship courses shall include graduate counseling supervision as defined by the current version of the CACREP Standards at the time of application.

All internship experiences shall be in a clinical mental health setting that provides substantial opportunities to diagnose, treat, appraise, and assess mental disorders and shall consist of "direct counseling experience" as defined in Rule .0205(a) of this Section. Clinical mental health settings may include private practices, college counseling centers, community agencies, managed behavioral health care organizations, integrated delivery systems hospitals, employee assistance programs, or specialty treatment centers. Verification of Graduate Counseling Experience Forms, as described in Paragraph (c) of this Rule, shall identify the type of clinical mental health setting.

(c) Verification of Graduate Counseling Experience Form shall contain:

- (1) the name, title, contact information and signature of the person verifying graduate counseling experience;
- (2) the name of agency where graduate counseling experience occurred;

- (3) information regarding university supervisor for the graduate counseling experience;
- (4) the name, title and credentials of the site supervisor;
- (5) total hours of individual and group clinical supervision received during graduate counseling experience;
- (6) whether the experience is practicum or internship;
- (7) the beginning and end dates of clinical experience;
- (8) the total number of direct and indirect hours, as defined by CACREP; and
- (9) the total hours of direct and indirect client contact as defined by CACREP.

The form is available on the Board's website at www.ncblcmhc.org.

Authority G.S. 90-332.1(a)(3); 90-334(h),(i); 90-336(b)(1).

SECTION .0300 – HOW TO OBTAIN LICENSURE

21 NCAC 53 .0308 RECEIPT OF APPLICATION

(a) All requirements for applications shall be satisfied in accordance with Article 24 of G.S. 90 and the rules of this Chapter within two years from the date of receipt of the application or the application shall be denied by the Board. Application shall be deemed to be received by the Board when the Board's office receives the application and processes the application fee. The applicant may reapply for licensure and shall be subject to the requirements at the time of reapplication.

(b) Change of Address. The applicant shall inform the Board of any change in ~~his or her~~ their mailing address or email address within 60 days after any change. Updated address information shall be submitted on forms available on the Board's website, www.ncblcmhc.org.

(c) Change of Name. The applicant shall inform the Board of any change in ~~his or her~~ their name within 60 days after any change. A name change form shall be submitted on forms available on the Board's website, www.ncblcmhc.org and shall include any required legal documentation, such as a marriage certificate, certificate accompanied by the documents verifying the name change, divorce decree or court order.

Authority G.S. 90-334(h); 90-336(a).

SECTION .0600 – RENEWAL OF LICENSE

21 NCAC 53 .0601 RENEWAL PERIOD

Newly issued licenses shall be effective upon the date of issuance by the Board and shall expire on the second June 30 thereafter. At least 45 days prior to expiration of each license, the Board shall mail by regular U.S. mail or electronic mail a notice for license renewal to the person licensed for the current licensure period. The renewal period for a newly issued license may be less than two years. Following the first renewal of a newly issued license, the renewal period shall be two years and shall run from July 1 in the first year through June 30 in the second year. A licensee whose

license has been suspended shall not practice until the license is renewed.

Authority G.S. 90-334(h); 90-339.

21 NCAC 53 .0602 RENEWAL FOR LICENSURE FORM; ADDRESS CHANGE; NAME CHANGE

(a) License renewal information shall be on the Renewal for Licensure forms available on the Board's website www.ncblcmhc.org and submitted either electronically or mailed in paper format to the Board's office as set forth in Rule .0204 of this Chapter. The licensee shall provide general contact information, including the licensee's email address, licensure or credentials, and all continuing counselor education information for the past two years. All requested information shall be provided and the forms shall be signed and dated. Documents that shall be included with the renewal form are the following:

- (1) certificate of completion of the jurisprudence examination for the level of license that is being renewed;
- (2) the ethics attestation statement;
- (3) an updated Professional Disclosure Statement; and
- (4) payment of renewal fee.

(b) Change of Address. The licensee shall inform the Board of any change in ~~his or her~~ their mailing address or email address within 60 days after any change. Updated address information shall be submitted on forms available on the Board's website, www.ncblcmhc.org.

(c) Change of Name. The licensee shall inform the Board of any change in ~~his or her~~ their name within 60 days after any change. A name change form shall be submitted on forms available on the Board's website, www.ncblcmhc.org and shall include any required legal documentation, such as a marriage certificate, certificate accompanied by the documents verifying the name change, divorce decree or court order.

Authority G.S. 90-334(g); 90-336(a); 90-339(b).

21 NCAC 53 .0604 FAILURE TO SECURE SUFFICIENT CONTINUING EDUCATION/RENEWAL OF LICENSE

Licensed clinical mental health counselor associates, licensed clinical mental health counselors, and licensed clinical mental health counselor supervisors who fail to document sufficient continuing counselor education to renew their licenses by the expiration date of June 30 shall be notified in writing by the Board of the deficiencies, that their licenses have expired, and that the licensee shall not practice until it is renewed. Licensed clinical mental health counselor associates, licensed clinical mental health counselors, and licensed clinical mental health counselor supervisors who are unable to provide documentation of sufficient continuing counselor education to renew their licenses have the following options:

- (1) Within one year of expiration, licensed clinical mental health counselor associates, licensed clinical mental health counselors, and licensed clinical mental health counselor supervisors shall complete the required hours of continuing

counselor education and an additional 20 hours of continuing counselor education for the purpose of renewal of the expired license. Continuing counselor education acquired during this additional time period for the purpose of renewal of an expired license shall not be applied to the next renewal period. Once these requirements have been met, the license shall be renewed.

- (2) Request an extension in writing from the Board. Requests shall be received by the Board no later than May 1st of the year of expiration. An extension shall be granted for:

- (a) military deployment;
- (b) major illness documented by a licensed healthcare provider, lasting longer than three months of self, partner, or child; or of self or a member of an immediate family, such as a partner, child, parent, sibling, or dependent; or
- (c) death of ~~partner or child~~ a member of an immediate family, such as partner, child, parent, sibling, or dependent.

Extensions shall be granted for a period of up to one year. If the extension is approved, any continuing counselor education acquired during the extension shall not be applied to the next renewal period. Once these requirements have been met, the license shall be renewed and the licensee may resume practice.

Failure to complete one of the above listed options shall mean that a license shall be reissued only upon a new application for a license, and all current licensure requirements shall apply to the new application.

Authority G.S. 90-334(g),(h); 90-339.

SECTION .0700 – LICENSED CLINICAL MENTAL HEALTH COUNSELOR ASSOCIATE

21 NCAC 53 .0701 LICENSED CLINICAL MENTAL HEALTH COUNSELOR ASSOCIATE

A license as a licensed clinical mental health counselor associate shall be granted by the Board to persons preparing for the practice of counseling who have:

- (1) if applied before July 1, 2022, completed graduate training as defined in G.S. 90-336(b)(1); G.S. 90-336(b1); and
- (2) ~~completed a minimum of~~ completed a minimum of three semester hours or five quarter hours in each of the required coursework areas of study as follows:
 - (a) Coursework in Helping Relationships in Counseling. Studies in this area provide an understanding of counseling and consultation processes, including the following:
 - (i) counseling and consultation theories, including both

- | | |
|---|---|
| <p>(ii) individual and systems perspectives, as well as coverage of relevant research and factors considered in applications;</p> <p>(iii) basic interviewing, assessment, and counseling skills;</p> <p>(iv) counselor or consultant characteristics and behaviors that influence mental health counseling relationships, including age, gender, and ethnic differences; verbal and nonverbal behaviors; personal behaviors; and personal characteristics, orientations, and skills;</p> <p>(v) client or consultee characteristics and behaviors that influence mental health counseling relationships, including age, gender, and ethnic differences; verbal and nonverbal behaviors; and personal behaviors; personal characteristics, orientations and skills; and</p> <p>(v) ethical considerations.</p> <p>(b) Coursework in Practicum and Internship. Practicum and internship experience should be provided in a supervised graduate counseling experience in a regionally accredited program of study. This graduate counseling experience shall be completed as defined in Rule .0206 of this Chapter.</p> <p>(c) Coursework in Professional Orientation to Counseling. Studies in this area provide an understanding of all aspects of professional functioning, including history, roles, organizational structures, ethics, standards, and credentialing, including the following:</p> <p>(i) history of the counseling profession, including significant factors and events;</p> <p>(ii) professional roles and functions of counselors, including similarities and differences with other types of professionals;</p> <p>(iii) professional organizations (primarily the ACA, its divisions, branches and affiliates), including membership benefits,</p> | <p>activities, services to members, and current emphases;</p> <p>(iv) ethical standards of the National Board for Certified Counselors (NBCC) or ACA and related ethical and legal issues, and their applications to various professional activities (e.g., appraisal, group work);</p> <p>(v) clinical mental health counselor preparation standards, their evolution, and current applications;</p> <p>(vi) clinical mental health counselor credentialing, including counselor certification, licensure and accreditation practices and standards, and the effects of public policy on these issues;</p> <p>(vii) public policy processes, including the role of the clinical mental health counselor advocating on behalf of the profession and its clientele; and</p> <p>(viii) ethical considerations.</p> <p>(d) Coursework in Human Growth and Development Theories in Counseling. Studies in this area provide an understanding of the nature and needs of individuals at all developmental levels, relevant to counseling practice, including the following:</p> <p>(i) theories of individual and family development, and transitions across the life span;</p> <p>(ii) theories of learning and personality development;</p> <p>(iii) human behavior, including an understanding of developmental crises, disability, addictive behavior, psychopathology, and environmental factors as they affect both normal and abnormal behavior;</p> <p>(iv) counseling strategies for facilitating development over the life span; and</p> <p>(v) ethical considerations.</p> <p>(e) Coursework in Social and Cultural Foundations in Counseling. Studies in this area provide an understanding of issues and trends in a multicultural and diverse society that impact clinical</p> |
|---|---|

- mental health counselors and the counseling profession, including, the following:
- (i) multicultural and pluralistic trends, including characteristics and concerns of counseling individuals from diverse groups;
 - (ii) attitudes and behavior based on factors such as age, race, religious preferences, physical disability, sexual orientation, ethnicity and culture, family patterns, gender, socioeconomic status, and intellectual ability;
 - (iii) individual, family, and group counseling strategies with diverse populations; and
 - (iv) ethical considerations.
- (f) Coursework in Group Counseling Theories and Processes. Studies in this area provide an understanding of group development, dynamics, and counseling theories; group counseling methods and skills; and other group work approaches, including the following:
- (i) principals of group dynamics, including group counseling components, developmental stage theories, and group members' roles and behaviors;
 - (ii) group leadership styles and approaches, including characteristics of various types of group leaders and leadership styles;
 - (iii) theories of group counseling, including commonalities, distinguishing characteristics, and pertinent research and literature;
 - (iv) group counseling methods, including group counselor orientations and behaviors, ethical standards, appropriate selection criteria, and methods of evaluation of effectiveness;
 - (v) approaches used for other types of group work in counseling, including task groups, support groups, and therapy groups; and
 - (vi) ethical considerations.
- (g) Coursework in Career Counseling and Lifestyle Development. Studies in this area provide an understanding of career counseling, development, and related life factors, including the following:
- (i) career-counseling theories and decision-making process;
 - (ii) career, avocational, educational, and labor market information resources; visual and print media; and computer-based career information systems;
 - (iii) career-counseling program planning, organization, implementation, administration, and evaluation;
 - (iv) interrelationships among work, family, and other life roles and factors, including multicultural and gender issues as related to career counseling;
 - (v) career and educational placement counseling, follow-up, and evaluation;
 - (vi) assessment instruments and techniques relevant to career counseling;
 - (vii) computer-based career-development applications and strategies, including computer-assisted career-counseling systems;
 - (viii) career-counseling processes, techniques and resources, including those applicable to specific populations; and
 - (ix) ethical considerations.
- (h) Coursework in Assessment in Counseling. Studies in this area provide an understanding of individual and group approaches to assessment and evaluation in counseling practice, including the following:
- (i) theoretical and historical bases for assessment techniques in counseling;
 - (ii) validity, including evidence for establishing content, construct, and empirical validity;
 - (iii) reliability, including methods of establishing stability,

- (iv) internal, and equivalence reliability; appraisal methods, including environmental assessment, performance assessment, individual and group test and inventory methods, behavioral observations, and computer-managed and computer-assisted methods;
 - (v) psychometric statistics, including types of assessment scores, measures of central tendency, indices of variability, standard errors, and correlations;
 - (vi) age, gender, ethnicity, language, disability, and cultural factors related to the use of assessment and evaluation in counseling services;
 - (vii) strategies for selecting, administering, interpreting and using assessment and evaluation instruments, and techniques in counseling; and
 - (viii) ethical considerations.
- (i) Coursework in Research and Program Evaluation. Studies in this area provide an understanding of types of research methods, basic statistics, and ethical and legal consideration in research, including the following:
 - (i) basic types of research methods to include qualitative and quantitative research designs;
 - (ii) basic parametric and nonparametric statistics;
 - (iii) principles, practices, and applications of needs assessment and program evaluation;
 - (iv) uses of computers for data management and analysis; and
 - (v) ethical and legal ~~considerations.~~ considerations; or
- (2) If applied on or after July 1, 2022, completed graduate training as defined in G.S. 90-336(b2) and the required courses of the current version of the Council for Accreditation of Counseling and Related Educational Programs (CACREP), available at www.cacrep.org, at the time of the receipt of application as defined in Rule .0308(a). The graduate coursework shall include, but is not limited to, a minimum of

three semester hours or five quarter hours in each of the required coursework areas of study as follows:

- (a) Theories of counseling and psychotherapy;
- (b) Evaluation and appraisal procedures;
- (c) Group dynamics, theories and techniques;
- (d) Counseling techniques and helping skills;
- (e) Multicultural counseling;
- (f) Professional issues and ethics;
- (g) Research;
- (h) Career counseling;
- (i) Psychosocial and human development across the lifespan;
- (j) Clinical practicum and clinical mental health internship; and
- (k) Use and application of the current version of Diagnostic and Statistical Manual of Mental Disorders (DSM), appraisal and assessment of mental disorders, psychopathology, diagnosis, treatment and treatment planning, and evidence-based intervention and practice; and
- (3) passed an examination as defined in Rule .0305 of this Chapter; and
- (4) submitted a complete application for licensed clinical mental health counselor associate.

To prevent a lapse in licensure, licensed clinical mental health counselor associates who desire to become licensed clinical mental health counselors shall complete the application process for the licensed clinical mental health counselor licensure no earlier than 60 days prior to expiration of their licensed clinical mental health counselor associate license or upon completion of the supervised professional practice hours as set forth in Rule .0208 of this Chapter to allow for administrative processing and Board action.

Authority G.S. 90-334(h); 90-336(a); ~~90-336(b)~~; 90-336 (b1); 90-336 (b2).

SECTION .0900 – REGISTRATION FOR A PROFESSIONAL ENTITY

21 NCAC 53 .0902 RENEWAL OF CERTIFICATE OF REGISTRATION FOR A PROFESSIONAL ENTITY

A notification for renewal of professional corporation or professional limited liability company shall be sent by either U.S. mail or electronic mail to each registered entity a minimum of 60 days prior to the December 31 expiration date. The Board shall renew the certificate of registration upon receipt of the completed written renewal application of the holder and the renewal fee. Failure to renew by the due date shall result in notification to the Secretary of State's Office to suspend the Articles of Incorporation or Articles of Organization.

Authority G.S. 55B-11; 57D-2-01(c); 90-334(h).

TITLE 25 – OFFICE OF STATE HUMAN RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Human Resources Commission intends to amend the rule cited as 25 NCAC 01C .1007.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://oshr.nc.gov/about-oshr/state-hr-commission/proposed-rulemaking>

Proposed Effective Date: September 1, 2022

Public Hearing:

Date: March 17, 2022

Time: 1:00 to 2:00 p.m.

Location: STATEOP_MEETME_150 919-662-4657

Reason for Proposed Action: *Describe circumstances when an employee may be separated from state employment by their employing agency and detailed notice process to do so. The rule describes in detail when an employee may be separated when unable to perform their position's essential duties listed in the job description or designated work schedule and the employee and agency are unable to reach agreement on a return to work arrangement that meets the needs of the agency and employee's condition in either of the following situations:*

1. *Due to medical condition or vagueness of medical prognosis;*
2. *Due to court order, loss of required credentials, loss of other required certification, or other extenuating circumstances; or*
3. *Due to work-related injury if employee has reached maximum medical improvement and agency is unable to accommodate the employee's permanent work restrictions related to such injury or 12 months after the date of the employee's work-related injury.*

Comments may be submitted to: Blake Thomas, 116 West Jones Street, Raleigh, NC 27511; phone (984) 236-0822; email Blake.Thomas@nc.gov

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

CHAPTER 01 - OFFICE OF STATE HUMAN RESOURCES

SUBCHAPTER 01C – PERSONNEL ADMINISTRATION

SECTION .1000 - SEPARATION

25 NCAC 01C .1007 SEPARATION

(a) An employee may be separated when:

- (1) the employee remains unavailable for work after all applicable leave credits and leave benefits have been exhausted and agency management does not grant leave without pay, as defined in 25 NCAC 01E .1101, if the employee is unable to return to all of the position's essential duties as set forth in the employee's job description or designated work schedule due to a medical condition or the vagueness of a medical prognosis, and the employee and agency are unable to reach agreement on a return to work arrangement that meets both the needs of the agency and the employee's condition;
- (2) notwithstanding any unexhausted applicable leave credits and leave benefits, the employee is unable to return to all of the position's essential duties as set forth in the employee's job description or designated work schedule due to a court order, due to a loss of required credentials, due to a loss of other required certification, due to the employee's presence at work exposing others to a condition recognized as a direct threat by the EEOC, or due to other extenuating circumstances that renders the employee unable to perform the position's essential duties as set forth in the employee's job description or designated work schedule, and the employee and the agency are unable to reach agreement on a return to work arrangement that meets both the needs of the agency and the employee's situation; or
- (3) notwithstanding any unexhausted applicable leave credits and leave benefits, when an employee is on workers' compensation leave of absence, or when an employee is working with temporary or permanent work restrictions due to a work-related injury, and the employee is unable to return to all of the position's essential duties as set forth in the employee's job description or designated work schedule due to a medical condition or the vagueness of a

medical prognosis, and the employee and the agency are unable to reach agreement on a return to work arrangement that meets both the needs of the agency and the employee's medical condition, a separation may occur on the earliest of the following dates:

- (A) after the employee has reached maximum medical improvement for the work related injury for which the employee is on workers' compensation leave of absence and the agency is unable to accommodate the employee's permanent work restrictions related to such injury; or
- (B) 12 months after the date of the employee's work related injury.

(b) The employing agency shall send the employee written notice of the proposed separation in a Pre Separation Letter. The letter shall include the employing agency's planned date of separation, the efforts undertaken to avoid separation, and why the efforts were unsuccessful. This letter shall be sent to the employee at least 15 calendar days prior to the employing agency's planned date of separation. This letter shall include a deadline for the employee to respond in writing no less than five calendar days prior to the employing agency's planned date of separation.

(c) If the agency and employee are unable to agree on terms of continued employment or the employee does not respond to the Pre Separation letter, the employing agency shall send the employee written notice in a Letter of Separation. The letter shall be sent no earlier than 20 calendar days after the Pre Separation letter is sent to the employee. The Letter of Separation shall state the actual date of separation, specific reasons for the separation and set forth the employee's right of appeal. Such a separation shall not be considered a disciplinary dismissal as described in G.S. 126-34.02 or G.S. 126-35. It is an involuntary separation and may be grieved or appealed. The burden of proof on the agency in the event of a grievance is not to demonstrate just cause as that term exists in G.S. 126-34.02 or G.S. 126-35. Rather, the agency's burden shall be to prove that the employee was unavailable, that efforts were undertaken to avoid separation, and why the efforts were unsuccessful.

(d) "Applicable leave credits and benefits" is defined as the sick, vacation, bonus, incentive, and compensatory leave that the employee may earn, but does not include short-term or long-term disability.

Authority G.S. 126-4(7a); 126-35.

Note from the Codifier: The rules published in this Section of the NC Register are temporary rules reviewed and approved by the Rules Review Commission (RRC) and have been delivered to the Codifier of Rules for entry into the North Carolina Administrative Code. A temporary rule expires on the 270th day from publication in the Register unless the agency submits the permanent rule to the Rules Review Commission by the 270th day.

This section of the Register may also include, from time to time, a listing of temporary rules that have expired. See G.S. 150B-21.1 and 26 NCAC 02C .0500 for adoption and filing requirements.

TITLE 12 – DEPARTMENT OF JUSTICE

Rule-making Agency: Criminal Justice Education Training and Standards Commission

Rule Citation: 12 NCAC 09B .0101, 12 NCAC 09G .0205

Effective Date: February 15, 2022

Date Approved by the Rules Review Commission: February 7, 2022

Reason for Action: The effective date of a recent act of the General Assembly or of the U.S. Congress. Session Law 2021-138 Senate Bill 300 Section 7(c), effective September 2, 2021. Senate Bill 300 is a comprehensive criminal justice reform that specifically requires psychological screening examination for criminal justice officers prior to employment. Section VII Law Enforcement Officer Entry Requirements, Ongoing Requirements, and Create a Physical Fitness Study, Section 7(c) states "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".

CHAPTER 09 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SUBCHAPTER 09B - STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT; EDUCATION; AND TRAINING

SECTION .0100 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT

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

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

- (1) be a citizen of the United States;
- (2) be at least 20 years of age;
- (3) be of good moral character pursuant to G.S. 17C-10 as evidenced by the following:
 - (a) not having been convicted of a felony;
 - (b) not having been convicted of a misdemeanor as defined in 12 NCAC 09B .0111(1) for five years or the completion of any corrections

- (c) supervision imposed by the courts, whichever is later;
- (c) not having been convicted of an offense that would prohibit the possession of a firearm or ammunition, under 18 U.S.C. 922, which is hereby incorporated by reference with subsequent amendments and editions and can be found at no cost at <https://www.govinfo.gov/content/pkg/USCODE-2018-title18/pdf/USCODE-2018-title18-partI-chap44.pdf>;
- (d) having submitted to and produced a negative result on a drug test within 60 days of employment or any in-service drug screening required by the appointing agency that meets the certification standards of the Department of Health and Human Services for Federal Workplace Drug Testing Programs. A list of certified drug testing labs that meet this requirement may be obtained, at no cost, at <https://www.samhsa.gov/programs-campaigns/drug-free-workplace/guidelines-resources/drug-testing/certified-lab-list>;
- (e) submitting to a background investigation consisting of the verification of age and education and a criminal history check of local, state, and national files;
- (f) being truthful in providing information to the appointing agency and to the Standards Division for the purpose of obtaining probationary or general certification;
- (g) not having pending or outstanding felony charges that, if convicted of such charges, would disqualify the applicant from holding such certification, pursuant to G.S. 17C-13; and
- (h) not having engaged in any conduct that brings into question the truthfulness or credibility of the officer, or involves "moral turpitude." "Moral turpitude" is conduct that is contrary to justice, honesty, or

- morality, including conduct as defined in: *In re Willis* 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); *State v. Harris*, 216 N.C. 746, 6 S.E. 2d 854 (1940); *In re Legg*, 325 N.C. 658, 386 S.E. 2d 174(1989); in re *Applicants for License*, 143 N.C. 1, 55 S.E. 635 (1906); *In re Dillingham*, 188 N.C. 162, 124 S.E. 130 (1924); *State v. Benbow*, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions that cite these cases as authority.
- (4) have been fingerprinted and a search made of local, state, and national files to disclose any criminal record;
- (5) have been examined and certified by a licensed surgeon, physician, physician assistant, or nurse practitioner to meet physical requirements necessary to fulfill the officer's particular responsibilities and shall have produced a negative result on a drug screen administered according to the following specifications:
- (a) the drug screen shall be a urine test consisting of an initial screening test using an immunoassay method and a confirmatory test on an initial positive result using a gas chromatography/mass spectrometry (GC/MS) or other initial and confirmatory tests authorized or mandated by the Department of Health and Human Services for Federal Workplace Drug Testing Programs;
- (b) a chain of custody shall be maintained on the specimen from collection to the eventual discarding of the specimen;
- (c) the drug screen shall test for the presence of at least cannabis, cocaine, phencyclidine (PCP), opiates, and amphetamines or their metabolites;
- (d) the test threshold values meet the requirements established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs, as found in 82 FR 7920 (2017) incorporated by reference, including later amendments and editions found at no cost at <https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs>;
- (e) the test conducted shall be not more than 60 days old, calculated from the time when the laboratory reports the results to the date of employment; and
- (f) the laboratory conducting the test shall be certified for federal workplace drug testing programs, and shall adhere to applicable federal rules, regulations, and guidelines pertaining to the handling, testing, storage, and preservation of samples;
- (6) have been administered a psychological screening examination in accordance with G.S. 17C-10(c). ~~examination, including a face to face, in person interview conducted by a licensed psychologist to determine the criminal justice officer's psychological suitability to fulfill the responsibilities of the criminal justice officer.~~
- (a) ~~If a face to face, in person interview 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.~~
- (b) ~~The psychological screening examination shall be given prior to the initial certification or prior to the criminal justice officer performing any action requiring certification by the Commission.~~
- (c) The psychological screening shall be valid for a period of one year prior to the criminal justice officer's initial appointment and applies to any criminal justice officer seeking initial or probationary certification.
- ~~have been administered a psychological screening examination by a clinical psychologist or psychiatrist licensed to practice in North Carolina or by a clinical psychologist or psychiatrist authorized to practice in accordance with the rules and regulations of the United States Armed Forces within one year prior to employment by the employing agency to determine the officer's mental and emotional suitability to properly fulfill the responsibilities of the position;~~
- (7) have been interviewed personally by the department head or the department head representative or representatives to determine such things as the applicant's appearance, demeanor, attitude, and ability to communicate; and
- (8) make the following notifications:
- (a) within 30 days of the qualifying event notify the Standards Division and the appointing department head in writing of all criminal offenses for which the officer is charged or arrested. This shall include traffic offenses identified in the Class B Misdemeanor Manual and offenses of driving under the

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

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;
Amended Eff. October 1, 2020;
Temporary Amendment Eff. February 15, 2022.*

SUBCHAPTER 09G - STANDARDS FOR CORRECTIONS EMPLOYMENT, TRAINING, AND CERTIFICATION

SECTION .0200 - MINIMUM STANDARDS FOR CERTIFICATION OF CORRECTIONAL OFFICERS, PROBATION/PAROLE OFFICERS, AND PROBATION/PAROLE OFFICERS-SURVEILLANCE

12 NCAC 09G .0205 PHYSICAL AND MENTAL STANDARDS

(a) Every person employed as a correctional officer or probation/parole officer by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice shall have been examined and certified within one year prior to employment with the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice by a physician licensed in North Carolina, physician's assistant, or nurse practitioner to meet the physical requirements to fulfill the officer's particular responsibilities as stated in the essential job functions.

(b) Every person employed as a correctional officer or probation/parole officer by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice shall have been administered ~~within one year prior to employment with the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice~~ a psychological screening examination by a clinical psychologist or psychiatrist licensed to practice in North Carolina to determine the officer's mental and emotional suitability to fulfill the officer's particular responsibilities as stated in the essential job functions. a psychological screening examination in accordance with G.S. 17C-10(c). examination, including a face to face, in person interview conducted by a licensed psychologist to determine the eriminal justice officer's psychological suitability to fulfill the responsibilities of the criminal justice officer.

(4) ~~If a face to face, in person interview 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 elinical environment.~~

(2) ~~The psychological screening examination shall be given prior to the initial certification or prior to the criminal justice officer performing any action requiring certification by the Commission.~~

(3) The psychological screening shall be valid for a period of one year prior to the criminal justice officer's initial appointment and applies to any criminal justice officer seeking initial or probationary certification.

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

*History Note: Authority G.S. 17C-6; 17C-10;
Temporary Adoption Eff. January 1, 2001;
Eff. August 1, 2002;*

TEMPORARY RULES

*Amended Eff. January 1, 2015; April 1, 2009; August 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. May 25, 2019;*

Temporary Amendment Eff. February 15, 2022.

APPROVED RULES

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

Rules approved by the Rules Review Commission at its meeting on January 20, 2022 Meeting.

**REGISTER CITATION TO THE
NOTICE OF TEXT****MEDICAL CARE COMMISSION**

<u>Qualification of Food Service Supervisor</u>	10A NCAC	13F .0405*	35:24 NCR
---	----------	------------	-----------

HHS - HEALTH SERVICE REGULATION, DIVISION OF

<u>Performance Standards</u>	10A NCAC	14C .1703	36:02 NCR
------------------------------	----------	-----------	-----------

PRIVATE PROTECTIVE SERVICES BOARD

<u>Reporting Requirements</u>	14B NCAC	16 .0110	36:04 NCR
-------------------------------	----------	----------	-----------

<u>Experience Requirements for a Polygraph License</u>	14B NCAC	16 .0501	36:04 NCR
--	----------	----------	-----------

<u>Training Requirements for Armed Security Guards</u>	14B NCAC	16 .0807	36:04 NCR
--	----------	----------	-----------

<u>Fees for Trainer Certificate</u>	14B NCAC	16 .0903	36:04 NCR
-------------------------------------	----------	----------	-----------

<u>Accreditation Standards</u>	14B NCAC	16 .1203	36:04 NCR
--------------------------------	----------	----------	-----------

WILDLIFE RESOURCES COMMISSION

<u>Importation of Gray Foxes</u>	15A NCAC	10B .0102	36:05 NCR
----------------------------------	----------	-----------	-----------

<u>Shining Lights in Deer Areas</u>	15A NCAC	10B .0115*	36:05 NCR
-------------------------------------	----------	------------	-----------

<u>Wild Bird Exceptions</u>	15A NCAC	10B .0121	36:05 NCR
-----------------------------	----------	-----------	-----------

<u>Prohibited Hunting on State Fish Hatcheries</u>	15A NCAC	10B .0122*	36:05 NCR
--	----------	------------	-----------

<u>Importation of Animal Parts</u>	15A NCAC	10B .0124*	36:05 NCR
------------------------------------	----------	------------	-----------

<u>Release of Mute Swans</u>	15A NCAC	10B .0125*	36:05 NCR
------------------------------	----------	------------	-----------

<u>Bear</u>	15A NCAC	10B .0202*	36:05 NCR
-------------	----------	------------	-----------

<u>Quail</u>	15A NCAC	10B .0208*	36:05 NCR
--------------	----------	------------	-----------

<u>Wild Turkey</u>	15A NCAC	10B .0209	36:05 NCR
--------------------	----------	-----------	-----------

<u>Ruffed Goose</u>	15A NCAC	10B .0210*	36:05 NCR
---------------------	----------	------------	-----------

<u>Ring-Necked Pheasant (Nonnative Varieties)</u>	15A NCAC	10B .0211*	36:05 NCR
---	----------	------------	-----------

<u>Groundhog</u>	15A NCAC	10B .0213	36:05 NCR
------------------	----------	-----------	-----------

<u>Bobcat</u>	15A NCAC	10B .0214	36:05 NCR
---------------	----------	-----------	-----------

<u>Crows</u>	15A NCAC	10B .0215	36:05 NCR
--------------	----------	-----------	-----------

<u>Coyote</u>	15A NCAC	10B .0219*	36:05 NCR
---------------	----------	------------	-----------

<u>Nutria</u>	15A NCAC	10B .0220*	36:05 NCR
---------------	----------	------------	-----------

<u>Striped Skunk</u>	15A NCAC	10B .0221	36:05 NCR
----------------------	----------	-----------	-----------

<u>Armadillo</u>	15A NCAC	10B .0222	36:05 NCR
------------------	----------	-----------	-----------

<u>Elk</u>	15A NCAC	10B .0225	36:05 NCR
------------	----------	-----------	-----------

<u>Definitions</u>	15A NCAC	10B .0301*	36:05 NCR
--------------------	----------	------------	-----------

<u>Identification</u>	15A NCAC	10C .0201*	36:05 NCR
-----------------------	----------	------------	-----------

<u>Fish Hatcheries</u>	15A NCAC	10C .0212*	36:05 NCR
------------------------	----------	------------	-----------

<u>Snagging Fish</u>	15A NCAC	10C .0213	36:05 NCR
----------------------	----------	-----------	-----------

<u>Public Access for Anglers Only</u>	15A NCAC	10C .0217*	36:05 NCR
---------------------------------------	----------	------------	-----------

<u>Controlled Rabbit Hunting Preserves</u>	15A NCAC	10H .1601*	36:07 NCR
--	----------	------------	-----------

TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 13F .0405 QUALIFICATIONS OF FOOD SERVICE SUPERVISOR

Each facility shall have a food service supervisor that is experienced in food service in commercial, healthcare, or congregate care settings who shall consult with a licensed dietitian/nutritionist as necessary to meet the dietary needs of the residents in accordance with Rule .0904 of this Subchapter.

History Note: Authority G.S. 131D-2.16; 131D-4.5; 143B-165;

Eff. January 1, 1977;

Readopted Eff. October 31, 1977;

Amended Eff. April 1, 1987; April 1, 1984;

Readopted Eff. February 1, 2022.

10A NCAC 14C .1703 PERFORMANCE STANDARDS

(a) A health service facility that proposes to develop a new open-heart surgery service shall:

- (1) provide the projected number of open-heart surgical procedures to be performed during each of the first three full fiscal years of operation following completion of the project;
- (2) provide the assumptions and methodology used to project the utilization required by Subparagraph (a)(1) of this Paragraph; and
- (3) project to perform 150 or more open-heart surgical procedures in the third full fiscal year of operation following completion of the project.

(b) A health service facility that proposes to acquire a heart-lung bypass machine, excluding a heart-lung bypass machine proposed to be acquired pursuant to Policy AC-6 in the annual State Medical Facilities Plan in effect as of the first day of the review period, shall:

- (1) provide the number of existing heart-lung bypass machines owned or operated by the health service facility;
- (2) provide the number of approved heart-lung bypass machines that will be owned or operated by the health service facility;
- (3) provide projected utilization of the existing and approved heart-lung bypass machines identified in Subparagraphs (b)(1) and (b)(2) of this Paragraph and the proposed heart-lung bypass machine during each of the first three full fiscal years of operation following completion of the project;
- (4) provide the assumptions and methodology used to project the utilization required by Subparagraph (b)(3) of this Paragraph; and
- (5) project that the existing and approved heart-lung bypass machines identified in Subparagraphs (b)(1) and (b)(2) of this

Paragraph and the proposed heart-lung bypass machine will be used during the third full fiscal year of operation following completion of the project:

- (A) to perform 200 or more open-heart surgical procedures per heart-lung bypass machine; or
- (B) for 900 hours or more per heart-lung bypass machine, including time in use and time spent on standby, for all types of procedures.

History Note: Authority G.S. 131E-177(1); 131E-183(b);

Eff. January 1, 1987;

Amended Eff. November 1, 1989;

Temporary Amendment Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Amended Eff. January 4, 1994;

Temporary Amendment January 1, 1999;

Temporary Eff. January 1, 1999 expired October 12, 1999;

Temporary Amendment Eff. January 1, 2000 and shall expire on the date the permanent amendment to this rule, approved by the Rules Review Commission on November 17, 1999, becomes effective;

Amended Eff. July 1, 2000;

Temporary Amendment Eff. January 1, 2002;

Amended Eff. April 1, 2003;

Temporary Amendment Eff. February 1, 2010;

Amended Eff. January 1, 2013; November 1, 2010;

Readopted Eff. February 1, 2022.

TITLE 14B - DEPARTMENT OF PUBLIC SAFETY

14B NCAC 16 .0110 REPORTING REQUIREMENTS

(a) If any registrant, trainee, certificate holder, employee, subcontractor, or any other person providing private protective services on behalf of a licensee is charged with any criminal offense that would constitute grounds to deny, suspend, or revoke a permit, registration or certificate under this Chapter, the licensee shall report the criminal charge to the Board either in person or by telephone no later than the first business day following knowledge of the charge. The licensee shall provide a copy of the charging document and a written explanation to the Board within five business days.

(b) If any licensee, trainee, registrant, or certificate holder, or any employee, subcontractor, or any other person providing services on behalf of a licensee, trainee, registrant, or certificate holder is charged with any criminal offense that would constitute grounds to deny, suspend, or revoke a license, registration, or certificate under this Chapter, the licensee, trainee, registrant, or certificate holder shall self-report the criminal charge to the Board either in person or by telephone no later than the first business day following the charge. The licensee, trainee, registrant, or certificate holder shall provide a copy of the charging document and a written explanation to the Board within five business days.

(c) If a licensee, trainee, registrant, or certificate holder, or any employee, subcontractor, or any other person providing services on behalf of a licensee, trainee, registrant, or certificate holder discharges a firearm while engaged in the private protective services business, the licensee shall notify the Board either in person or by telephone no later than the first business day following the incident. The licensee shall also file a written report to the Board within five business days of the incident. In the report, the licensee shall state the name of the individual who discharged the firearm, the type of weapon discharged, the location of the incident, the law enforcement agency investigating the incident, the events leading to the discharge of the firearm, and any bodily injuries occurring from the incident. This Rule shall not apply to a weapon that is discharged during a training course that has been approved by the Board.

*History Note: Authority G.S. 74C-5;
Eff. February 1, 1995;
Transferred and Recodified from 12 NCAC 07D .0112 Eff. July 1, 2015;
Readopted Eff. November 1, 2019;
Amended Eff. July 1, 2021;
Amended Eff. February 1, 2022.*

14B NCAC 16 .0501 EXPERIENCE REQUIREMENTS FOR A POLYGRAPH LICENSE

(a) In addition to the requirements of Section .0200 of this Chapter, applicants for a polygraph license shall:

- (1) pass an examination and a performance test administered by a panel of polygraph examiners appointed by an entity designated by the Board;
- (2) successfully complete a course of instruction at any polygraph school approved by the American Polygraph Association, the American Association of Police Polygraphists, or the Board; and
- (3) have either:
 - (A) one year of verifiable polygraph experience; or
 - (B) complete at least six months of training as a holder of a polygraph trainee permit, and have administered no fewer than 50 polygraph examinations; or
- (4) establish to the Board's satisfaction a military occupational specialty and two years of verifiable experience within the past five years in the U.S. Armed Forces performing polygraph examinations.

(b) In addition to the requirements of Section .0200 of this Chapter, an applicant for a polygraph license who is the spouse of an active duty member of the U.S. Armed Forces shall establish to the Board's satisfaction:

- (1) the spouse holds a current license, certification, or registration from another jurisdiction and the other jurisdiction's requirements are substantially equivalent to or exceed the Board's requirements; and

- (2) the spouse has two years of verifiable experience within the past five years performing polygraph examinations.

(c) Applicants for a polygraph license may take the examination required in Subparagraph (a)(1) of this Rule no more than twice within a 12 month period. All portions of the examination must be completed within that 12 month period. Any applicant who fails the polygraph examination four times shall retake the polygraph course of instruction required in Subparagraph (a)(2) of this Rule before taking the polygraph examination again.

(d) Polygraph operators who are duly licensed in another state may perform up to three examinations in this State without being licensed, provided that those examinations are for the purpose of an evaluation of that examiner and the Director has given authorization for this evaluation in advance.

*History Note: Authority G.S. 74C-5; 93B-15.1;
Eff. June 1, 1984;
Amended Eff. May 1, 2014; October 1, 2013; July 1, 2009;
December 1, 1985;
Transferred and Recodified from 12 NCAC 07D .0501 Eff. July 1, 2015;
Readopted Eff. August 1, 2020;
Amended Eff. February 1, 2022.*

14B NCAC 16 .0807 TRAINING REQUIREMENTS FOR ARMED SECURITY GUARDS

(a) Applicants for an armed security guard firearm registration permit shall first complete the basic unarmed security guard training course set forth in Rule .0707 of this Chapter.

(b) Private investigator licensees applying for an armed security guard firearm registration permit shall first complete a five-hour training course consisting of the courses set forth in Rule .0707(a)(1) and (2) of this Chapter and all additional training requirements set forth in that Rule.

(c) Applicants for an armed security guard firearm registration permit shall complete a basic training course for armed security guards which consists of at least 20 hours of classroom instruction including:

- (1) legal limitations on the use of handguns and on the powers and authority of an armed security guard, including familiarity with rules and regulations relating to armed security guards (minimum of four hours);
- (2) handgun safety, including range firing procedures (minimum of one hour);
- (3) handgun operation and maintenance (minimum of three hours);
- (4) handgun fundamentals (minimum of eight hours); and
- (5) night firing (minimum of four hours).

Subparagraph (c)(2), "operation" under Subparagraph (c)(3), and Subparagraph (c)(4) of this Rule shall be completed prior to the applicant's participation in range firing.

(d) Applicants for an armed security guard firearm registration permit shall attain a score of at least 80 percent accuracy on a firearms range qualification course adopted by the Board and the Secretary of Public Safety, a copy of which is on file in the Director's office, once in three consecutive attempts. Should a

student fail to attain a score of 80 percent accuracy, the student may be given a second opportunity to qualify once in three consecutive attempts on the course of fire the student did not pass. Failure to qualify after the second series of attempts shall require the student to repeat the entire basic training course for armed security guards. All attempts must take place within 20 days of the completion of the initial 20 hour course. For rifle qualification all shots shall be located on the target.

(e) All armed security guard training required by this Chapter shall be administered by a certified trainer and shall be completed no more than 90 days prior to the date of issuance of the armed security guard firearm registration permit.

(f) All applicants for an armed security guard firearm registration permit shall obtain training under the provisions of this Section using their duty weapon and their duty ammunition or ballistic equivalent ammunition, to include lead-free ammunition that meets the same point of aim, point of impact, and felt recoil of the duty ammunition, for all weapons.

(g) No more than six new or renewal armed security guard applicants per one instructor shall be placed on the firing line at any one time during firearms range training for armed security guards.

(h) Applicants for re-certification of an armed security guard firearm registration permit shall complete a basic recertification training course for armed security guards that consists of at least four hours of classroom instruction and is a review of the requirements set forth in Subparagraphs (c)(1) through (c)(5) of this Rule. The recertification course is valid for 180 days after completion of the course. Applicants for recertification of an armed security guard firearm registration permit shall also complete the requirements of Paragraph (d) of this Rule.

(i) An armed guard registered with one company may be registered with a second company. The registration shall be considered "dual." The registration with the second company shall expire at the same time that the registration expires with the first company. An updated application shall be required to be submitted by the applicant, along with the digital photograph, updated criminal records checks, and a forty dollar (\$40.00) registration fee. If the guard will be carrying a firearm of the same make, model, and caliber, then no additional firearms training shall be required. The licensee shall submit a letter stating the guard will be carrying the same make and model firearm. If the guard will be carrying a firearm of a different make and model, the licensee shall submit a letter to the Board advising of the make, model, and caliber of the firearm the guard will be carrying and the guard shall be required to qualify at the firing range on both the day and night qualification course. The qualification score is valid for 180 days after completion of the course.

(j) To be authorized to carry a standard 12 gauge shotgun in the performance of his or her duties as an armed security guard, an applicant shall complete, in addition to the requirements of Paragraphs (a), (c), and (d) of this Rule, six hours of classroom training that shall include the following:

- (1) legal limitations on the use of shotgun (minimum of one hour);
- (2) shotgun safety, including range firing procedures (minimum of one hour);
- (3) shotgun operation and maintenance (minimum of one hour);

- (4) shotgun fundamentals (minimum of two hours); and
- (5) night firing (minimum of one hour).

Subparagraph (j)(2), "operation" under Subparagraph (j)(3), and Subparagraph (j)(4) of this Rule shall be completed prior to the applicant's participation in range firing.

(k) An applicant may take the additional shotgun training at a time after the initial training in this Rule. If the shotgun training is completed at a later time, the shotgun certification shall run concurrent with the armed registration permit. In addition to the requirements set forth in Paragraph (j) of this Rule, applicants shall attain a score of at least 80 percent accuracy on a shotgun range qualification course adopted by the Board and the Secretary of Public Safety, a copy of which is on file in the Director's office.

(l) Applicants for shotgun recertification shall complete one hour of classroom training covering the topics set forth in Paragraph (j) of this Rule and shall also complete the requirements of Paragraph (d) of this Rule.

(m) To be authorized to carry a rifle in the performance of his or her duties as an armed security guard, an applicant shall complete, in addition to the requirements of Paragraphs (a), (c), and (d) of this Rule, 16 hours of classroom training which shall include the following:

- (1) legal limitations on the use of rifles (minimum of one hour);
- (2) rifle safety, including range firing procedures (minimum of one hour);
- (3) rifle operation and maintenance (minimum of two hours);
- (4) rifle fundamentals (minimum of ten hours); and
- (5) night firing (minimum two hours).

Subparagraph (m)(2), "operation" under Subparagraph (m)(3), and Subparagraph (m)(4) of this Rule shall be completed prior to the applicant's participation in range firing.

(n) The applicant shall pass a skills course that tests each basic rifle skill and the test of each skill shall be completed within three attempts.

(o) An applicant may take the additional rifle training at a time after the initial training in this Rule. If the rifle training is completed at a later time, the rifle certification shall run concurrent with the armed registration permit. In addition to the requirements set forth in Paragraphs (m) and (n) of this Rule, applicants shall attain a score of at least 80 percent accuracy on a rifle range qualification course adopted by the Board and the Secretary of Public Safety, a copy of which is on file in the Director's office.

(p) Applicants for rifle recertification shall complete an additional one hour of classroom training covering the topics set forth in Paragraph (m) of this Rule and shall also complete the requirements of Paragraph (d) of this Rule.

(q) Upon written request, an applicant for an armed security guard firearm registration permit who possesses a current firearms trainer certificate shall be given a firearms registration permit that will run concurrent with the trainer certificate upon completion of an annual qualification with the applicant's duty firearms as set forth in Paragraph (d) of this Rule.

(r) An armed security guard is required to qualify annually both for day and night firing with his or her duty handgun, shotgun, and rifle, if applicable. If the security guard fails to qualify on any

course of fire, the security guard shall not carry the firearm until such time as he or she meets the qualification requirements. Upon failure to qualify, the firearm instructor shall notify the security guard that he or she is no longer authorized to carry the firearm and the firearm instructor shall notify the employer and the Private Protective Services Board staff on the next business day.

(s) A firearm training certificate of an armed security guard remains valid even if the guard leaves the employment of one company for the employment of another. The range qualifications shall remain valid if the guard will be carrying a firearm of the same make, model, and caliber and no additional firearms training shall be required. The licensee shall submit a letter stating the guard will be carrying the same make and model firearm. If the guard will be carrying a firearm of a different make and model, the licensee shall submit a letter to the Board advising of the make, model, and caliber of the firearm the guard will be carrying and the guard shall be required to qualify at the firing range on both the day and night qualification course. The qualification score is valid for 180 days after completion of the course. However, nothing herein shall extend the period of time the qualification is valid.

History Note: Authority G.S. 74C-5; 74C-9; 74C-13; Eff. June 1, 1984; Amended Eff. November 1, 1991; February 1, 1990; July 1, 1987; Temporary Amendment Eff. January 14, 2002; Amended Eff. October 1, 2013; October 1, 2010; June 1, 2009; February 1, 2006; August 1, 2002; Transferred and Recodified from 12 NCAC 07D .0807 Eff. July 1, 2015; Amended Eff. January 1, 2018; February 1, 2016; October 1, 2015; Readopted Eff. November 1, 2019; Amended Eff. February 1, 2022.

14B NCAC 16 .0903 FEES FOR TRAINER CERTIFICATE

(a) Trainer certificate fees are as follows:

- (1) fifty-dollar (\$50.00) non-refundable initial application fee for firearms trainer applicants;
- (2) fifty-dollar (\$50.00) non-refundable initial application fee for an unarmed trainer applicant; and
- (3) twenty-five dollar (\$25.00) biennial fee for a renewal or replacement trainer certificate.

(b) Fees shall be paid online by credit card or other form of electronic funds transfer.

History Note: Authority G.S. 74C-9; Eff. June 1, 1984; Amended Eff. January 1, 2005; January 1, 2004; Transferred and Recodified from 12 NCAC 07D .0903 Eff. July 1, 2015; Amended Eff. January 1, 2018; Readopted Eff. March 1, 2020; Amended Eff. February 1, 2022.

14B NCAC 16 .1203 ACCREDITATION STANDARDS

(a) CE courses may obtain the approval of the Board by submitting the following information to the Board for consideration:

- (1) the nature and purpose of the course;
- (2) the course objectives or goals;
- (3) the outline of the course, including the number of training hours for each segment; and
- (4) the name of the instructor.

(b) To determine if a course will receive approval from the Board, the Board shall complete the following review:

- (1) The matter shall be referred to the Training and Education Committee for the appointment of a sub-committee that shall review the course under consideration. The sub-committee shall consist of at least two industry members of the Training and Education Committee. Other members of the sub-committee may be appointed at the discretion of the Training and Education Committee Chairman.
- (2) The sub-committee shall review the course to determine if the course is pertinent to the industry, and if the course meets its stated objectives or goals.
- (3) When the sub-committee completes its review, it shall report to the Training and Education Committee. The Training and Education Committee shall review the course to determine if the course is pertinent to the industry, and if the course meets its stated objectives and goals. The Training and Education Committee shall then report the findings with a recommendation of acceptance or denial to the Private Protective Services Board.

(c) Upon receipt of the Training and Education Committee report, the Private Protective Services Board shall determine by majority vote if the course will be approved for continuing education credits. In making its determination, the Board shall review the course to determine if the course is pertinent to the industry, and if the course meets its stated objectives or goals.

(d) Each approved course shall remain an approved course for four years from the date of approval by the Board, unless the course content changes or the course instructor changes.

(e) Trainers and instructors shall receive continuing education credit of five hours for every actual teaching hour with an eight hour cap of continuing education credit every two years.

(f) Colleges, universities, trade schools, and other degree granting institutions shall be granted standing approval when the institutions are accredited, certified, or approved by the Department of Public Instruction or by a similar agency in another state and the course is related to law, criminal justice, security profession, finance, ethics, forensics, crime prevention, and investigation. Approval is one credit hour per contact hour not to exceed eight credit hours.

History Note: Authority G.S. 74C-5; 74C-22; Eff. February 1, 2010; Amended Eff. October 1, 2011;

Transferred and Recodified from 12 NCAC 07D .1303 Eff. July 1, 2015;
Emergency Amendment Eff. May 6, 2020;
Readopted Eff. July 1, 2020;
Temporary Amendment Eff. July 24, 2020;
Temporary Amendment Expired Eff. May 14, 2021;
Amended Eff. February 1, 2022; January 1, 2022; July 1, 2021.

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

**15A NCAC 10B .0102 IMPORTATION OF GRAY
FOXES**

The importation of gray foxes into Anson, Avery, Burke, Cabarrus, Caldwell, Catawba, Cleveland, Davidson, Gaston, Lincoln, McDowell, Mecklenburg, Mitchell, Montgomery, Moore, Richmond, Rowan, Rutherford, Stanly, Union and Yancey Counties is prohibited.

History Note: Authority G.S. 113-134; 113-274; 113-291.3; 113-291.4;
Eff. February 1, 1976;
Readopted Eff. February 1, 2022.

**15A NCAC 10B .0115 SHINING LIGHTS IN DEER
AREAS**

(a) Intentionally shining a light upon a deer or sweeping a light in search of deer between the hours of 11:00 p.m. and one-half hour before sunrise is prohibited in the following counties:

- (1) Beaufort;
- (2) Bladen;
- (3) Brunswick;
- (4) Camden;
- (5) Chowan;
- (6) Currituck;
- (7) Duplin;
- (8) Franklin;
- (9) Gates;
- (10) Greene;
- (11) Hertford;
- (12) Hyde;
- (13) Jones;
- (14) Lenoir;
- (15) Martin;
- (16) Nash;
- (17) Pamlico;
- (18) Pasquotank;
- (19) Pender;
- (20) Perquimans;
- (21) Pitt;
- (22) Sampson;
- (23) Tyrrell;
- (24) Vance;
- (25) Wake;
- (26) Warren;
- (27) Washington; and
- (28) Wayne.

(b) Intentionally shining a light upon a deer or sweeping a light in search of deer between the hours of one-half hour after sunset and one-half hour before sunrise is prohibited in the following counties or portions thereof:

- (1) Alamance;
- (2) Alexander;
- (3) Alleghany;
- (4) Anson;
- (5) Ashe;
- (6) Avery; -- that portion south and east of Highway 221;
- (7) Buncombe;
- (8) Burke;
- (9) Cabarrus;
- (10) Caswell;
- (11) Catawba;
- (12) Chatham;
- (13) Cherokee;
- (14) Clay;
- (15) Cleveland;
- (16) Cumberland;
- (17) Davidson;
- (18) Davie;
- (19) Durham;
- (20) Edgecombe;
- (21) Forsyth;
- (22) Gaston;
- (23) Granville;
- (24) Guilford;
- (25) Halifax;
- (26) Harnett;
- (27) Henderson;
- (28) Hoke;
- (29) Iredell;
- (30) Johnston;
- (31) Lee;
- (32) Lincoln;
- (33) Macon;
- (34) McDowell;
- (35) Mecklenburg;
- (36) Mitchell;
- (37) Montgomery;
- (38) Northampton;
- (39) Orange;
- (40) Person;
- (41) Polk;
- (42) Randolph;
- (43) Robeson;
- (44) Rockingham;
- (45) Rowan;
- (46) Rutherford;
- (47) Stanly;
- (48) Stokes;
- (49) Surry;
- (50) Swain;
- (51) Transylvania;
- (52) Union;
- (53) Watauga; and
- (54) Yancey.

(c) Paragraphs (a) and (b) of this Rule shall not be construed to prevent:

- (1) the lawful hunting of raccoon or opossum during open season with artificial lights designed or commonly used in taking raccoon and opossum at night;
- (2) the necessary shining of lights by landholders on their own lands;
- (3) the shining of lights necessary to normal travel by motor vehicles on roads or highways; or
- (4) the use of lights by campers and others who are legitimately in areas specified in Paragraphs (a) and (b) for other reasons and who are not attempting to attract or to immobilize deer by the use of lights.

History Note: Authority G.S. 113-134; 113-291.1; S.L. 1981, c. 410; S.L. 1981 (Second Session 1982), c. 1180; Eff. November 11, 1979;

Amended Eff. July 18, 2002; April 1, 1997; July 1, 1996; November 1, 1995; March 1, 1995; July 1, 1994; *Readopted Eff.* February 1, 2022.

15A NCAC 10B .0121 WILD BIRD EXCEPTIONS

The following wild birds are excluded from the definition of "wild birds" contained in G.S. 113-129(15a):

- (1) English sparrow (*Passer domesticus*);
- (2) Eurasian collared dove (*Streptopelia decaocto*);
- (3) pigeon (*Columba livia*);
- (4) mute swan (*Cygnus olor*); and
- (5) starling (*Sturnus vulgaris*).

History Note: Authority G.S. 113-129; 113-134; Eff. December 1, 1987;

Amended Eff. August 1, 2010; May 1, 2006; October 1, 2004; *Readopted Eff.* February 1, 2022.

15A NCAC 10B .0122 PROHIBITED HUNTING ON STATE FISH HATCHERIES

Possessing a loaded firearm within a posted restricted zone or discharging a firearm into or across a restricted zone on any State-owned fish hatchery is prohibited.

History Note: Authority G.S. 113-134; 113-264; Eff. September 1, 1989;

Readopted Eff. February 1, 2022.

15A NCAC 10B .0124 IMPORTATION OF ANIMAL PARTS

(a) It is unlawful to import, transport, or possess a cervid carcass or carcass part originating from outside of North Carolina except:

- (1) meat that has been boned out such that no pieces or fragments of bone remain;
- (2) caped hides with no part of the skull or spinal column attached;
- (3) antlers, antlers attached to cleaned skull plates, or skulls free from meat or brain tissue;
- (4) cleaned lower jawbones with teeth or cleaned teeth; or

(5) finished taxidermy products and tanned hides.

(b) Any cervid carcass, carcass part, or container of cervid meat or carcass parts listed in Subparagraph (a)(1) through (4) of this Rule shall be labeled or identified with the following information:

- (1) the individual's name and address;
- (2) the state, Canadian province, or foreign country of origin; and
- (3) the date the cervid was killed and the individual's hunting license number, permit number, or equivalent identification from the state, Canadian province, or foreign country of origin.

History Note: Authority G.S. 113-291.2;

Eff. May 1, 2006;

Temporary Amendment Eff. August 1, 2018;

Amended Eff. August 1, 2019;

Readopted Eff. February 1, 2022.

15A NCAC 10B .0125 RELEASE OF MUTE SWANS

(a) Individuals shall not release mute swans (*Cygnus olor*) into the public waters of North Carolina.

(b) Any individual who releases mute swan into privately controlled waters, possesses, or confines mute swans or any progeny of mute swans on their property, shall ensure that the animal has been pinioned.

(c) For the purposes of this Rule, "privately controlled waters" means:

- (1) a body of water lying wholly upon a single tract of privately owned land or a body of water lying entirely within private property, even if that property is comprised of multiple tracts owned by one or multiple individuals; and
- (2) waters to which the public does not have access without permission of one or more of the private landowners surrounding the water(s).

History Note: Authority G.S. 113-292(d);

Eff. July 1, 2008;

Readopted Eff. February 1, 2022.

15A NCAC 10B .0202 BEAR

(a) Open Seasons for hunting bear shall be from the:

- (1) Monday on or nearest October 15 through the Saturday before Thanksgiving and the third Monday after Thanksgiving through January 1 in and west of Surry, Wilkes, Caldwell, Burke, and Cleveland counties;
- (2) second Monday in November through January 1 in Bladen, Brunswick, Carteret, Columbus, Cumberland, Duplin, New Hanover, Onslow, Pamlico, Pender, Robeson, and Sampson counties;
- (3) second Saturday in November through the second Sunday thereafter and the third Saturday after Thanksgiving through the fifth Sunday after Thanksgiving in Beaufort, Bertie, Craven, Hertford, Jones, Martin, and Washington counties;

- (4) second Saturday in November through the third Sunday thereafter and the third Saturday after Thanksgiving through the fifth Sunday after Thanksgiving in Dare, Hyde, and Tyrrell counties;
- (5) second Saturday in November through the second Sunday thereafter and the third Saturday after Thanksgiving through the fifth Sunday after Thanksgiving in Currituck, Gates, and Perquimans counties;
- (6) second Sunday in November through the following Sunday, when November 1 falls on a Sunday the season shall be from the third Sunday in November through the following Sunday, and the third Saturday after Thanksgiving through the fifth Sunday after Thanksgiving in Camden, Chowan, and Pasquotank counties;
- (7) third Saturday in November through the fifth Sunday thereafter in Edgecombe, Greene, Halifax, Lenoir, Nash, Northampton, Pitt, Wayne, and Wilson counties; and
- (8) concurrent with the open season for all lawful weapons for hunting deer as specified in 15A NCAC 10B .0203(a)(1) in Alamance, Alexander, Anson, Cabarrus, Caswell, Catawba, Chatham, Davie, Davidson, Durham, Franklin, Forsyth, Gaston, Granville, Guilford, Harnett, Hoke, Iredell, Johnston, Lee, Lincoln, Mecklenburg, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Scotland, Stanly, Stokes, Union, Vance, Wake, Warren, and Yadkin counties.

(b) Restrictions

- (1) For purposes of this Paragraph, "bait" means any natural, unprocessed food product that is a grain, fruit, nut, vegetable, or other material harvested from a plant crop that is not modified from its raw components.
- (2) Bears shall not be taken with the use or aid of:
 - (A) any processed food product as defined in G.S. 113-294(r), any animal, animal part or product, salt, salt lick, honey, sugar, sugar-based material, syrups, candy, pastry, gum, candy block, oils, spices, peanut butter, or grease;
 - (B) any extracts of substances identified in Part (A) of this Subparagraph;
 - (C) any substances modified by substances identified in Part (A) of this Subparagraph, including any extracts of those substances; or
 - (D) any bear bait attractant, including sprays, aerosols, scent balls, and scent powders.
- (3) Bears may be taken with the aid of bait from the Monday on or nearest October 15 to the Saturday before Thanksgiving in the counties in Subparagraph (a)(1) of this Rule.

- (4) Bears may be taken with the aid of bait during the entire open season in the counties identified in Subparagraphs (a)(2) through (a)(8) of this Rule.
- (5) Bears shall not be taken while in the act of consuming bait as specified in G.S. 113-291.1(b)(2).
- (6) Hunters shall not take bears using dogs in the following counties: Alamance south of Interstate 85, Anson west of N.C. Hwy 742, Cabarrus, Chatham, Davie, Davidson, Franklin, Forsyth, Gaston, Guilford, Lee, Lincoln, Mecklenburg, Montgomery, Orange south of Interstate 85, Randolph, Rockingham, Rowan, Stanly, Union, and Wake south of N.C. Hwy 98. In all other counties and parts of counties, hunters may take bears using dogs and may release dogs in the vicinity of bait.
- (c) No Open Season. It shall be unlawful to take bear on posted bear sanctuaries except when authorized by permit issued by the Commission. See 15A NCAC 10D .0106 for posted bear sanctuaries.
- (d) The daily bag limit for bear is one, the possession limit is one, and the season limit is one.

History Note: Authority G.S. 113-134; 113-291.1; 113-291.2; 113-291.7; 113-305;
Eff. February 1, 1976;
Amended Eff. July 1, 1998; September 1, 1995; July 1, 1995; July 1, 1994; April 14, 1992;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. July 1, 2000;
Temporary Amendment Eff. July 1, 2002;
Amendment Eff. August 1, 2002;
Temporary Amendment Eff. September 1, 2003;
Temporary Amendment Expired Eff. December 27, 2003;
Amended Eff. August 1, 2015; August 1, 2014; August 1, 2012;
August 1, 2010; May 1, 2009; May 1, 2008; May 1, 2007; May 1, 2006; June 1, 2005;
Temporary Amendment Eff. May 31, 2016;
Amended Eff. August 1, 2018; August 1, 2017; August 1, 2016;
Temporary Amendment Eff. August 1, 2018;
Amended Eff. August 1, 2019;
Temporary Amendment Eff. September 1, 2020;
Amended Eff. August 1, 2021;
Readopted Eff. February 1, 2022.

15A NCAC 10B .0208 QUAIL

- (a) The open season for quail is the Saturday before Thanksgiving through the last day of February.
- (b) The daily bag limit is six, the possession limit is 12, and there is no season limit.

History Note: Authority G.S. 113-134; 113-291.2;
Eff. February 1, 1976;
Amended Eff. July 1, 1996; July 1, 1987; July 1, 1986; July 1, 1985; July 1, 1984;
Temporary Amendment Eff. July 1, 2001;
Amended Eff. July 18, 2002;

Readopted Eff. February 1, 2022.

15A NCAC 10B .0209 WILD TURKEY

- (a) The open season for wild turkey is from the second Saturday in April through the fourth Saturday thereafter on bearded or male turkeys only.
- (b) The daily bag limit is one, the possession limit is two, and the season limit is two.
- (c) The use of dogs for hunting wild turkeys is prohibited.
- (d) The following shall apply to Spring Youth Only Wild Turkey Season:
 - (1) the open season is from the first Saturday in April through the Friday thereafter on bearded or male wild turkeys only.
 - (2) the season limit is one.

History Note: Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.2; 113-291.5;
Eff. February 1, 1976;
Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; July 1, 1995; July 1, 1994; July 1, 1993; July 1, 1992;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. July 1, 2000;
Temporary Amendment Eff. July 1, 2001;
Temporary Amendment Eff. July 1, 2002;
Amended Eff. August 1, 2002 (approved by RRC on 06/21/01 and 04/18/02);
Temporary Amendment Eff. June 1, 2003;
Amended Eff. June 1, 2004 (this amendment replaces the amendment approved by RRC on July 17, 2003);
Amended Eff. February 1, 2018; August 1, 2017; January 1, 2013;
May 1, 2009; May 1, 2007; November 1, 2005;
Readopted Eff. February 1, 2022.

15A NCAC 10B .0210 RUFFED GROUSE

- (a) The open season for taking ruffed grouse is the Monday on or nearest October 15 through the last day of February.
- (b) The daily bag limit is three, the possession limit is six, and the season limit is 30.

History Note: Authority G.S. 113-134; 113-291.2;
Eff. February 1, 1976;
Amended Eff. July 1, 1987; July 1, 1986; July 1, 1985; July 1, 1984;
Readopted Eff. February 1, 2022.

15A NCAC 10B .0211 RING-NECKED PHEASANT

- (a) The open season for taking ring-necked pheasant shall be the Saturday before Thanksgiving Day to February 1 on male pheasant only.
- (b) The daily bag limit for ring-necked pheasants is three, the possession limit is six, and the season limit is 30.

History Note: Authority G.S. 113-134; 113-291.2;
Eff. February 1, 1976;
Amended Eff. August 1, 2018; July 1, 1987; July 1, 1986; July 1, 1985; July 1, 1984;
Readopted Eff. February 1, 2022.

15A NCAC 10B .0213 GROUNDHOG

- (a) There is no closed season for groundhogs.
- (b) There is no bag limit.

History Note: Authority G.S. 113-134; 113-291.2;
Eff. February 1, 1976;
Readopted Eff. February 1, 2022.

15A NCAC 10B .0214 BOBCAT

- (a) The open season for hunting bobcat is the Monday on or nearest October 15 through the last day in February.
- (b) There is no bag limit.

History Note: Authority G.S. 113-134; 113-291.2;
Eff. February 1, 1976;
Amended Eff. July 1, 1996; July 1, 1995; July 1, 1987; July 1, 1986; July 1, 1985;
Readopted Eff. February 1, 2022.

15A NCAC 10B .0215 CROWS

- (a) Open seasons for hunting crows are as follows: Wednesday, Friday, and Saturday of each week from the first Wednesday in June through the last day of February and on the following holidays: July 4, Labor Day, Thanksgiving, Christmas, New Years, and Martin Luther King, Jr., except when those days occur on a Sunday.
- (b) There is no bag limit.
- (c) Hunters may use electronic calls to take crows.

History Note: Authority G.S. 113-134; 113-291.1; 113-291.2;
50 C.F.R. 20.133;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; May 1, 2006; June 1, 2005; July 1, 1991; July 1, 1987; July 1, 1984; July 1, 1983;
Temporary Amendment Eff. October 1, 2011;
Amended Eff. August 1, 2017; January 1, 2012;
Readopted Eff. February 1, 2022.

15A NCAC 10B .0219 COYOTE

- (a) When taking coyotes, the following shall apply:
 - (1) There is no closed season for taking coyotes.
 - (2) There is no bag limit.
 - (2) Coyotes may be taken on private lands anytime during the day or night.
 - (3) Coyotes may be taken on public lands without a permit from the hours of one-half hour before sunrise until one-half hour after sunset.
 - (4) Coyotes may be taken on public lands with a permit from one-half hour after sunset to one-half hour before sunrise.
 - (5) Hunters may use electronic calls and artificial lights to take coyotes.
- (b) In the counties of Beaufort, Dare, Hyde, Tyrell, and Washington, the following shall apply:
 - (1) Coyote hunting on public lands is prohibited, except that coyotes may be taken on State-owned game lands by the holder of a permit for a specific special hunt opportunity for coyotes authorized by G.S 113-264(d).

- (2) Any special hunt for coyotes pursuant to G.S. 113-264(d) shall only allow hunting from the hours of one-half hour before sunrise until one-half hour after sunset.
- (3) Contests or competition coyote hunts on public lands are prohibited.
- (4) If, within a calendar year, two or more red wolves are shot by one or more hunters with a valid special hunt permit for coyotes on State game lands within the five counties identified in this Paragraph, all special hunts for coyotes on State game lands within those five counties shall be suspended for one calendar year.
- (5) Coyotes may be taken on private lands by permit only, and any take shall be reported within 24 hours to the by phone at 919-707-0040 or online at www.ncwildlife.org.
- (6) There is no closed season for taking coyotes on private lands. Coyotes may be taken on private lands from hours of one-half hour before sunrise until one-half hour after sunset only.
- (4) Coyote hunting permits are in addition to hunting licenses. Individuals exempted from license requirements under the provisions specified in G.S. 113-276 shall acquire the coyote hunting permits to hunt coyotes in the counties specified in this Paragraph. Coyote hunting permits are valid for one calendar year and are subject to annual renewal. These permits are non-transferable. Permit holders shall submit their harvest reports in order to be eligible for permit renewal.

History Note: Authority G.S. 113-134; 113-264; 113-291.1; 113-291.2;
Eff. July 1, 1993;
Temporary Amendment Eff. October 1, 2011;
Amended Eff. January 1, 2012;
Temporary Amendment Eff. August 1, 2014 and shall remain in effect until amendments expire as specified in G.S. 150B-21.1(d) or the United States District Court for the Eastern District of North Carolina's court order number 2:13-CV-60-BOs signed on May 13, 2014 is rescinded, whichever date is earlier. The court order is available at www.ncwildlife.org;
Amended Eff. July 26, 2013;
Temporary Amendment Eff. February 27, 2015;
Amended Eff. July 1, 2016;
Readopted Eff. February 1, 2022.

15A NCAC 10B .0220 NUTRIA

- (a) There is no closed season for taking nutria by hunting.
- (b) There is no bag limit.

History Note: Authority G.S. 113-134; 113-291.2; 113-291.1(a);
Eff. July 1, 1996;
Readopted Eff. February 1, 2022.

15A NCAC 10B .0221 STRIPED SKUNK

- (a) There is no closed season for taking striped skunk by hunting.
- (b) There is no bag limit.

History Note: Authority G.S. 113-134; 113-291.1; 113-291.2;
Eff. May 1, 2006;
Readopted Eff. February 1, 2022.

15A NCAC 10B .0222 ARMADILLO

- (a) There is no closed season for taking armadillo by hunting.
- (b) There is no bag limit.

History Note: Authority G.S. 113-134; 113-291.1; 113-291.2;
Eff. August 1, 2010;
Readopted Eff. February 1, 2022.

15A NCAC 10B .0225 ELK

- (a) The season for taking elk is October 1 through November 1.
- (b) Hunting shall be by permit only.
- (c) The bag limit is one per permit.
- (d) Elk may be taken by any legal weapon as specified in G.S. 113-291.1.

History Note: Authority G.S. 113-134; 113-291; 113-291.1; 113-291.2;
Eff. August 1, 2016;
Readopted Eff. February 1, 2022.

15A NCAC 10B .0301 DEFINITIONS

As used in this Section, the following definitions apply:

- (1) "Breakaway device" means any device incorporated into a snare or snare component that allows the loop to break open, and an animal to escape completely free of the snare, when a specified amount of force is applied.
- (2) "Collarum™-type trap" means any power-activated snare that is activated when the trigger is pulled and that is designed to capture and restrain the animal by a cable around the neck.
- (3) "Leghold" and "foothold" mean any trap designed to hold an animal by the foot.
- (4) "Loop stop" means a device that is attached to the snare cable to prevent the loop from closing beyond a specified point.
- (5) "Power-activated" means a snare on which the speed or direction of the loop closure is initiated or augmented by some type of powering device like a spring.
- (6) "Relaxing lock" means a snare lock that allows the snare loop to release constriction pressure on the captured animal when the cable is not taut.
- (7) "Snare" means any cable restraining device.
- (8) "Steel-jaw" means any leghold or foothold trap in which the jaw(s) are made of metal.

History Note: Authority G.S. 113-134; 113-291.1; 113-291.6;
Eff. January 1, 2011;
Readopted Eff. February 1, 2022.

15A NCAC 10C .0201 IDENTIFICATION

An individual shall have means of identification on their person indicating their current residence while fishing.

*History Note: Authority G.S. 113-134; 113-276.1;
Eff. February 1, 1976;
Readopted Eff. February 1, 2022.*

15A NCAC 10C .0212 FISH HATCHERIES

(a) Fishing by any method at any time in the waters of Bones Creek from the Lake Rim Dam to the US 401 Bypass (Raeford Road) or upon any property used in conjunction with any State fish hatchery is prohibited, except that fishing shall be allowed:

- (1) In McKinney Lake; and
- (2) at any fishing event conducted by the Commission

(b) On Lake Rim it shall be unlawful to:

- (1) use motorized boats, except those powered by electric motors;
- (2) swim or bathe at any time; or
- (3) use, or have in one's possession, any minnows, or other species of fish except golden shiners for use as bait.

*History Note: Authority G.S. 113-134; 113-264; 113-292;
Eff. February 1, 1976;
Amended Eff. July 1, 1998; May 1, 1992;
Amended Eff. June 1, 2004 (this amendment replaces the amendment approved by RRC on July 17, 2003);
Readopted Eff. February 1, 2022.*

15A NCAC 10C .0213 SNAGGING FISH

Snagging by means of pulling or jerking a device equipped with one or more hooks through the water for the purpose of impaling fish is prohibited in all inland fishing waters.

*History Note: Authority G.S. 113-134; 113-292;
Eff. January 1, 1977;
Amended Eff. July 1, 1989; January 1, 1981; January 1, 1979;
January 1, 1978;
Readopted Eff. February 1, 2022.*

15A NCAC 10C .0217 PUBLIC ACCESS FOR ANGLERS ONLY

(a) By accepting and posting the Public Access for Fishing Only sign from the Wildlife Resources Commission on their property, a landowner:

- (1) agrees to allow any member of the public with a valid fishing license and any accompanying youth to cross his or her property in order to access public waters for the purpose of fishing; and
- (2) designates the Wildlife Resources Commission as an agent as described in G.S. 14-159.6. As an agent, the Commission confers access to any member of the public with a valid fishing license and any accompanying youth.

(b) Anglers who access property under the terms of this Rule are prohibited from engaging in any of the following activities while on the private property unless otherwise posted:

- (1) building fires;
- (2) littering;
- (3) swimming;
- (4) launching or retrieving boats;
- (5) camping;
- (6) causing property damage;
- (7) entering before 7:00 a.m.; and
- (8) remaining on the property after 9:00 p.m.

*History Note: Authority G.S. 14-159.6; 113-134; 113-305;
Eff. August 1, 2014;
Readopted Eff. February 1, 2022.*

15A NCAC 10H .1601 CONTROLLED RABBIT HUNTING PRESERVES

(a) For the purposes of this Rule, a controlled rabbit hunting preserve ("preserve") shall mean an area of any size that is completely and permanently enclosed with a fence designed to prevent the escape or entry of wild rabbits at any time, where wild rabbits are pursued with dogs.

(b) For the purpose of this Rule, "wild rabbits" means eastern cottontail (*Sylvilagus floridanus*), Appalachian cottontail (*Sylvilagus obscurus*), marsh rabbits (*Sylvilagus palustris*), and species indistinguishable from these species.

(c) The following conditions shall apply to the take of wild rabbits on controlled rabbit hunting preserves:

- (1) take of wild rabbits shall be authorized year-round;
- (2) dogs shall be the only authorized manner of take; and
- (3) unless otherwise exempt from license requirements, every person participating in the pursuit of rabbits on a controlled rabbit hunting preserve shall have a valid resident or nonresident hunting license or a controlled hunting preserve hunting license in his or her possession, in accordance with 15A NCAC 10B .0114.

(d) Any individual wanting to operate a controlled rabbit hunting preserve shall first obtain a controlled rabbit hunting preserve operator license from the Commission.

(e) One controlled hunting preserve operator license is required for each enclosure, except that one license is permitted for the same operator on properties not greater than 100 acres of contiguous acres of land regardless of the number of enclosures.

(f) Applicants for a controlled hunting preserve operator license shall show proof of ownership or lease of the land contained in the proposed controlled rabbit hunting preserve.

(g) Application for a controlled rabbit hunting preserve operator license shall be made online at www.ncwildlife.org or at the Commission headquarters located at 1751 Varsity Drive, Raleigh, NC 27606-2576. Information required from the applicant shall include:

- (1) the applicant's name, address, telephone number, date of birth; and

- (2) the preserve name, address, county, acreage, and number of enclosures.
- (h) License holders shall keep an accurate record of all rabbits released into or removed from the preserve on a form provided by the Commission. Records shall contain the following information:
 - (1) the number of rabbits released into the preserve;
 - (2) the county of origin; and
 - (3) name, address, and applicable hunting license number of the individual that provided the rabbits to the preserve.
- (i) Records required in Paragraph (h) of this Rule shall be:
 - (1) available for inspection by representatives of the Commission upon request; and
 - (2) submitted to and received by the Commission annually by May 1.
- (j) In accordance with season and bag limits in 15A NCAC 10B .0207, rabbits may be box trapped inside an enclosure and moved

- between enclosures with a valid controlled rabbit hunting preserve operator license or valid hunting license.
- (k) Controlled hunting preserve operator licenses shall not be transferable, either by transferring the license or by relocating the site of the preserve.
- (l) Upon receipt of an application accompanied by the license fee, the Commission shall issue a controlled rabbit hunting preserve operator license, provided the rules in this Section regarding establishment of such areas have been complied with.
- (m) Representatives of the Commission shall be permitted to enter the premises of any licensed controlled rabbit hunting preserve upon request or during the preserve's operating hours for inspection, enforcement, or scientific purposes.

History Note: Authority G.S. 113-134; 113-273(g); 113-276(k); Eff. February 1, 2022.

This Section contains information for the meeting of the Rules Review Commission March 17, 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

March 17, 2022 May 19, 2022
April 21, 2022 June 16, 2022

AGENDA**RULES REVIEW COMMISSION**

Thursday, March 17, 2022, 9:00 A.M.

1711 New Hope Church Rd., Raleigh, NC 27609

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
 - A. Environmental Management Commission - 15A NCAC 02L .0202 (May)
 - B. Marine Fisheries Commission - 15A NCAC 03I .0108, .0115, .0122; 03J .0103, .0104, .0106, .0111, .0202, .0208, .0401, .0402; 03L .0207, .0210, .0301, .0302; 03M .0301, .0302, .0511, .0516, .0519; 18A .0134, .0136, .0137, .0138, .0139, .0144, .0145, .0147, .0148, .0149, .0151, .0152, .0153, .0156, .0157, .0158, .0161, .0162, .0164, .0165, .0166, .0168, .0173, .0174, .0175, .0176, .0177, .0178, .0181, .0182, .0183, .0184, .0185, .0186, .0187, .0191 (May)
 - C. Coastal Resources Commission - 15A NCAC 07H .1101, .1102, .1103, .1104, .1105, .1801, .1802, .1803, .1804, .1805 (Liebman)
- IV. Review of Filings (Permanent Rules) for rules filed between January 21, 2022 through February 21, 2022
 - DHHS - Division of Health Benefits (Duke)
 - Criminal Justice Education and Training Standards Commission (May)
 - Sheriffs' Education and Training Standards Commission (May)
 - Department of Labor (Duke)
 - Environmental Management Commission (Liebman)
 - Board of Barber Examiners (Liebman)
- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
- VI. Existing Rules Review
 - Review of Reports
 1. 16 NCAC 06 – State Board of Education (Duke)

- VII. Commission Business
- Next meeting: April 21, 2022
-

Commission Review
Log of Permanent Rule Filings
January 21, 2022 through February 21, 2022

HHS - HEALTH BENEFITS, DIVISION OF

The rules in Chapter 21 concern medical assistance administration.

The rules in Subchapter 21A concern appeals (.0300).

Conducting Department Appeal Hearings by Telephone or Ele...
 Adopt*

10A NCAC 21A .0304

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

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

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

<u>Responsibilities of the School Director</u> Amend*	12	NCAC 09B .0202
<u>Criminal Justice Instructor Training</u> Amend*	12	NCAC 09B .0209
<u>Radar Instructor Training Course</u> Amend*	12	NCAC 09B .0210
<u>Time-Distance Instructor Training Course</u> Amend*	12	NCAC 09B .0211
<u>Certification Training for Radar Operators</u> Amend*	12	NCAC 09B .0212
<u>Certification Training for Radar/Time-Distance Operators</u> Amend*	12	NCAC 09B .0213
<u>Certification Training for Time-Distance Operators</u> Amend*	12	NCAC 09B .0214
<u>Specialized Firearms Instruction Training</u> Amend*	12	NCAC 09B .0226
<u>Specialized Subject Control Arrest Techniques Instructor ...</u> Amend*	12	NCAC 09B .0232
<u>Specialized Physical Fitness Instructor Training</u> Amend*	12	NCAC 09B .0233
<u>LIDAR Instructor Training Course</u> Amend*	12	NCAC 09B .0237
<u>Certification Training for LIDAR Operators</u> Amend*	12	NCAC 09B .0238
<u>Certification Training for Radar/Lidar Operators</u>	12	NCAC 09B .0242

Amend*		
<u>Certification Training for Radar/Time-Distance/LIDAR Oper...</u>	12	NCAC 09B .0244
Amend*		
<u>Trainee Attendance</u>	12	NCAC 09B .0404
Amend*		
<u>Specialized Explosives and Hazardous Materials Instructor...</u>	12	NCAC 09B .0417
Amend*		

The rules in Subchapter 9G are the standards for correction including scope, applicability and definitions (.0100); minimum standards for certification of correctional officers, probation/parole officers, and probation/parole officers-intermediate (.0200); certification of correctional officers, probation/parole officers, probation/parole officers intermediate and instructors (.0300); minimum standards for training of correctional officers, probation/parole officers, and probation/parole officers-intermediate (.0400); enforcement of rules (.0500); professional certification program (.0600); and forms (.0700).

<u>Instructor Training</u>	12	NCAC 09G .0414
Amend*		
<u>Corrections Specialized Instructor Training - Firearms</u>	12	NCAC 09G .0415
Amend*		
<u>Corrections Specialized Instructor Training - Controls, R...</u>	12	NCAC 09G .0416
Amend*		

SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

The rules in Subchapter 10B govern the commission organization and procedure (.0100); enforcement rules (.0200); minimum standards for employment as a justice officer (deputy or jailer) (.0300); certification of justice officers (.0400); standards and accreditation for justice officers schools, training programs, and the instructors (.0500-.0900); certificate and awards programs for sheriffs, deputies, justice officers, jailers, reserve officers, and telecommunicators (.1000-.1700); in-service training (.2000); and firearms in-service training and re-qualification (.2100).

<u>Report of Separation</u>	12	NCAC 10B .0405
Amend*		

LABOR, DEPARTMENT OF

The rules in Chapter 13 concern boiler and pressure vessel including definitions (.0100); administration (.0200); enforcement of standards (.0300); general requirements (.0400); non-standard boilers and pressure vessels (.0500); and nuclear energy systems (.0700).

<u>Definitions</u>	13	NCAC 13 .0101
Amend*		
<u>Incorporated - Standards</u>	13	NCAC 13 .0103
Amend*		
<u>Name: Address</u>	13	NCAC 13 .0201
Amend*		
<u>Inspector Qualification</u>	13	NCAC 13 .0202
Amend*		
<u>North Carolina Commission</u>	13	NCAC 13 .0203
Amend*		
<u>Owner-User Inspection Organization</u>	13	NCAC 13 .0205
Amend*		
<u>Inspection Reports</u>	13	NCAC 13 .0207
Amend*		
<u>Shop Inspections and National Board "R" Certifi...</u>	13	NCAC 13 .0210
Amend*		

<u>Certificate Inspections</u>	13	NCAC 13	.0211
Amend*			
<u>Certificate and Inspection Fees</u>	13	NCAC 13	.0213
Amend*			
<u>Extended Pressure Equipment Operating Certificates</u>	13	NCAC 13	.0214
Amend*			
<u>Inspections Revealing Deficiencies</u>	13	NCAC 13	.0303
Amend*			
<u>Design and Construction Standards</u>	13	NCAC 13	.0401
Amend*			
<u>North Carolina Stamping and Registration</u>	13	NCAC 13	.0402
Amend*			
<u>Pressure Relief Devices</u>	13	NCAC 13	.0405
Amend*			
<u>High Pressure or Temperature Limit Control</u>	13	NCAC 13	.0406
Amend*			
<u>Automatic Low-Water Fuel Cutoff Controls and Water-Feedin...</u>	13	NCAC 13	.0409
Amend*			
<u>Firing Mechanism Controls</u>	13	NCAC 13	.0420
Amend*			
<u>Exhibition Boilers</u>	13	NCAC 13	.0422
Amend*			
<u>Model Hobby Boilers</u>	13	NCAC 13	.0423
Amend*			
<u>Standards</u>	13	NCAC 13	.0701
Amend*			

ENVIRONMENTAL MANAGEMENT COMMISSION

The rules in Subchapter 2H concern procedures for permits: approvals including point source discharges to the surface waters (.0100); waste not discharged to surface waters (.0200); coastal waste treatment disposal (.0400); water quality certification (.0500); laboratory certification (.0800); local pretreatment programs (.0900); stormwater management (.1000); biological laboratory certification (.1100); special orders (.1200); discharges to isolated wetlands and isolated waters (.1300); and discharges to federally non-jurisdictional wetlands and federally non-jurisdictional classified surface waters (.1400).

<u>Scope and Purpose</u>	15A	NCAC 02H	.1301
Amend*			
<u>Scope and Purpose</u>	15A	NCAC 02H	.1401
Adopt*			
<u>Filing Applications</u>	15A	NCAC 02H	.1402
Adopt*			
<u>Public Notice and Public Hearing</u>	15A	NCAC 02H	.1403
Adopt*			
<u>Decision on Application for Permits or Certificates of Co...</u>	15A	NCAC 02H	.1404
Adopt*			
<u>Review of Applications</u>	15A	NCAC 02H	.1405
Adopt*			

BARBER EXAMINERS, BOARD OF

The rules in Subchapter 6F concern barber schools.

<u>Physical Structure</u> Amend*	21	NCAC 06F .0101
The rules in Subchapter 6L concern barber shops.		
<u>Equipment</u> Amend*	21	NCAC 06L .0103
<u>Sanitary Ratings and Posting of Ratings</u> Amend*	21	NCAC 06L .0118
The rules in Subchapter 6N establish fees and provide for the use of various forms.		
<u>Fees, Access to Forms, and Renewals</u> Amend*	21	NCAC 06N .0101